

As Amended by House Committee

{As Amended by Senate Committee of the Whole}

As Amended by Senate Committee

Session of 2021

SENATE BILL No. 283

By Committee on Federal and State Affairs

3-1

1 AN ACT concerning the *{governmental response to the COVID-19*
2 *pandemic in Kansas; extending the expanded use of telemedicine in*
3 *response to the COVID-19 public health emergency; extending the*
4 *authority of the board of healing arts to grant certain temporary*
5 *emergency licenses; imposing requirements related thereto and*
6 *expiring such provisions; extending the suspension of certain*
7 *requirements related to medical care facilities and expiring such*
8 *provisions; modifying the}* COVID-19 response and reopening for
9 business liability protection act; ~~modifying~~ *extending* immunity *{from*
10 *civil liability for certain healthcare providers and}* for certain persons
11 conducting business in this state for COVID-19 claims ~~accruing on or~~
12 ~~after March 12, 2020, and prior to termination of the state of disaster~~
13 ~~emergency related to the COVID-19 public health emergency~~ *until*
14 *March 31, 2022; amending K.S.A. 2020 Supp. {48-963, as amended*
15 *by section 7 of 2021 Senate Bill No. 14, 48-964, 48-965, as amended*
16 *by section 8 of 2021 Senate Bill No. 14, 60-5503,}* 60-5504, as
17 amended by section 10 of 2021 Senate Bill No. 14, ~~and 60-5508 60-~~
18 ~~5508 {and 65-468}~~ and repealing the existing ~~sections~~ *section*
19 *{sections}*.

20

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

22

23 *{Section 1. K.S.A. 2020 Supp. 48-963, as amended by section 7 of*
24 *2021 Senate Bill No. 14, is hereby amended to read as follows: 48-963.*

25

26 *(a) A physician may issue a prescription for or order the administration*
27 *of medication, including a controlled substance, for a patient without*
28 *conducting an in-person examination of such patient.*

29

30 *(b) A physician under quarantine, including self-imposed*
31 *quarantine, may practice telemedicine.*

32

33 *(c) (1) A physician holding a license issued by the applicable*
34 *licensing agency of another state may practice telemedicine to treat*
35 *patients located in the state of Kansas, if such out-of-state physician:*

36

37 ~~(A) Advises the state board of healing arts of such practice in writing~~

1 and in a manner determined by the state board of healing arts; and

2 ~~(B) holds an unrestricted license to practice medicine and surgery in~~
3 ~~the other state and is not the subject of any investigation or disciplinary~~
4 ~~action by the applicable licensing agency~~ *holds a temporary emergency*
5 *license granted pursuant to K.S.A. 2020 Supp. 48-965, and amendments*
6 *thereto.*

7 *(2) The state board of healing arts may extend the provisions of this*
8 *subsection to other healthcare professionals licensed and regulated by*
9 *the board as deemed necessary by the board to address the impacts of*
10 *COVID-19 and consistent with ensuring patient safety.*

11 *(d) A physician practicing telemedicine in accordance with this*
12 *section shall conduct an appropriate assessment and evaluation of the*
13 *patient's current condition and document the appropriate medical*
14 *indication for any prescription issued.*

15 *(e) Nothing in this section shall supersede or otherwise affect the*
16 *provisions of K.S.A. 65-4a10, and amendments thereto, or K.S.A. 2020*
17 *Supp. 40-2,215, and amendments thereto.*

18 *(f) As used in this section:*

19 *(1) "Physician" means a person licensed to practice medicine and*
20 *surgery.*

21 *(2) "Telemedicine" means the delivery of healthcare services by a*
22 *healthcare provider while the patient is at a different physical location.*

23 *(g) This section shall expire on March 31, 2021/2022.*

24 *Sec. 2. K.S.A. 2020 Supp. 48-964 is hereby amended to read as*
25 *follows: 48-964. (a) (1) A hospital may admit patients in excess of such*
26 *hospital's number of licensed beds or inconsistent with the licensed*
27 *classification of such hospital's beds to the extent that such hospital*
28 *determines is necessary to treat COVID-19 patients and to separate*
29 *COVID-19 patients and non-COVID-19 patients.*

30 *(2) A hospital admitting patients in such manner shall notify the*
31 *department of health and environment as soon as practicable but shall*
32 *not be required to receive prior authorization to admit patients in such*
33 *manner.*

34 *(b) (1) A hospital may utilize non-hospital space, including off-*
35 *campus space, to perform COVID-19 testing, triage, quarantine or*
36 *patient care to the extent that such hospital determines is necessary to*
37 *treat COVID-19 patients and to separate COVID-19 patients and non-*
38 *COVID-19 patients.*

39 *(2) The department of health and environment may impose*
40 *reasonable safety requirements on such use of non-hospital space to*
41 *maximize the availability of patient care.*

42 *(3) Non-hospital space used in such manner shall be deemed to*
43 *meet the requirements of K.S.A. 65-431(d), and amendments thereto.*

1 ***(4) A hospital utilizing non-hospital space in such manner shall***
2 ***notify the department of health and environment as soon as practicable***
3 ***but shall not be required to receive prior authorization to utilize non-***
4 ***hospital space in such manner.***

5 ***(c) A medical care facility may permit healthcare providers***
6 ***authorized to provide healthcare services in the state of Kansas to***
7 ***provide healthcare services at such medical care facility without***
8 ***becoming a member of the medical care facility's medical staff.***

9 ***(d) As used in this section, "hospital" and "medical care facility"***
10 ***mean the same as defined in K.S.A. 65-425, and amendments thereto.***

11 ***(e) This section shall expire*** ~~+20~~ ***calendar days after the expiration or***
12 ***termination of the state of disaster emergency proclamation issued by the***
13 ***governor in response to the COVID-19 public health emergency, or any***
14 ***extension thereof on March 31, 2022.***

15 ***Sec. 3. K.S.A. 2020 Supp. 48-965, as amended by section 8 of 2021***
16 ***Senate Bill No. 14, is hereby amended to read as follows: 48-965. (a)***
17 ***Notwithstanding any statute to the contrary, the state board of healing***
18 ***arts may grant a temporary emergency license to practice any profession***
19 ***licensed, certified, registered or regulated by the board to an applicant***
20 ***with qualifications the board deems sufficient to protect public safety***
21 ***and welfare within the scope of professional practice authorized by the***
22 ***temporary emergency license for the purpose of preparing for,***
23 ***responding to or mitigating any effect of COVID-19.***

24 ***(b) Notwithstanding any statute to the contrary, an applicant may***
25 ***practice in Kansas pursuant to a temporary emergency license upon***
26 ***submission of a non-resident healthcare provider certification form to the***
27 ***Kansas healthcare stabilization fund and without paying the surcharge***
28 ***required by K.S.A. 40-3404, and amendments thereto.***

29 ***(c) This section shall expire on March 31,*** ~~2021~~ ***2022.***

30 ***Sec. 4. K.S.A. 2020 Supp. 60-5503 is hereby amended to read as***
31 ***follows: 60-5503. (a) Notwithstanding any other provision of law, except***
32 ***as provided in subsection (c), a healthcare provider is immune from civil***
33 ***liability for damages, administrative fines or penalties for acts,***
34 ***omissions, healthcare decisions or the rendering of or the failure to***
35 ***render healthcare services, including services that are altered, delayed***
36 ***or withheld, as a direct response to ~~any state of disaster emergency~~***
37 ***~~declared pursuant to K.S.A. 48-924, and amendments thereto, related to~~***
38 ***the COVID-19 public health emergency.***

39 ***(b) The provisions of this section shall apply to any claims for***
40 ***damages or liability that arise out of or relate to acts, omissions or***
41 ***healthcare decisions occurring ~~during any state of disaster emergency~~***
42 ***~~declared pursuant to K.S.A. 48-924, and amendments thereto between~~***
43 ***March 12, 2020, and March 31, 2022, related to the COVID-19 public***

1 *health emergency.*

2 *(c) (1) The provisions of this section shall not apply to civil liability*
 3 *when it is established that the act, omission or healthcare decision*
 4 *constituted gross negligence or willful, wanton or reckless conduct.*

5 *(2) The provisions of this section shall not apply to healthcare*
 6 *services not related to COVID-19 that have not been altered, delayed or*
 7 *withheld as a direct response to the COVID-19 public health emergency.*

8 ~~*(d) The provisions of this section shall expire on March 31, 2022.*~~

9 ~~Section 1. {Sec. 5.}~~ K.S.A. 2020 Supp. 60-5504, as amended by
 10 section 10 of 2021 Senate Bill No. 14, is hereby amended to read as
 11 follows: 60-5504. ~~(a)~~ **(a)** Notwithstanding any other provision of law, a
 12 person, or an agent of such person, conducting business in this state shall
 13 be immune from liability in a civil action for a COVID-19 claim if such
 14 person was acting pursuant to and in substantial compliance with public
 15 health directives applicable to the activity giving rise to the cause of action
 16 when the cause of action accrued.

17 ~~(b) The provisions of this section shall expire on March 31, 2021.~~

18 **(b) The provisions of this section shall expire on March 31, 2022.**

19 ~~Sec. 2. K.S.A. 2020 Supp. 60-5508 is hereby amended to read as~~
 20 ~~follows: 60-5508. (a) The provisions of K.S.A. 2020 Supp. 60-5504, 60-~~
 21 ~~5505 and 60-5507, and amendments thereto, shall apply retroactively to~~
 22 ~~any cause of action accruing on or after March 12, 2020.~~

23 ~~(b) The provisions of K.S.A. 2020 Supp. 60-5503, 60-5504 and 60-~~
 24 ~~5506, and amendments thereto, shall apply retroactively to any cause of~~
 25 ~~action accruing on or after March 12, 2020, and prior to termination of the~~
 26 ~~state of disaster emergency related to the COVID-19 public health~~
 27 ~~emergency declared pursuant to K.S.A. 48-924, and amendments thereto.~~

28 **Sec. 6. K.S.A. 2020 Supp. 60-5508 is hereby amended to read as**
 29 **follows: 60-5508. (a) The provisions of K.S.A. 2020 Supp. 60-5504, 60-**
 30 **5505 and 60-5507, and amendments thereto, shall apply retroactively**
 31 **to any cause of action accruing on or after March 12, 2020.**

32 **(b) The provisions of K.S.A. 2020 Supp. 60-5503 and 60-5506, and**
 33 **amendments thereto, shall apply retroactively to any cause of action**
 34 **accruing on or after March 12, 2020, and prior to termination of the**
 35 **state of disaster emergency related to the COVID-19 public health**
 36 **emergency declared pursuant to K.S.A. 48-924, and amendments**
 37 **thereto.**

38 *(c) The provisions of K.S.A. 2020 Supp. 60-5503, and amendments*
 39 *thereto, shall apply retroactively to any cause of action accruing on or*
 40 *after March 12, 2020, and prior to March 31, 2022.*

41 ~~{Sec. 6.}~~ **7. K.S.A. 2020 Supp. 65-468 is hereby amended to read as**
 42 **follows: 65-468. As used in K.S.A. 65-468 through 65-474, and**
 43 **amendments thereto:**

1 (a) *"Healthcare provider" means any person licensed or otherwise*
2 *authorized by law to provide health care services in this state or a*
3 *professional corporation organized pursuant to the professional*
4 *corporation law of Kansas by persons who are authorized by law to form*
5 *such corporation and who are health care providers as defined by this*
6 *subsection, or an officer, employee or agent thereof, acting in the course*
7 *and scope of employment or agency.*

8 (b) *"Member" means any hospital, emergency medical service,*
9 *local health department, home health agency, adult care home, medical*
10 *clinic, mental health center or clinic or nonemergency transportation*
11 *system.*

12 (c) *"Mid-level practitioner" means a physician assistant or*
13 *advanced practice registered nurse who has entered into a written*
14 *protocol with a rural health network physician.*

15 (d) *"Physician" means a person licensed to practice medicine and*
16 *surgery.*

17 (e) *"Rural health network" means an alliance of members,*
18 *including at least one critical access hospital and at least one other*
19 *hospital, that has developed a comprehensive plan submitted to and*
20 *approved by the secretary of health and environment regarding: Patient*
21 *referral and transfer; the provision of emergency and nonemergency*
22 *transportation among members; the development of a network-wide*
23 *emergency services plan; and the development of a plan for sharing*
24 *patient information and services between hospital members concerning*
25 *medical staff credentialing, risk management, quality assurance and*
26 *peer review.*

27 (f) (1) *"Critical access hospital" means a member of a rural health*
28 *network that: Makes available 24-hour emergency care services;*
29 *provides not more than 25 acute care inpatient beds or in the case of a*
30 *facility with an approved swing-bed agreement a combined total of*
31 *extended care and acute care beds that does not exceed 25 beds; provides*
32 *acute inpatient care for a period that does not exceed, on an annual*
33 *average basis, 96 hours per patient; and provides nursing services under*
34 *the direction of a licensed professional nurse and continuous licensed*
35 *professional nursing services for not less than 24 hours of every day*
36 *when any bed is occupied or the facility is open to provide services for*
37 *patients unless an exemption is granted by the licensing agency*
38 *pursuant to rules and regulations. The critical access hospital may*
39 *provide any services otherwise required to be provided by a full-time, on-*
40 *site dietician, pharmacist, laboratory technician, medical technologist*
41 *and radiological technologist on a part-time, off-site basis under written*
42 *agreements or arrangements with one or more providers or suppliers*
43 *recognized under medicare. The critical access hospital may provide*

1 *inpatient services by a physician assistant, advanced practice registered*
2 *nurse or a clinical nurse specialist subject to the oversight of a physician*
3 *who need not be present in the facility. In addition to the facility's 25*
4 *acute beds or swing beds, or both, the critical access hospital may have a*
5 *psychiatric unit or a rehabilitation unit, or both. Each unit shall not*
6 *exceed 10 beds and neither unit shall count toward the 25-bed limit or be*
7 *subject to the average 96-hour length of stay restriction.*

8 *(2) Notwithstanding the provisions of paragraph (1), prior to June*
9 *30, 2021+March 31, 2022, to the extent that a critical access hospital*
10 *determines it is necessary to treat COVID-19 patients or to separate*
11 *COVID-19 patients and non-COVID-19 patients, such critical access*
12 *hospital shall not be limited to 25 beds or, in the case of a facility with an*
13 *approved swing bed agreement, to a combined total of 25 extended care*
14 *and acute care beds, and shall not be limited to providing acute inpatient*
15 *care for a period of time that does not exceed, on an annual average*
16 *basis, 96 hours per patient.*

17 *(g) "Hospital" means a hospital other than a critical access*
18 *hospital that has entered into a written agreement with at least one*
19 *critical access hospital to form a rural health network and to provide*
20 *medical or administrative supporting services within the limit of the*
21 *hospital's capabilities.*

22 ~~Sec. 3-2-17.~~ 8. K.S.A. 2020 Supp. {48-963, as amended by section
23 7 of 2021 Senate Bill No. 14, 48-964, 48-965, as amended by section 8 of
24 2021 Senate Bill No. 14, 60-5503,} 60-5504, as amended by section 10 of
25 2021 Senate Bill No. 14, ~~and 60-5508 are~~ *is 60-5508 {and 65-468 are}*
26 hereby repealed.

27 ~~Sec. 4-3-18.~~ 9. This act shall take effect and be in force from and
28 after its publication in the Kansas register.