

SENATE BILL NO. ____

By

AN ACT concerning health and healthcare; relating to medical cannabis; creating the medical cannabis pilot program act; authorizing the secretary of health and environment to enter into contracts for the limited cultivation, processing and distribution of medical cannabis for patient use upon a physician's recommendation; imposing terms and conditions for such contracts; establishing requirements for physician certifications recommending medical cannabis use; levying an excise tax on the retail sale of medical cannabis; establishing the medical cannabis refund fund and the medical cannabis research and education fund; creating the crime of unlawful storage of medical cannabis; making exceptions to the crimes of unlawful manufacture and possession of controlled substances; amending K.S.A. 21-5703, 21-5705, 21-5706, 21-5707, 21-5709, 21-5710, 23-3201, 38-2269, 44-501, 79-5201 and 79-5210 and K.S.A. 2023 Supp. 65-1120 and 65-28b08 and repealing the existing sections.

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

New Section 1. The provisions of sections 1 through 27, and amendments thereto, shall be known and may be cited as the medical cannabis pilot program act.

New Sec. 2. As used in the medical cannabis pilot program act, section 1 et seq., and amendments thereto:

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

(b) "Cannabinoid" means any of the chemical compounds that are produced naturally in the plant cannabis sativa that can bind on the cannabinoid receptors in cells.

(c) (1) "Cannabis" means the plant cannabis sativa and all parts thereof, whether growing or not, including the seeds, the resin extracted from any part of the plant and any compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.

(2) "Cannabis" does not include:

(A) (i) The mature stalks of the plant;

(ii) fiber produced from mature stalks;

- (iii) oil or cake made from the seeds of the plant;
 - (iv) any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake, except the resin extracted from the mature stalks; or
 - (v) the sterilized seed of the plant that is incapable of germination;
 - (B) any substance listed in schedules II through V of the uniform controlled substances act;
 - (C) drug products approved by the United States food and drug administration as of July 1, 2024;
 - (D) cannabidiol (other trade name: 2-[3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol); or
 - (E) industrial hemp, as defined in K.S.A. 2-3901, and amendments thereto, when cultivated, produced, possessed or used for activities authorized by the commercial industrial hemp act.
- (d) "Caregiver" means an individual designated on a medical cannabis certificate who is authorized to purchase and possess medical cannabis on behalf of a patient named in such medical cannabis certificate.
- (e) "Cultivate" means the same as defined in K.S.A. 65-4101, and amendments thereto.
- (f) "Dispense" or "dispensing" means to sell or deliver medical cannabis or medical cannabis products to a patient or caregiver, including the packaging and labeling required for such delivery.
- (g) "Distribution hub" means a premises owned and operated by a medical cannabis operator or a pharmacy for the storage, distribution, sale and delivery of medical cannabis and medical cannabis products to patients and caregivers.

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

(i) "Medical cannabis certificate" means a document issued by a physician pursuant to section 20, and amendments thereto, recommending the use of medical cannabis by the patient named in such document.

(j) "Medical cannabis operator" or "operator" means a person who cultivates, processes, stores, distributes, sells and delivers medical cannabis and medical cannabis products in accordance with a contract with the secretary pursuant to section 4, and amendments thereto.

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

(l) "Medical cannabis waste" means:

(1) Unused, surplus, returned or out-of-date medical cannabis or medical cannabis product;

(2) recalled medical cannabis or medical cannabis product;

(3) plant debris of the plant of cannabis sativa, including dead plants and all unused plant parts and roots; and

(4) any wastewater generated during cultivation and processing.

(m) "Patient" means an individual who possesses a medical cannabis certificate authorizing such individual to purchase, possess and consume medical cannabis or medical cannabis products in accordance with this act.

(n) "Person" means any natural person, corporation, limited liability company, limited company, partnership or limited partnership.

(o) "Pharmacy" means a premises or other site that employs one or more licensed pharmacists, as defined in K.S.A. 65-1626, and amendments thereto, to dispense drugs that are offered for sale and that is registered pursuant to K.S.A. 65-1643, and amendments thereto.

(p) "Physician" means an individual licensed to practice medicine and surgery in this state.

(q) "Plant" means the plant cannabis sativa produced from a clone or seed.

(r) (1) "Plant material" means the leaves, stems, buds and flowers of the plant cannabis sativa.

(2) "Plant material" does not include seedlings, seeds, clones, stalks or roots of the plant or the weight of any non-cannabis ingredients combined with cannabis.

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

(t) "Process" or "processing" means the extraction of cannabinoids from medical cannabis for the production of medical cannabis products.

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

- (1) Acquired immune deficiency syndrome;
- (2) amyotrophic lateral sclerosis;
- (3) autism;
- (4) cancer;
- (5) chronic traumatic encephalopathy;
- (6) Crohn's disease;
- (7) epilepsy or another seizure disorder;
- (8) fibromyalgia;

- (9) multiple sclerosis;
- (10) Parkinson's disease;
- (11) post-traumatic stress disorder;
- (12) sickle cell anemia;
- (13) spinal cord disease or injury;
- (14) traumatic brain injury;
- (15) ulcerative colitis; or
- (16) pain that is either chronic and severe or intractable.
- (v) "Secretary" means the secretary of health and environment.
- (w) "Smoking" means the act of consuming cannabis through combustion and inhalation.
- (x) "State contracted laboratory" means a laboratory that has entered into a contract with the secretary pursuant to section 7, and amendments thereto.
- (y) "Tetrahydrocannabinol" or "THC" means the primary psychoactive cannabinoid in cannabis.
- (z) "Tetrahydrocannabinol content" means the sum of the amount of tetrahydrocannabinol and 87.7% of the amount of tetrahydrocannabinolic acid present in the product.
- (aa) "Tetrahydrocannabinolic acid" means the acidic form of THC.
- (bb) "Vaporization" means consumption of medical cannabis products through inhalation of vaporized products.

New Sec. 3. (a) No person shall grow, harvest, process, sell, barter, transport, deliver, furnish or otherwise possess any form of cannabis, except as specifically provided in the medical

cannabis pilot program act or the commercial industrial hemp act, K.S.A. 2-3901 et seq., and amendments thereto.

(b) Nothing in the medical cannabis pilot program act shall be construed to:

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

(2) permit the use, possession or administration of medical cannabis other than as authorized by this act;

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

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

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

or

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

New Sec. 4. (a) There is hereby established the medical cannabis pilot program to be administered by the secretary of health and environment.

(b) The secretary may enter into contracts with medical cannabis operators for the cultivation and processing of medical cannabis and medical cannabis products in this state. Each contract shall contain such terms and conditions as required by this act and such other terms and conditions as may be required and negotiated by the secretary. No term or condition of any such contract shall conflict, either directly or indirectly, with the provisions of this act. Each contract shall expire on or before July 1, 2029.

(c) The secretary shall not enter into a contract pursuant to subsection (b) with more than four medical cannabis operators at any one time. For the privilege of being a medical cannabis operator, each medical cannabis operator shall agree to pay the secretary an annual amount of not less than \$50,000.

(d) Each contract shall permit the medical cannabis operator to commence operations in accordance with this act on July 1, 2024, or as soon thereafter as the facilities of such medical cannabis operator used for the cultivation or processing of medical cannabis and medical cannabis products are deemed compliant with the provisions of this act by the secretary.

(e) No contract shall be assignable except as mutually agreed to by the medical cannabis operator and the secretary. Any assignee shall satisfy the requirements of section 5, and amendments thereto, prior to the execution of any agreement to assign such contract.

(f) If the secretary finds that a medical cannabis operator is in breach of any provision of the contract or in violation of any provision of this act, the secretary shall provide written notice of such breach or violation to such medical cannabis operator. The medical cannabis operator shall have 30 days from the receipt of such written notice to remedy the breach or violation, unless the written notice provides a longer period of time or the parties to the contract agree to a longer period of time. If the medical cannabis operator fails to remedy a breach or violation within the specified period of time, the secretary may terminate such contract.

New Sec. 5. (a) All persons, if individuals, contracting with the secretary pursuant to section 4, and amendments thereto, and all members, partners, directors, managers, shareholders and officers of any other person shall:

- (1) Be a citizen of the United States;
- (2) have not been convicted of a felony under the laws of this state, any other state or

the United States;

(3) be at least 21 years of age;

(4) not intend to carry on the authorized business activities or conduct such business activities on behalf of or for the primary benefit of another person who does not satisfy the requirements of this section;

(5) own or lease the premises on which the authorized business activities will be conducted; and

(6) have been a resident of this state since July 1, 2021, except if the person is a business entity, then not less than 80% of the total equity of such business entity shall be held by individuals who have been a resident of this state since July 1, 2021.

(b) At least one director, manager or officer of a business entity contracting with the secretary pursuant to section 4, and amendments thereto, shall have held a license as a hemp producer under the commercial industrial hemp act, K.S.A. 2-3901 et seq., and amendments thereto, for two years immediately prior to the execution of such contract. Such individual shall also have served as a director, manager or officer of such business entity during the same two-year period.

(c) All persons contracting with the secretary pursuant to section 4, and amendments thereto, who are not individuals shall provide to the secretary:

(1) A certificate of good standing;

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

(3) a certified document indicating:

(A) Each individual who holds an ownership interest in such person and each individual

who holds an ownership interest in any business entity that holds an ownership interest in such person;

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

(C) the residential address of each such individual.

(d) Any contract entered into pursuant to section 4, and amendments thereto, shall prohibit:

(A) Any compensation, fee, expense or similarly characterized non-equity payment that is contingent on or otherwise determined in a manner that factors in profits, sales, revenue or cash flow of any kind relating to the operation of business activities by a medical cannabis operator, including, but not limited to, profit-based consulting fees and percentage rent payments;

(B) any convertible notes or other non-equity instruments used to finance the authorized business activities of a medical cannabis operator if the beneficiary of any such instrument is domiciled outside of this state; and

(C) distributions by an operator to any person domiciled outside of this state that exceed such recipient's pro rata share of the net profits earned by a medical cannabis operator based on the recipient's ownership interest in such medical cannabis operator. Each operator shall disclose to the secretary any financial instrument, equity or distribution structure that provides for the distribution of moneys by such operator to persons domiciled, incorporated or otherwise organized outside of this state.

New Sec. 6. (a) Each medical cannabis operator may operate one or more facilities for the cultivation of medical cannabis. Such facilities may be contiguous to each other or located on separate parcels of real property. A medical cannabis operator shall only:

(1) Cultivate and harvest medical cannabis flower in facilities that are completely enclosed and windowless;

(2) conduct cultivation activities in such facilities on an aggregate of 25,000 square feet of floor area for mature, flowering cannabis plants. Such floor area limitation shall not apply to any areas that do not contain mature, flowering cannabis plants, including areas containing mother plants, vegetative plants, clones or seedlings; and

(3) use single horizontal tiers for mature, flowering plants when cultivating medical cannabis.

(b) Each medical cannabis operator may operate one or more facilities for the processing of medical cannabis into medical cannabis products. A medical cannabis operator shall only:

(1) Process medical cannabis in a secure, completely enclosed facility;

(2) use extraction methods that do not involve any high-pressure systems, potentially explosive systems or non-water or non-oil solvents, including, but not limited to, butane, propane, ethanol or carbon dioxide; and

(3) produce only those medical cannabis products that are permitted for dispensing under section 12, and amendments thereto.

(c) A medical cannabis operator may commence cultivation activities prior to the execution of a contract pursuant to section 4, and amendments thereto, if the secretary issues a letter of intent to enter into a contract with such medical cannabis operator. Such letter of intent shall specify the medical cannabis operator the secretary intends to enter into a contract with, the facility premises that may commence cultivation activities prior to the execution of such contract and the date certain on which such cultivation activities shall cease if no contract has been

executed as of such date. If a contract has not been executed prior to the date specified in the letter of intent, such medical cannabis operator shall cease cultivation activities until a contract is executed between such medical cannabis operator and the secretary.

(d) A medical cannabis operator may contract with a person licensed as a hemp processor under the commercial industrial hemp act, K.S.A. 2-3901 et seq., and amendments thereto, to process medical cannabis into medical cannabis products. All medical cannabis products produced pursuant to such contract shall be subject to the testing provisions of section 7, and amendments thereto, and the tracking requirements of section 14, and amendments thereto.

(e) Each medical cannabis operator shall have an agreement with a qualified company that performs audits of industrial safety practices and hygiene measures. Prior to the commencement of operations, each facility shall be determined compliant with minimum safety standards in hazard communication, respiratory protection and emergency action planning.

(f) No medical cannabis or medical cannabis products shall be cultivated or processed by a medical cannabis operator for personal use by any member, partner, director, manager, officer, shareholder or employee of such medical cannabis operator, or any family member or other individual residing in the household of such member, partner, director, manager, officer, shareholder or employee.

New Sec. 7. (a) No batch of medical cannabis or medical cannabis products shall be sold unless a sample from such batch has been tested and certified for use or consumption by the state contracted laboratory. Each contract shall specify batch size, testing and certification requirements and the identity of the state contracted laboratory. The batch size for medical cannabis shall not be more than 10 pounds and the batch size for medical cannabis products shall

not be more than five liters or the equivalent of such amount.

(b) The secretary shall enter into a contract with a laboratory for the purpose of conducting compliance and quality assurance testing of medical cannabis and medical cannabis products produced by medical cannabis operators. The state contracted laboratory shall:

(1) At the time of execution of the contract with the secretary, operate a laboratory in another state that tests cannabis and that holds an ISO 17025 accreditation;

(2) not be owned, in whole or in part, by any person who is a medical cannabis operator or who has any ownership interest in a medical cannabis operator;

(3) not have any member of its board of directors who is a medical cannabis operator or who has any ownership interest in a medical cannabis operator; and

(4) not employ any individual or any spouse, parent, child, sibling or spouse of a child or sibling who is a medical cannabis operator or who has any ownership interest in a medical cannabis operator.

(c) The state contracted laboratory shall develop testing standards and procedures in consultation with the secretary. Such standards and procedures shall include, but are not limited to, the following:

(1) The cleanliness and orderliness of the laboratory premises;

(2) the inspection, cleaning and maintenance of equipment and tools used for the analysis of test samples;

(3) testing standards and procedures for cannabinoid potency, terpene profiles and safe levels of contaminants;

(4) the methods for obtaining test samples and implementing an inventory tracking system to ensure a secure chain of custody;

(5) controlled access areas for storage of medical cannabis and medical cannabis product test samples, waste and reference standards;

(6) the establishment of a system to record and maintain all required testing and analysis information, including test results, business records and operating processes;

(7) the possession, storage and use of reagents, solutions and reference standards;

(8) the issuance of a certificate of analysis for each tested batch;

(9) the transport and disposal of unused medical cannabis, medical cannabis products and waste;

(10) employment records and logs of laboratory personnel;

(11) a written standard operating procedure manual that is regularly maintained and updated; and

(12) procedures for the immediate recall of medical cannabis or medical cannabis products that are determined to be unsafe.

(d) Testing standards developed by the state contracted laboratory shall establish compliance thresholds for each of the following categories:

(1) Microbials;

(2) mycotoxins;

(3) residual solvents;

(4) pesticides;

(5) moisture content; and

(6) heavy metals.

(e) All batches of medical cannabis or medical cannabis product that are determined to be noncompliant with the testing thresholds shall be either remediated or destroyed by the

medical cannabis operator who submitted the test sample for such batch. The state contracted laboratory shall provide guidance on the method of remediation for noncompliant batches. All remediated batches shall be resubmitted for testing to ensure compliance after remediation has been completed.

(f) The state contracted laboratory shall also test the cannabinoid content, terpene profile and tetrahydrocannabinol content of all batches.

(g) The state contracted laboratory may charge medical cannabis operators for the testing services required under this act.

(h) On or before June 30, 2025, and each June 30 thereafter, the state contracted laboratory shall submit a report to the secretary containing the following information for the immediately preceding 12 months:

(1) The total amount of medical cannabis and medical cannabis products tested, and the percentage certified as satisfying the requirements for use and consumption;

(2) laboratory testing standards and procedures used and a description of the relative success of such standards and procedures;

(3) a description of the relative success of the laboratory standards and testing requirements required under the medical cannabis pilot program; and

(4) any recommendations regarding any of the requirements of this act that would improve the medical cannabis pilot program and any subsequent medical cannabis programs.

New Sec. 8. (a) (1) The secretary may enter into a contract with one or more pharmacies to operate a distribution hub for the purpose of dispensing medical cannabis and medical cannabis products in this state. Each contract shall contain such terms and conditions as required by this act and such other terms and conditions as may be required and negotiated by

the secretary. No term or condition of any such contract shall conflict, either directly or indirectly, with the provisions of this act. Each contract shall expire on or before July 1, 2029.

(2) For the privilege of operating a distribution hub, each pharmacy shall agree to pay the secretary an annual amount of not less than \$500.

(3) No contract shall be assignable except as mutually agreed to by the pharmacy and the secretary.

(4) If the secretary finds that a pharmacy is in breach of any provision of the contract or in violation of any provision of this act, the secretary shall provide written notice of such breach or violation to such pharmacy. The pharmacy shall have 30 days from the receipt of such written notice to remedy the breach or violation unless the written notice provides a longer period of time or the parties to the contract agree to a longer period of time. If the pharmacy fails to remedy a breach or violation within the specified period of time, the secretary may terminate such contract.

(b) On or before September 1, 2024, the secretary shall determine if pharmacies are precluded from operating distribution hubs by federal law or regulations. If the secretary determines that pharmacies are precluded from operating distribution hubs, the secretary may enter into contracts with one or more medical cannabis operators for the operation of distribution hubs. A medical cannabis operator shall not operate more than seven distribution hubs. The provisions of section 4, and amendments thereto, shall apply to any contract entered into between the secretary and a medical cannabis operator pursuant to this section.

(c) Each distribution hub may obtain medical cannabis and medical cannabis products from one or more medical cannabis operators, including the operator that owns and operates such distribution hub. A distribution hub may sell and deliver medical cannabis and medical cannabis

products to patients and caregivers in accordance with subsection (b).

(d) When selling or delivering medical cannabis and medical cannabis products the distribution hub shall:

(1) Dispense medical cannabis and medical cannabis products only to a patient or caregiver who provides a valid medical cannabis certificate and a valid driver's license, state-issued nondriver's identification card or other government-issued photo identification card;

(2) verify that the patient or caregiver purchasing the medical cannabis or medical cannabis products is the individual named on the medical cannabis certificate by using the valid photo identification provided;

(3) ensure that the medical cannabis certificate submitted for such patient or caregiver by such patient's physician matches the certificate provided by such patient or caregiver;

(4) create and maintain records of all sales, including the type of medical cannabis or medical cannabis product sold, the amount thereof, date of sale and the name of the patient or caregiver to whom it was sold; and

(5) comply with the packaging and labeling requirements of section 12, and amendments thereto.

(e) When verifying the validity of a medical cannabis certificate that designates a caregiver, the caregiver and the patient shall both be physically present at the time of verification and both shall provide the required photo identification. All verified medical cannabis certificates shall be maintained by the distribution hub either in physical or electronic form.

(f) Each distribution hub shall take reasonable measures to prevent the public disclosure of any information contained on a medical cannabis certificate or photo identification, except as required by this act or court order.

(g) (1) All sales of medical cannabis and medical cannabis products shall require the patient or caregiver to order such medical cannabis or medical cannabis products and complete payment prior to receiving such medical cannabis or medical cannabis products at the distribution hub or by delivery. Each patient or caregiver shall establish an account with a distribution hub for the purpose of completing payment for medical cannabis or medical cannabis products. A patient or caregiver account shall be funded by a transfer of funds through a bank transfer, automated clearing house transfer or debit transaction. Funds transferred to a patient or caregiver account shall be nonrefundable.

(2) No medical cannabis or medical cannabis products shall be purchased with cash or a credit card.

(3) Distribution hubs shall ensure that all patient and caregiver financial account information is kept secure and confidential.

(h) No sale of medical cannabis or medical cannabis products shall exceed the amount allowed under section 22, and amendments thereto.

(i) Each distribution hub shall take reasonable measures to prevent diversion or theft of medical cannabis and medical cannabis products from any distribution hub or vehicle used for delivery that is operated by such distribution hub.

New Sec. 9. (a) A distribution hub may transport and deliver medical cannabis and medical cannabis products from the premises of such distribution hub to patients and caregivers. The medical cannabis operator or pharmacy shall conduct a criminal history background check on all individuals who transport or deliver medical cannabis or medical cannabis products on behalf of such distribution hub. No individual who has been convicted of a felony shall transport or deliver medical cannabis or medical cannabis products.

(b) All vehicles used for the transportation of medical cannabis or medical cannabis products shall have GPS tracking, a dashboard camera and a camera covering all areas containing medical cannabis or medical cannabis products within such vehicle. Such vehicle cameras shall record activity any time such vehicle is being loaded with medical cannabis or medical cannabis products or is located outside the premises of a distribution hub.

(c) A distribution hub may contract with one or more delivery service providers for the purpose of delivering medical cannabis and medical cannabis products to patients and caregivers. Such delivery service providers shall comply with applicable provisions of this act relating to the delivery of medical cannabis and medical cannabis products, vehicles used for such deliveries and individuals making such deliveries. The distribution hub shall be responsible for ensuring such compliance.

(d) A distribution hub may sell products that are reasonably necessary for patients to consume medical cannabis and medical cannabis products in accordance with this act. The sale of pipes, water pipes or other paraphernalia utilized for the smoking of cannabis, tobacco or other smokable products shall be prohibited.

New Sec. 10. Each distribution hub shall collaborate with the secretary in the collection of patient data through voluntary surveys completed by patients. Data collected via such surveys shall be collected by distribution hubs and may be used by the secretary for the purpose of studying medical cannabis. Such survey results shall be collected and compiled in a manner that protects against disclosure of patient identities. Distribution hubs shall provide patients and caregivers the option to participate in such surveys at such times that the patient or caregiver is receiving medical cannabis or medical cannabis products from the distribution hub.

New Sec. 11. (a) On or before June 30, 2025, and each June 30 thereafter, each medical

cannabis operator shall submit a report to the secretary for each facility used for the cultivation or processing of medical cannabis by such operator. Each report shall contain the following information for the immediately preceding 12 months:

- (1) The total amount of medical cannabis cultivated and harvested;
- (2) the total amount of medical cannabis processed into medical cannabis products;
- (3) a description of the cultivation and processing procedures used and the relative effectiveness of such procedures;
- (4) a description of the impact the requirements of this act had on the business operations of the medical cannabis operator under the medical cannabis pilot program; and
- (5) any recommendations regarding any of the requirements of this act that would improve the medical cannabis pilot program or any subsequent medical cannabis program.

(b) On or before June 30, 2025, and each June 30 thereafter, each distribution hub shall submit a report to the secretary. Each report shall contain the following information for the immediately preceding 12 months:

- (1) The total amount of medical cannabis and medical cannabis products sold to patients and caregivers and the portion of such amount that was provided in person at a distribution hub and that was delivered;
- (2) a description of the operating procedures used in the storage, transportation, sale and delivery of medical cannabis and medical cannabis products to patients and caregivers;
- (3) a description of the impact the requirements of this act had on the business operations of the distribution hub under the medical cannabis pilot program; and
- (4) any recommendations regarding any of the requirements of this act that would improve the medical cannabis pilot program or any subsequent medical cannabis program.

New Sec. 12. (a) Only the following forms of medical cannabis may be dispensed under the medical cannabis pilot program:

- (1) Medical cannabis flower;
- (2) pills or tablets;
- (3) tinctures;
- (4) patches; or
- (5) ointments.

(b) The smoking, combustion or vaporization of medical cannabis or medical cannabis products is prohibited. The inhalation of vapors released by the non-combustive heating of cannabis flower shall not be considered smoking or vaporization.

(c) Medical cannabis shall not contain a tetrahydrocannabinol content in excess of 35%. Any medical cannabis having more than such amount of THC shall be processed into medical cannabis products or destroyed.

(d) All medical cannabis and medical cannabis products sold to patients and caregivers shall:

- (1) Be contained in tamper-proof and child-resistant packaging; and
- (2) have an attached label displaying:
 - (A) The patient's name, and, if applicable, the caregiver's name;
 - (B) the date of purchase;
 - (C) the name and address of the medical cannabis operator that produced the medical cannabis or medical cannabis product and the name, address and phone number of the distribution hub that sold such medical cannabis or medical cannabis product;
 - (D) the directions for use and the date on which the medical cannabis or medical

cannabis product was packaged;

(E) the tetrahydrocannabinol content contained in each serving if it is a medical cannabis product, or as a percentage by weight if it is medical cannabis; and

(F) a statement that reads "Medical cannabis use is not recommended for women who are pregnant."; and

(G) a statement that reads "DO NOT OPEN THIS BAG WHILE IN TRANSIT. It is illegal to possess medical cannabis or medical cannabis products outside of this sealed bag while inside any motor vehicle, watercraft or aircraft."

New Sec. 13. (a) No signage, including any advertisements for medical cannabis or medical cannabis products, shall be visible from the exterior of any facility of a medical cannabis operator used for cultivation or processing.

(b) No medical cannabis operator shall advertise the sale, possession or use of medical cannabis or medical cannabis products through television, radio, billboards, portable signage or other broadcast media, except advertisements for medical cannabis or medical cannabis products may be published via the internet. Advertisements permitted under this section, including any advertisements published by a distribution hub, shall not contain any:

(1) Representation or suggestion that any medical cannabis or medical cannabis product is an effective treatment for any illness, disease, adverse condition or malady, whether such illness, disease, condition or malady is a qualifying medical condition;

(2) representation or suggestion that a medical cannabis brand or product is more effective or safer than other drugs or treatments, including other medical cannabis brands or products;

(3) statement that is false or misleading or is otherwise in violation of the Kansas

consumer protection act;

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

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

(A) Is obscene or indecent;

(B) encourages or represents the use of cannabis or cannabis products for any purpose

other than for treating a qualifying medical condition; or

(C) portrays anyone under 21 years of age;

(6) offer of a prize or award to any person; or

(7) statement that indicates or implies that the product or entity in the advertisement has been approved or endorsed by any agency, officer or agent of the state of Kansas or any person or entity associated with the state.

(c) No medical cannabis operator or pharmacy shall engage, contract or otherwise enter into any agreement with any person for the purpose of advertising medical cannabis or medical cannabis products in any manner prohibited by this section.

New Sec. 14. (a) Each medical cannabis operator shall monitor all medical cannabis and medical cannabis products that become part of such operator's inventory from the seed source through the cultivation, testing, processing, distribution and dispensing of such medical cannabis or medical cannabis product utilizing a tracking system as agreed to by the secretary. The same tracking system shall be utilized by all operators. Each distribution hub operated by a pharmacy shall participate in the tracking system through coordination with the medical cannabis operators that sell medical cannabis and medical cannabis products to such distribution hub.

(b) Upon request, a medical cannabis operator shall make all tracking information available to the secretary, the state contracted laboratory and any law enforcement agency, its

officers and agents.

New Sec. 15. (a) No distribution hub shall be located within 1,000 feet of the boundaries of a parcel of real estate having situated on it a school, public library or public park.

(b) No cultivation or processing facility shall be located within 500 feet of the boundaries of a parcel of real estate having situated on it a school, public library or public park. A cultivator or processor facility shall be located on real property that is classified as an industrial zone.

(c) It shall not be a violation of this section if a distribution hub or cultivation or processing facility existed at a location prior to the establishment of a school, public library or public park that is located on real estate that is within minimum required distance of such facility as specified in this section.

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

(e) All distribution hubs and cultivator and processing facilities shall comply with all applicable zoning and building regulations.

(f) As used in this section:

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

(2) "public park" means any park or other outdoor recreational area or facility, including, but not limited to, parks, open spaces, trails, swimming pools, playgrounds and

playing courts and fields established by the state or any political subdivision thereof; and

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

New Sec. 16. (a) The premises for any distribution hub or cultivation or processing facility shall be equipped with security equipment and measures to prevent unauthorized access and the theft, diversion or inversion of medical cannabis or medical cannabis products. As a condition of each contract, such security equipment and measures shall include:

(1) Exterior lighting sufficient to illuminate all entrances to such premises;

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

(3) except for areas designated for patient and caregiver access, controlled access to all areas within the premises by means of electronic card access systems, biometric identification systems or similar systems that:

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

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

(4) secured windows, if any, to prevent opening or other access to such areas via such windows; and

(5) alarm systems that provide:

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

(B) for distribution hubs, manual, silent alarms in each area designated for patient and caregiver access that provides for the immediate, automatic notification of local law enforcement

agencies.

(b) Any electronic video monitoring system shall:

(1) Include coverage of:

(A) The interior and exterior of all entrances to the premises;

(B) any area designated for parking on the premises;

(C) each area designated for patient and caregiver access;

(D) all vaults, safes or storage areas containing medical cannabis or medical cannabis products; and

(E) all areas where medical cannabis and medical cannabis products are cultivated, processed, prepared for sale or delivery or disposed of as waste;

(2) store all video recordings for at least 90 days in a secure location on or off the premises or through a secure service or network that provides on-demand access to such recordings. All such recordings shall be made available upon request to the secretary and any law enforcement agency, its officers and agents; and

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

(c) Each medical cannabis operator and pharmacy shall establish policies and procedures for the security of premises of each facility operated by such operator. Such policies and procedures shall include:

(1) Controlling access to all areas that are not designated for patient and caregiver access;

(2) posting signage stating that all transactions are cashless and that no money is kept on premises;

- (3) use of electronic video monitoring systems;
 - (4) use of alarm systems, including the use of manual, silent alarms for distribution hubs; and
 - (5) communication with local law enforcement agencies regarding unauthorized security breaches and the employment and identity of any armed security personnel by the licensee.
- (d) Each medical cannabis operator and pharmacy shall ensure that all employees have completed training in security equipment and measures, including:
- (1) Prevention of theft, diversion and inversion of medical cannabis and medical cannabis products;
 - (2) emergency response procedures;
 - (3) appropriate use of force; and
 - (4) controlling access to areas that are not designated for patient and caregiver access.
- (e) Except as provided in subsection (b)(2), each medical cannabis operator and pharmacy shall retain all documents related to security equipment and measures and any other documents related to the operations of the facility for a period of two years. Such documents shall be made available upon request to the secretary.
- (f) Each medical cannabis operator and pharmacy shall ensure that all medical cannabis waste is destroyed or otherwise disposed of in a manner that prevents access to such waste by any person not authorized by such operator or pharmacy.
- (g) For distribution hubs and cultivation and processing facilities whose physical structures are in existence on July 1, 2024, the requirements of this section shall be satisfied on or before September 1, 2024. For all other facilities, the requirements of this section shall be

satisfied prior to commencement of operations.

New Sec. 17. (a) All individuals holding an ownership interest in or actively engaging in the operations of a medical cannabis operator or a distribution hub operated by a pharmacy shall not have been convicted of a felony. Each medical cannabis operator and pharmacy shall take reasonable measures to ensure compliance with this section, including, but not limited to, conducting criminal history background checks. Each operator and pharmacy shall maintain an employee roster and log that includes the identity, address, contact information and criminal history background check information for each employed individual.

(b) All directors, managers, officers and any other employee of a medical cannabis operator or pharmacy shall be considered to be actively engaged in the operations of such operator or pharmacy. Independent contractors shall not be considered to be actively engaged in operations if such contractors are not directly engaged in the cultivation, processing or sale of medical cannabis or medical cannabis products.

New Sec. 18. (a) A financial institution that provides financial services to any medical cannabis operator, pharmacy or state contracted laboratory shall be exempt from any criminal law of this state, an element of which may be proven beyond a reasonable doubt that a person provides financial services to a person who possesses, delivers or manufactures medical cannabis or medical cannabis products, including any of the offenses specified in article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or any attempt, conspiracy or solicitation specified in article 53 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, if the medical cannabis operator, pharmacy or state contracted laboratory is in compliance with the provisions of this act and all applicable tax laws of this state.

(b) Upon the request of a financial institution, the secretary, medical cannabis operator,

pharmacy or state contracted laboratory shall provide to the financial institution the following information:

(1) Whether a person with whom the financial institution is seeking to do business has a contract with the secretary to operate as a medical cannabis operator, operate a distribution hub or a state contracted laboratory;

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

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

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

(d) As used in this section:

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

(2) "financial services" means services that a financial institution is authorized to provide under chapter 9 or article 22 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, as applicable.

New Sec. 19. The secretary shall designate at least five physicians for the purpose of issuing medical cannabis certificates to patients. Designated physicians may issue medical

cannabis certificates to patients suffering from a qualifying medical condition when such patient's primary care physician declines to issue such certificate for any reason. To the extent practicable, the secretary shall designate physicians from different parts of the state to ensure patients are able to have reasonable geographic access to such physicians.

New Sec. 20. (a) It shall be unlawful for:

(1) A patient to purchase, possess or consume medical cannabis and medical cannabis products unless such patient holds a valid medical cannabis certificate; and

(2) any other individual to purchase or possess medical cannabis and medical cannabis products on behalf of a patient or to assist such patient in the consumption of medical cannabis and medical cannabis products unless such individual is designated as such patient's caregiver on a valid medical cannabis certificate and holds a copy of such valid medical cannabis certificate.

(b) Patients and caregivers shall be at least 21 years of age.

(c) A physician may issue a medical cannabis certificate if the:

(1) Physician is the patient's primary care physician or a physician designated by the secretary pursuant to section 19, and amendments thereto, and determined that the patient suffers from one or more qualifying medical conditions;

(2) physician has reviewed the patient's medical records and has reasonably determined that such patient is not currently or likely to be diagnosed with schizophrenia after taking into consideration such patient's family history of schizophrenia;

(3) physician has informed the patient of the risks and benefits of medical cannabis use as it pertains to the patient's qualifying medical condition and medical history;

(4) physician reasonably believes that the benefits of medical cannabis use by the patient outweigh its risks after considering the patient's history of substance abuse and the

potential detrimental effects of medical cannabis use on the patient's health; and

(5) caregiver, if designated, is present at the time the medical cannabis certificate is issued and the physician reasonably believes that the patient would not be capable or would have significant difficulty in purchasing, possessing or consuming medical cannabis or medical cannabis products without the assistance of the caregiver.

(d) A medical cannabis certificate shall be in writing, signed by the physician, patient and caregiver, if designated, and include the following:

(1) The name, address and phone number of the patient and any caregiver, if designated;

(2) the name, address and phone number of the physician issuing the certificate;

(3) the date such certificate was issued;

(4) a statement from the physician certifying that:

(A) The physician is either the patient's primary care physician or a designated physician pursuant to section 19, and amendments thereto, authorized to issue medical cannabis certificates;

(B) the qualifying medical condition the patient suffers from; and

(C) the physician recommends the patient treat the symptoms of the qualifying medical condition by consumption of medical cannabis and medical cannabis products;

(5) a certification by the patient and caregiver, if designated, that neither the patient nor caregiver has knowingly misstated, misled, lied to or otherwise provided false information to the physician that is relevant to the diagnosis of the qualifying medical condition or the issuance of the medical cannabis certificate;

(6) a certification by the physician, patient and caregiver, if designated, that all of the

information contained in the medical cannabis certificate is true and accurate to the best of their belief;

(7) the name and address of the designated distribution hub for the purchase of medical cannabis and medical cannabis products by the patient and caregiver, if designated;

(8) an authorization, including a waiver of applicable healthcare privacy rights, by the patient allowing the physician to communicate with the designated distribution hub and discuss any of the information contained in the medical cannabis certificate;

(9) the identification, if any, of one caregiver to assist the patient in the purchase, possession and consumption of medical cannabis and medical cannabis products; and

(10) a certification by the caregiver, if designated, that such caregiver has not been convicted of any drug-related felony, whether such conviction has been expunged.

(e) The physician issuing the medical cannabis certificate shall transmit a copy of such certificate sent to the designated distribution hub. Patients and caregivers shall only purchase medical cannabis and medical cannabis products from the designated distribution hub, except that patients and caregivers may purchase medical cannabis and medical cannabis products from an alternate distribution hub if:

(1) The designated distribution hub transmits a copy of the patient's medical cannabis certificate to such alternate distribution hub;

(2) the designated distribution hub notifies such alternate distribution hub of the amount of medical cannabis and medical cannabis products purchased by the patient or caregiver in the 30 days prior to transmitting such patient's medical cannabis certificate;

(3) the patient or caregiver does not purchase in the aggregate an amount of medical cannabis and medical cannabis products that exceeds the amount specified in section 22, and

amendments thereto, from all distribution hubs; and

(4) such alternate distribution hub notifies the designated distribution hub of the amount of medical cannabis and medical cannabis products purchased by the patient or caregiver.

(f) A medical cannabis certificate shall be valid for a period of one year from the date of issuance.

(g) The physician issuing the medical cannabis certificate for a patient shall not also serve as such patient's designated caregiver.

(h) A physician who issues a medical cannabis certificate shall be exempt from liability for any injuries or other damages arising from or otherwise related to the purchase, possession or consumption of medical cannabis or medical cannabis products by the patient or caregiver, if any, named on such certificate if, at the time such certificate is issued, such physician:

(1) Has reviewed such patient's medical records and reasonably believes that such patient is not pregnant and is not likely to suffer from schizophrenia; and

(2) reasonably believes that such patient suffers from a qualifying medical condition based on the information provided by such patient and such information is supported by such patient's medical records.

(i) Providing false information to a physician for the purpose of obtaining a medical cannabis certificate shall not be a confidential communication between such physician and patient and neither the patient or the caregiver, if designated, shall have a privilege in any prosecution for unlawfully possessing a controlled substance under K.S.A. 21-5706, and amendments thereto, or unlawfully possessing drug paraphernalia under K.S.A. 21-5709, and amendments thereto.

(j) Nothing in this act shall be construed to prohibit a person who is designated as a

caregiver on a valid medical cannabis certificate from being issued a medical cannabis certificate as a patient.

New Sec. 21. Law enforcement agencies may obtain verification of a medical cannabis certificate from a patient's physician or a distribution hub when necessary to verify that a patient or caregiver is in compliance with this act. Each patient and caregiver shall promptly deliver such patient's medical cannabis certificate upon demand of any officer of a court of competent jurisdiction or any law enforcement officer when the certificate is in such patient's or caregiver's immediate possession at the time of the demand.

New Sec. 22. (a) A patient who holds a valid medical cannabis certificate may:

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

(b) A patient shall not purchase medical cannabis or medical cannabis products in an amount that exceeds in the aggregate 200 grams of unprocessed medical cannabis flower or 3.47 grams of tetrahydrocannabinol contained in any medical cannabis product during any 30-day period of time.

(c) Caregivers who hold a valid medical cannabis certificate on which such individual is the designated caregiver may purchase and possess medical cannabis, medical cannabis products, paraphernalia and accessories used to administer or consume medical cannabis and medical cannabis products on behalf of the patient named on the medical cannabis certificate, and may reasonably assist such patient with using or consuming medical cannabis and medical

cannabis products. The provisions of subsection (b) shall apply to the purchase of medical cannabis and medical cannabis products by a caregiver. No other use or consumption of any medical cannabis or medical cannabis products purchased and possessed by a caregiver on behalf of a patient shall be permitted.

(d) Nothing in this section shall be construed to authorize a patient to operate a motor vehicle, watercraft or aircraft while under the influence of medical cannabis or medical cannabis products. No patient or caregiver shall possess medical cannabis or medical cannabis products while operating or traveling in any motor vehicle, watercraft or aircraft unless such medical cannabis or medical cannabis products are contained in the original, sealed packaging obtained from the distribution hub. Any medical cannabis or medical cannabis products in a motor vehicle, watercraft or aircraft that are not contained in the original, sealed packaging shall be considered unlawful possession under this act, and neither the patient or the caregiver, if designated, shall have a privilege in any prosecution for unlawfully possessing a controlled substance under K.S.A. 21-5706, and amendments thereto, or unlawfully possessing drug paraphernalia under K.S.A. 21-5709, and amendments thereto.

New Sec. 23. Nothing in this act authorizes the secretary to oversee or limit research conducted at a postsecondary educational institution, academic medical center or private research and development organization that is related to cannabis and is approved by an agency, board, center, department or institute of the United States government, including any of the following:

- (a) The agency for health care research and quality;
- (b) the national institutes of health;
- (c) the national academy of sciences;
- (d) the centers for medicare and medicaid services;

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- (e) the United States department of defense;
- (f) the centers for disease control and prevention;
- (g) the United States department of veterans affairs;
- (h) the drug enforcement administration;
- (i) the food and drug administration; and
- (j) any board recognized by the national institutes of health for the purpose of evaluating the medical value of healthcare services.

New Sec. 24. No provisions of the medical cannabis pilot program act shall be construed to:

- (a) Require an employer to permit or accommodate the use, consumption, possession, transfer, display, distribution, transportation, sale or growing of cannabis or any conduct otherwise allowed by this act in any workplace or on the employer's property;
- (b) prohibit a person, employer, corporation or any other entity that occupies, owns or controls a property from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, distribution, transportation, sale or growing of cannabis on such property;
- (c) require any government medical assistance program, a private health insurer or a workers compensation carrier or self-insured employer providing workers compensation benefits to reimburse a person for costs associated with the use of medical cannabis;
- (d) affect the ability of an employer to implement policies to promote workplace health and safety by restricting the use of cannabis by employees;
- (e) prohibit an employer from:
 - (1) Establishing and enforcing a drug testing policy, drug-free workplace policy or zero-tolerance drug policy;

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

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

(f) prevent an employer from, because of a person's violation of a workplace drug policy or because that person was working while under the influence of cannabis:

(1) Refusing to hire a person;

(2) discharging a person;

(3) disciplining a person; or

(4) otherwise taking an adverse employment action against a person with respect to hiring decisions, tenure, terms, conditions or privileges of employment; or

(g) permit the possession or use of medical cannabis by any person detained in a correctional institution, as defined in K.S.A. 21-5914, and amendments thereto, or committed to a care and treatment facility, as defined in K.S.A. 21-5914, and amendments thereto.

New Sec. 25. On or before January 15 of each year, the secretary shall prepare and submit a report to the governor and the legislature on the medical cannabis pilot program. Each report shall contain:

(a) The information submitted by each medical cannabis operator in the reports required pursuant to section 11, and amendments thereto;

(b) a description by the secretary of the relative success of policies, procedures, standards and requirements imposed under the medical cannabis pilot program; and

(c) any recommendations from the secretary that would help make the medical cannabis pilot program and any subsequent cannabis-related program successful.

New Sec. 26. The provisions of the medical cannabis pilot program act are declared to

be severable. If any part or provision of the medical cannabis pilot program act is held to be void, invalid or unconstitutional, such part or provision shall not affect or impair any of the remaining parts or provisions of the medical cannabis pilot program act, and any such remaining provisions shall continue in full force and effect.

New Sec. 27. The provisions of the medical cannabis pilot program act, sections 1 through 27, and amendments thereto, shall expire on July 1, 2029.

New Sec. 28. (a) It shall be unlawful to store or otherwise leave medical cannabis or a medical cannabis product where it is readily accessible to a person under 21 years of age. Such conduct shall be unlawful with no requirement of a culpable mental state.

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

(c) As used in this section:

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

(2) "readily accessible" means the medical cannabis or medical cannabis product is not stored in a locked container that restricts access to such container solely to individuals who are 21 years of age or older.

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

(e) The provisions of this section shall expire on July 1, 2029.

New Sec. 29. (a) No law enforcement officer shall enforce any violations of 18 U.S.C. § 922(g)(3) if the substance involved in such violation is medical cannabis or medical cannabis products and such person is a patient whose possession is authorized by the medical cannabis pilot program act, section 1 et seq., and amendments thereto.

(b) As used in this section:

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

(2) "medical cannabis" and "medical cannabis product" mean the same as defined in section 2, and amendments thereto.

(c) The provisions of this section shall expire on July 1, 2029.

New Sec. 30. (a) A covered entity, solely on the basis that an individual consumes medical cannabis as authorized by the medical cannabis pilot program act, section 1 et seq., and amendments thereto, shall not:

(1) Consider such individual ineligible to receive an anatomical gift or organ transplant;

(2) deny medical and other services related to organ transplantation, including evaluation, surgery, counseling and post-transplantation treatment and services;

(3) refuse to refer the individual to a transplant center or a related specialist for the purpose of evaluation or receipt of an organ transplant;

(4) refuse to place such individual on an organ transplant waiting list; or

(5) place such individual at a lower-priority position on an organ transplant waiting list than the position at which such individual would have been placed if not for such individual's consumption of medical cannabis or medical cannabis products.

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

(c) Nothing in this section shall be construed to require a covered entity to make a

referral or recommendation for or perform a medically inappropriate organ transplant.

(d) As used in this section:

(1) The terms "anatomical gift," "covered entity" and "organ transplant" mean the same as defined in K.S.A. 65-3276, and amendments thereto; and

(2) the term "medical cannabis" means the same as defined in section 2, and amendments thereto.

(e) The provisions of this section shall expire on July 1, 2029.

New Sec. 31. (a) No order shall be issued pursuant to K.S.A. 38-2242, 38-2243 or 38-2244, and amendments thereto, if the sole basis for the threat to the child's safety or welfare is that the child resides with an individual who consumes medical cannabis or medical cannabis products as authorized by the medical cannabis pilot program act, section 1 et seq., and amendments thereto.

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

(c) The provisions of this section shall expire on July 1, 2029.

New Sec. 32. (a) Notwithstanding the provisions of K.S.A. 65-2836, and amendments thereto, the board shall not revoke, suspend or limit a physician's license, publicly censure a physician or place a physician's license under probationary conditions for any of the following:

(1) The physician has:

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

or

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

(2) the physician is a patient or caregiver and possesses or has possessed or uses or has used medical cannabis or medical cannabis products as authorized by the medical cannabis pilot program act, section 1 et seq., and amendments thereto.

(b) As used in this section, the terms "caregiver," "medical cannabis," "medical cannabis product," and "patient" mean the same as such terms are defined in section 2, and amendments thereto.

(c) The provisions of this section shall expire on July 1, 2029.

New Sec. 33. (a) Notwithstanding the provisions of K.S.A. 65-28a05, and amendments thereto, the board shall not revoke, suspend or limit a physician assistant's license, publicly or privately censure a physician assistant or deny an application for a license or for reinstatement of a license for any of the following:

(1) The physician assistant has:

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

or

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

(2) the physician assistant is a patient or caregiver and possesses or has possessed or uses or has used medical cannabis or medical cannabis products as authorized by the medical cannabis pilot program act, section 1 et seq., and amendments thereto.

(b) As used in this section, the terms "caregiver," "medical cannabis," "medical cannabis product" and "patient" mean the same as such terms are defined in section 2, and amendments thereto.

(c) The provisions of this section shall expire on July 1, 2029.

New Sec. 34. (a) Notwithstanding any other provision of law, any person, board, commission or similar body that determines the qualifications of individuals for licensure, certification or registration shall not disqualify an individual from licensure, certification or registration solely because such individual consumes medical cannabis or medical cannabis products as authorized by the medical cannabis pilot program act, section 1 et seq., and amendments thereto.

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

- (1) Kansas commission on peace officers' standards and training;
- (2) Kansas highway patrol; or
- (3) office of the attorney general.

(c) The provisions of this section shall expire on July 1, 2029.

New Sec. 35. (a) A tax is hereby imposed upon the privilege of selling medical cannabis and medical cannabis products in this state by any medical cannabis operator at the rate of 8% on the gross receipts received from the sale of medical cannabis and medical cannabis products to patients and caregivers holding a valid medical cannabis certificate as authorized by the medical cannabis pilot program act, section 1 et seq., and amendments thereto. The tax imposed by this section shall be paid by the patient or caregiver at the time of purchase.

(b) On or before the 20th day of each calendar month, every medical cannabis operator shall file a return with the director of taxation showing the quantity of medical cannabis and medical cannabis products sold to patients and caregivers within this state during the preceding calendar month. Each return shall be accompanied by a remittance for the full tax liability shown.

(c) All moneys received by the director of taxation or the director's designee from taxes

imposed by this section shall be remitted 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. Subject to the maintenance requirements of the medical cannabis refund fund established by section 38, and amendments thereto, an amount equal to 20% of such deposit shall be credited to the medical cannabis research and education fund established by section 39, and amendments thereto, and the remaining amount of any such deposit shall be credited to the state general fund.

New Sec. 36. The director of taxation shall have the power to require any medical cannabis operator to furnish additional information deemed necessary for the purpose of computing the amount of the taxes due pursuant to section 35, and amendments thereto, and, for such purpose, to examine all books, records and files of such persons or entities. The director also shall have the power to issue subpoenas and examine witnesses under oath, and if any witness shall fail or refuse to appear at the request of the director, or refuse access to books, records and files, the district court of the proper county, or the judge thereof, on application of the director, shall compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

New Sec. 37. The provisions of K.S.A. 75-5133, 79-3610, 79-3611, 79-3612, 79-3613, 79-3615 and 79-3617, and amendments thereto, relating to the assessment, collection, appeal and administration of the retailers' sales tax, insofar as practicable, shall have full force and effect with respect to taxes, penalties and fines imposed by sections 35 and 36, and amendments thereto.

New Sec. 38. There is hereby established in the state treasury the medical cannabis refund fund. The medical cannabis refund fund shall be held by the state treasurer for prompt

refunding of all overpayments of the tax levied and collected pursuant to section 35, and amendments thereto. The medical cannabis refund fund shall be maintained in an amount determined by the secretary of revenue as necessary to meet current refunding requirements, but such amount shall not exceed \$10,000.

New Sec. 39. There is hereby established in the state treasury the medical cannabis research and education fund to be administered by the secretary for health and environment. All expenditures and transfers from the medical cannabis research and education fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or the secretary's designee. All moneys credited to such fund shall be expended or transferred only for the purposes of medical cannabis research and education.

New Sec. 40. For purposes of sections 35 through 40, and amendments thereto, the terms "medical cannabis," "medical cannabis operator" and "medical cannabis product" mean the same as defined in section 2, and amendments thereto.

New Sec. 41. The provisions of sections 35 through 41, and amendments thereto, shall expire on July 1, 2029.

Sec. 42. K.S.A. 21-5703 is hereby amended to read as follows: 21-5703. (a) It shall be unlawful for any person to manufacture any controlled substance or controlled substance analog.

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

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

(2) drug severity level 1 felony if:

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

(B) the controlled substance is not a fentanyl-related controlled substance; and

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

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

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

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

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

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

thereto.

(g) The provisions of this section shall not apply to a medical cannabis operator, as such term is defined in section 2, and amendments thereto, that is producing medical cannabis or medical cannabis products, as such terms are defined in section 2, and amendments thereto, when used for acts authorized by the medical cannabis pilot program act, section 1 et seq., and amendments thereto.

Sec. 43. K.S.A. 21-5705 is hereby amended to read as follows: 21-5705. (a) It shall be unlawful for any person to distribute or possess with the intent to distribute any of the following controlled substances or controlled substance analogs thereof:

- (1) Opiates, opium or narcotic drugs, or any stimulant designated in ~~subsection (d)(1), (d)(3) or (f)(1) of~~ K.S.A. 65-4107 (d)(1), (d)(3) or (f)(1), and amendments thereto;
- (2) any depressant designated in ~~subsection (e) of~~ K.S.A. 65-4105 (e), ~~subsection (e) of~~ K.S.A. 65-4107 (e), ~~subsection (b) or (c) of~~ K.S.A. 65-4109 (b) or (c) or ~~subsection (b) of~~ K.S.A. 65-4111 (b), and amendments thereto;
- (3) any stimulant designated in ~~subsection (f) of~~ K.S.A. 65-4105 (f), ~~subsection (d)(2), (d)(4), (d)(5) or (f)(2) of~~ K.S.A. 65-4107 (d)(2), (d)(4), (d)(5) or (f)(2) or ~~subsection (e) of~~ K.S.A. 65-4109 (e), and amendments thereto;
- (4) any hallucinogenic drug designated in ~~subsection (d) of~~ K.S.A. 65-4105 (d), ~~subsection (g) of~~ K.S.A. 65-4107 (g) or ~~subsection (g) of~~ K.S.A. 65-4109 (g), and amendments thereto;
- (5) any substance designated in ~~subsection (g) of~~ K.S.A. 65-4105 (g) and ~~subsection (e), (d), (e), (f) or (g) of~~ K.S.A. 65-4111 (c), (d), (e), (f) or (g), and amendments thereto;
- (6) any anabolic steroids as defined in ~~subsection (f) of~~ K.S.A. 65-4109 (f), and

amendments thereto; or

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

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

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

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

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

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

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

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

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

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

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

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

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

more.

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

- (A) Drug severity level 4 felony if the quantity of the material was less than 1 gram;
- (B) drug severity level 3 felony if the quantity of the material was at least 1 gram but less than 3.5 grams;
- (C) drug severity level 2 felony if the quantity of the material was at least 3.5 grams but less than 100 grams; and
- (D) drug severity level 1 felony if the quantity of the material was 100 grams or more.

(4) Violation of subsection (a) with respect to material containing any quantity of a controlled substance designated in K.S.A. 65-4105, 65-4107, 65-4109 or 65-4111, and amendments thereto, or an analog thereof, distributed by dosage unit, is a:

- (A) Drug severity level 4 felony if the number of dosage units was fewer than 10;
- (B) drug severity level 3 felony if the number of dosage units was at least 10 but less than 100;
- (C) drug severity level 2 felony if the number of dosage units was at least 100 but less than 1,000; and
- (D) drug severity level 1 felony if the number of dosage units was 1,000 or more.

(5) For any violation of subsection (a), the severity level of the offense shall be increased one level if the controlled substance or controlled substance analog was distributed or possessed with the intent to distribute on or within 1,000 feet of any school property.

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

(A) Class A person misdemeanor, except as provided in ~~subsection (d)(6)(B)~~ [subparagraph \(B\)](#); and

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

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

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

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

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

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

(1) 450 grams or more of marijuana;

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

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

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

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

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

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

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

(g) The provisions of (a)(4) and (a)(5) shall not apply to a medical cannabis operator, as such term is defined in section 2, and amendments thereto, or a state contracted laboratory or any employee or agent thereof that is growing, testing, processing, distributing or selling medical cannabis or medical cannabis products, as such terms are defined in section 2, and amendments thereto, in accordance with the medical cannabis pilot program act, section 1 et seq., and amendments thereto.

(h) As used in this section:

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

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

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

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

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

Sec. 44. K.S.A. 21-5706 is hereby amended to read as follows: 21-5706. (a) It shall be unlawful for any person to possess any opiates, opium or narcotic drugs, or any stimulant designated in K.S.A. 65-4107(d)(1), (d)(3) or (f)(1), and amendments thereto, or a controlled substance analog thereof.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Has a debilitating medical condition, as defined in K.S.A. 2023 Supp. 65-6235, and amendments thereto, or is the parent or guardian of a minor child who has such debilitating

medical condition;

(2) is possessing a cannabidiol treatment preparation, as defined in K.S.A. 2023 Supp. 65-6235, and amendments thereto, that is being used to treat such debilitating medical condition; and

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

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

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

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

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

(e) If the substance involved is medical cannabis or medical cannabis products, as such terms are defined in section 2, and amendments thereto, the provisions of subsections (b) and (c) shall not apply to any person who holds a valid medical cannabis certificate issued pursuant to the medical cannabis pilot program act, section 1 et seq., and amendments thereto, and whose possession is authorized by such act.

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

Sec. 45. K.S.A. 21-5707 is hereby amended to read as follows: 21-5707. (a) It shall be unlawful for any person to knowingly or intentionally use any communication facility:

(1) In committing, causing, or facilitating the commission of any felony under K.S.A.

21-5703, 21-5705 or 21-5706, and amendments thereto; or

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

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

(c) [The provisions of this section shall not apply to any person using communication facilities for activities authorized by the medical cannabis pilot program act, section 1 et seq., and amendments thereto.](#)

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

Sec. 46. K.S.A. 21-5709 is hereby amended to read as follows: 21-5709. (a) It shall be unlawful for any person to possess ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with an intent to use the product to manufacture a controlled substance.

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) The provisions of subsection (b) shall not apply to any person who holds a valid medical cannabis certificate issued pursuant to the medical cannabis pilot program act, section 1 et seq., and amendments thereto, whose possession of such equipment or material is used solely

to produce or for the administration of medical cannabis or medical cannabis products, as such terms are defined in section 2, and amendments thereto, in a manner authorized by the medical cannabis pilot program act.

Sec. 47. K.S.A. 21-5710 is hereby amended to read as follows: 21-5710. (a) It shall be unlawful for any person to advertise, market, label, distribute or possess with the intent to distribute:

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

(2) any product containing ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers for indication of stimulation, mental alertness, weight loss, appetite control, energy or other indications not approved pursuant to the pertinent federal over-the-counter drug final monograph or tentative final monograph or approved new drug application.

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

(c) It shall be unlawful for any person to distribute, possess with intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing or under circumstances

where one reasonably should know, that it will be used as such in violation of K.S.A. 21-5701 through 21-5717, and amendments thereto, except ~~subsection (b) of~~ K.S.A. 21-5706**(b)**, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

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

(g) The provisions of subsection (c) shall not apply to any medical cannabis operator, as such term is defined in section 2, and amendments thereto, whose distribution or manufacture is used solely to distribute or produce medical cannabis or medical cannabis products, as such terms are defined in section 2, and amendments thereto, in a manner authorized by the medical cannabis pilot program act, section 1 et seq., and amendments thereto.

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

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

Sec. 48. K.S.A. 23-3201 is hereby amended to read as follows: 23-3201. (a) The court shall determine legal custody, residency and parenting time of a child in accordance with the best interests of the child.

(b) The court shall not consider the fact that a parent consumes medical cannabis or medical cannabis products in accordance with the medical cannabis pilot program act, section 1 et seq., and amendments thereto, when determining the legal custody, residency or parenting time of a child.

Sec. 49. K.S.A. 38-2269 is hereby amended to read as follows: 38-2269. (a) When the child has been adjudicated to be a child in need of care, the court may terminate parental rights or appoint a permanent custodian when the court finds by clear and convincing evidence that the parent is unfit by reason of conduct or condition which renders the parent unable to care properly for a child and the conduct or condition is unlikely to change in the foreseeable future.

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

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

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

(3) the use of intoxicating liquors or narcotic or dangerous drugs of such duration or nature as to render the parent unable to care for the ongoing physical, mental or emotional needs of the child, except that the use of medical cannabis or medical cannabis products in accordance with the medical cannabis pilot program act, section 1 et seq., and amendments thereto, shall not

be considered to render the parent unable to care for the ongoing physical, mental or emotional needs of the child;

- (4) physical, mental or emotional abuse or neglect or sexual abuse of a child;
 - (5) conviction of a felony and imprisonment;
 - (6) unexplained injury or death of another child or stepchild of the parent or any child in the care of the parent at the time of injury or death;
 - (7) failure of reasonable efforts made by appropriate public or private agencies to rehabilitate the family;
 - (8) lack of effort on the part of the parent to adjust the parent's circumstances, conduct or conditions to meet the needs of the child; and
 - (9) whether, as a result of the actions or inactions attributable to the parent and one or more of the factors listed in subsection (c) apply, the child has been in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date on which a child in the secretary's custody was removed from the child's home.
- (c) In addition to the foregoing, when a child is not in the physical custody of a parent, the court, shall consider, but is not limited to, the following:
- (1) Failure to assure care of the child in the parental home when able to do so;
 - (2) failure to maintain regular visitation, contact or communication with the child or with the custodian of the child;
 - (3) failure to carry out a reasonable plan approved by the court directed toward the integration of the child into a parental home; and
 - (4) failure to pay a reasonable portion of the cost of substitute physical care and maintenance based on ability to pay.

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

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

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

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

(g) (1) If the court makes a finding of unfitness, the court shall consider whether termination of parental rights as requested in the petition or motion is in the best interests of the child. In making the determination, the court shall give primary consideration to the physical, mental and emotional health of the child. If the physical, mental or emotional needs of the child would best be served by termination of parental rights, the court shall so order. A termination of parental rights under the code shall not terminate the right of a child to inherit from or through a parent. Upon such termination all rights of the parent to such child, including, such parent's right to inherit from or through such child, shall cease.

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

K.S.A. 38-2272, and amendments thereto, or continued permanency planning.

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

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

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

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

Sec. 50. K.S.A. 44-501 is hereby amended to read as follows: 44-501. (a) (1) Compensation for an injury shall be disallowed if such injury to the employee results from:

(A) The employee's deliberate intention to cause such injury;

(B) the employee's willful failure to use a guard or protection against accident or injury which is required pursuant to any statute and provided for the employee;

(C) the employee's willful failure to use a reasonable and proper guard and protection voluntarily furnished the employee by the employer;

(D) the employee's reckless violation of their employer's workplace safety rules or regulations; or

(E) the employee's voluntary participation in fighting or horseplay with a co-employee for any reason, work related or otherwise.

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

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

(B) (i) In the case of drugs or medications which are available to the public without a prescription from a health care provider and prescription drugs or medications, compensation shall not be denied if the employee can show that such drugs or medications were being taken or used in therapeutic doses and there have been no prior incidences of the employee's impairment on the job as the result of the use of such drugs or medications within the previous 24 months.

(ii) In the case of cannabis, including any cannabis derivatives, compensation shall not be denied if the employee holds a valid medical cannabis certificate issued pursuant to the medical cannabis pilot program act, section 1 et seq., and amendments thereto, such cannabis or cannabis derivative was used in accordance with such act, and there has been no prior incidence of the employee's impairment on the job as a result of the use of such cannabis or cannabis derivative within the immediately preceding 24 months.

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

	Confirmatory test cutoff levels (ng/ml)
Marijuana metabolite ¹	15
Cocaine metabolite ²	150
Opiates:	
Morphine	2000
Codeine	2000
6-Acetylmorphine ⁴³	10 ng/ml
Phencyclidine	25
Amphetamines:	
Amphetamine	500
Methamphetamine ³⁴	500

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

² Benzoylcegonine.

³ ~~Specimen must also contain amphetamine at a concentration greater than or equal to 200 ng/ml~~ Test for 6-AM when morphine concentration exceeds 2,000 ng/ml.

⁴ ~~Test for 6-AM when morphine concentration exceeds 2,000 ng/ml~~ Specimen must also contain amphetamine at a concentration greater than or equal to 200 ng/ml.

(D) If it is shown that the employee was impaired pursuant to subsection (b)(1)(C) at the time of the injury, there shall be a rebuttable presumption that the accident, injury, disability

or death was contributed to by such impairment. The employee may overcome the presumption of contribution by clear and convincing evidence.

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

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

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

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

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

(D) the worker voluntarily agrees to submit to a chemical test for drugs or alcohol following any accident or injury; or

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

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

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

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

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

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

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

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

(c) (1) Except as provided in paragraph (2), compensation shall not be paid in case of coronary or coronary artery disease or cerebrovascular injury unless it is shown that the exertion of the work necessary to precipitate the disability was more than the employee's usual work in the course of the employee's regular employment.

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

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

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

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

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

(e) An award of compensation for permanent partial impairment, work disability, or permanent total disability shall be reduced by the amount of functional impairment determined to be preexisting. Any such reduction shall not apply to temporary total disability, nor shall it apply to compensation for medical treatment.

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

through settlement or judicial or administrative determination in Kansas, the amount of preexisting functional impairment shall be established by competent evidence.

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

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

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

(f) If the employee receives, whether periodically or by lump sum, retirement benefits under the federal social security act or retirement benefits from any other retirement system, program, policy or plan which is provided by the employer against which the claim is being made, any compensation benefit payments which the employee is eligible to receive under the workers compensation act for such claim shall be reduced by the weekly equivalent amount of the total amount of all such retirement benefits, less any portion of any such retirement benefit, other than retirement benefits under the federal social security act, that is attributable to payments or contributions made by the employee, but in no event shall the workers compensation benefit be less than the workers compensation benefit payable for the employee's percentage of functional impairment. Where the employee elects to take retirement benefits in a lump sum, the lump sum payment shall be amortized at the rate of 4% per year over the

employee's life expectancy to determine the weekly equivalent value of the benefits.

Sec. 51. K.S.A. 2023 Supp. 65-1120 is hereby amended to read as follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may deny, revoke, limit or suspend any license or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced practice registered nurse or as a registered nurse anesthetist that is issued by the board or applied for under this act, or may require the licensee to attend a specific number of hours of continuing education in addition to any hours the licensee may already be required to attend or may publicly or privately censure a licensee or holder of a temporary permit or authorization, if the applicant, licensee or holder of a temporary permit or authorization is found after hearing:

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

(2) to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120, and amendments thereto, no license or authorization to practice nursing as a licensed professional nurse, as a licensed practical nurse, as an advanced practice registered nurse or registered nurse anesthetist shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, [and amendments thereto](#), or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

(3) has been convicted or found guilty or has entered into an agreed disposition of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

- (4) to have committed an act of professional incompetency as defined in subsection (e);
- (5) to be unable to practice with skill and safety due to current abuse of drugs or alcohol;
- (6) to be a person who has been adjudged in need of a guardian or conservator, or both, under the act for obtaining a guardian or conservator, or both, and who has not been restored to capacity under that act;
- (7) to be guilty of unprofessional conduct as defined by rules and regulations of the board;
- (8) to have willfully or repeatedly violated the provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act, including K.S.A. 65-1114 and 65-1122, and amendments thereto;
- (9) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph (9); or
- (10) to have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 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. 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.

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

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

(c) *Witnesses.* No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state except the crime of perjury as defined in K.S.A. 21-5903, and amendments thereto.

(d) *Costs.* If final agency action of the board in a proceeding under this section is adverse to the applicant or licensee, the costs of the board's proceedings shall be charged to the applicant or licensee as in ordinary civil actions in the district court, but if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed by the board according to the statutes relating to procedure in the district court. All costs accrued by

the board, when it is the successful party, and ~~which~~ that the attorney general certifies cannot be collected from the applicant or licensee shall be paid from the board of nursing fee fund. All moneys collected following board proceedings shall be credited in full to the board of nursing fee fund.

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

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

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

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

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

(g) *Medical cannabis exemption.* The board shall not deny, revoke, limit or suspend the license of any licensee or publicly or privately censure any licensee for:

(1) Advising a patient about the possible benefits and risks of using medical cannabis or that using medical cannabis may mitigate the patient's symptoms; or

(2) any actions as a patient or caregiver holding a valid medical cannabis certificate issued pursuant to the medical cannabis pilot program act, section 1 et seq., and amendments thereto, including whether the licensee possesses or has possessed or uses or has used medical

[cannabis in accordance with such act.](#)

Sec. 52. K.S.A. 2023 Supp. 65-28b08 is hereby amended to read as follows: 65-28b08.

(a) The board may deny, revoke, limit or suspend any license or authorization issued to a certified nurse-midwife to engage in the independent practice of midwifery that is issued by the board or applied for under this act, or may publicly censure a licensee or holder of a temporary permit or authorization, if the applicant or licensee is found after a hearing:

(1) To be guilty of fraud or deceit while engaging in the independent practice of midwifery or in procuring or attempting to procure a license to engage in the independent practice of midwifery;

(2) to have been found guilty of a felony or to have been found guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120, and amendments thereto, no license or authorization to practice and engage in the independent practice of midwifery shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to its repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

(3) to have committed an act of professional incompetence as defined in subsection (c);

(4) to be unable to practice the healing arts with reasonable skill and safety by reason of impairment due to physical or mental illness or condition or use of alcohol, drugs or controlled substances. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery or release to any person or entity outside of a board proceeding;

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

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

(7) to have willfully or repeatedly violated the provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to such act;

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

(9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 21-5407, and amendments thereto, as established by any of the following:

(A) A copy of the record of criminal conviction or plea of guilty to a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 21-5407, and amendments thereto;

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

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

(b) No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state, except the crime of perjury as defined in K.S.A. 21-5903, and amendments thereto.

(c) The board shall not deny, revoke, limit or suspend the license or authorization issued to a certified nurse-midwife or publicly or privately censure a certified nurse-midwife for:

(1) Advising a patient about the possible benefits and risks of using medical cannabis or that using medical cannabis may mitigate the patient's symptoms; or

(2) any actions as a patient or caregiver holding a valid medical cannabis certificate issued pursuant to the medical cannabis pilot program act, section 1 et seq., and amendments thereto, including whether the licensee possesses or has possessed or uses or has used medical cannabis in accordance with such act.

(d) As used in this section, "professional incompetency" means:

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

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

(3) a pattern of practice or other behavior ~~which~~ that demonstrates a manifest incapacity or incompetence to engage in the independent practice of midwifery.

~~(d)~~(e) The board, upon request, shall receive from the Kansas bureau of investigation

such criminal history record information relating to arrests and criminal convictions, as necessary, for the purpose of determining initial and continuing qualifications of licensees and applicants for licensure by the board.

Sec. 53. K.S.A. 79-5201 is hereby amended to read as follows: 79-5201. As used in ~~this act~~ article 52 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto:

(a) ~~"Marijuana" means any marijuana, whether real or counterfeit, as defined by K.S.A. 21-5701, and amendments thereto, which is held, possessed, transported, transferred, sold or offered to be sold in violation of the laws of Kansas;~~

~~(b)~~—"Controlled substance" means any drug or substance, whether real or counterfeit, as defined by K.S.A. 21-5701, and amendments thereto, which is held, possessed, transported, transferred, sold or offered to be sold in violation of the laws of Kansas. Such term shall not include marijuana;

~~(e)~~(b) "dealer" means any person who, in violation of Kansas law, manufactures, produces, ships, transports or imports into Kansas or in any manner acquires or possesses more than 28 grams of marijuana, or more than one gram of any controlled substance, or 10 or more dosage units of any controlled substance ~~which~~ that is not sold by weight;

~~(d)~~(c) "domestic marijuana plant" means any cannabis plant at any level of growth ~~which~~ that is harvested or tended, manicured, irrigated, fertilized or where there is other evidence that it has been treated in any other way in an effort to enhance growth.

(d) "marijuana" means any marijuana, whether real or counterfeit, as defined in K.S.A. 21-5701, and amendments thereto, that is held, possessed, transported, transferred, sold or offered for sale in violation of the laws of Kansas; and

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

[thereto.](#)

Sec. 54. K.S.A. 79-5210 is hereby amended to read as follows: 79-5210. Nothing in this act requires persons registered under article 16 of chapter 65 of the Kansas Statutes Annotated, [and amendments thereto](#), or otherwise lawfully in possession of marijuana, [medical cannabis](#) or a controlled substance to pay the tax required under this act.

Sec. 55. K.S.A. 21-5703, 21-5705, 21-5706, 21-5707, 21-5709, 21-5710, 23-3201, 38-2269, 44-501, 79-5201 and 79-5210 and K.S.A. 2023 Supp. 65-1120 and 65-28b08 are hereby repealed.

Sec. 56. This act shall take effect and be in force from and after its publication in the Kansas register.