

## DRAFT

**60-3-110. Unprofessional conduct.** Any of the following shall constitute “unprofessional conduct”:

- (a) Performing acts beyond the authorized scope of the level of nursing for which the individual is licensed and education completed;
- (b) assuming duties and responsibilities within the practice of nursing without making or obtaining adequate preparation or maintaining competency;
- (c) failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard each patient;
- (d) inaccurately recording, falsifying, or altering any record of a patient, employer, or agency health facility or of the board;
- (e) physical abuse, which shall be defined as any act or failure to act performed intentionally or carelessly that causes or is likely to cause harm to a patient. This term may include any of the following:
  - (1) The unreasonable use of any physical restraint, isolation, or medication that harms or is likely to harm a patient;
  - (2) the unreasonable use of any physical or chemical restraint, medication, or isolation as punishment, for convenience, in conflict with a physician's order or a policy and procedure of the facility or a state statute or regulation, or as a substitute for treatment, unless the use of the restraint, medication, or isolation is in furtherance of the health and safety of the patient;
  - (3) any threatening; or, menacing gestures or conduct, or other nontherapeutic or inappropriate action directed to colleagues, co-workers, other professionals or members of the public or consumers that results in or might reasonably be expected to result in a patient's unnecessary fear or emotional or mental distress; or
  - (4) failure or omission to provide any goods or services that are reasonably necessary to ensure safety and well-being and to avoid physical or mental harm;
- (f) commission of any act of sexual abuse, sexual misconduct, or sexual exploitation related to the licensee's practice;
- (g) verbal abuse, which shall be defined as any word or phrase spoken inappropriately to or in the presence of a patient that results in or might reasonably be expected to result in the patient's unnecessary fear, emotional distress, or mental distress;
- (h) delegating any activity that requires the unique skill and substantial specialized knowledge derived from the biological, physical, and behavioral sciences and judgment of the nurse to an unlicensed individual in violation of the Kansas nurse practice act or to the detriment of patient safety;
- (i) failing to supervise as required to maintain patient safety;
- ~~(j)~~(j) assigning the practice of nursing to a licensed individual in violation of the Kansas nurse practice act or to the detriment of patient safety;
- ~~(k)~~(k) violating the confidentiality of information or knowledge concerning any patient;
- ~~(l)~~(l) willfully or negligently failing to take appropriate action to safeguard a patient, ~~or the public or~~ consumer from incompetent practice performed by a registered professional nurse or a licensed practical nurse. "Appropriate action" may include reporting to the board of nursing;
- ~~(m)~~(m) leaving an assignment that has been accepted, without notifying the appropriate authority and allowing reasonable time for replacement;
- ~~(n)~~(n) Engages in unprofessional conduct that is nonconforming to the standards of acceptable and prevailing nursing practice or the ethics of the nursing profession, even if a patient is not injured;
- ~~(o)~~(o) Engages in conduct related to licensed nursing practice that is likely to deceive, defraud, or harm that constitutes serious danger to the health, safety and/or welfare of the patient or public;
- ~~(p)~~(p) unauthorized taking or diverting drugs, supplies medications, controlled substances, medical

- supplies or property of any patient, ~~or health facility agency~~; or coworker.
- ~~(p)~~(q) exploitation, which shall be defined as misappropriating a patient's property or taking unfair advantage of a patient's physical or financial resources for the licensee's or another individual's personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false pretense, or false representation;
- ~~(q)~~(r) solicitation of professional patronage through the use of fraudulent or false advertisements, or profiting by the acts of those representing themselves to be agents of the licensee;
- ~~(r)~~(s) advertising nursing superiority or advertising the performance of nursing services in a superior manner;
- ~~(s)~~(t) failing to comply with any disciplinary order of the board;
- ~~(s)~~(u) failing to submit to a mental or physical examination or an alcohol or drug screen, or any combination of these, when so ordered by the board pursuant to K.S.A. 65-4924 and amendments thereto, that the individual is unable to practice nursing with reasonable skill and safety by reason of a physical or mental disability or condition, loss of motor skills or the use of alcohol, drugs, or controlled substances, or any combination of these;
- ~~(t)~~(v) failing to complete the requirements of the impaired provider program of the board; failing or refusing to submit drug or alcohol screening by the employer;
- ~~(u)~~(w) failing to furnish the board, its investigators, or its representatives with any information legally requested by the board;
- ~~(v)~~(x) engaging in nursing practice while using a false or assumed name and/or title or while impersonating another person licensed by the board;
- ~~(w)~~(y) practicing without a license or while the license has lapsed; patient abandonment, which shall be defined as leaving an assignment that has been accepted without notifying the appropriate authority and allowing reasonable time for replacement, whereby such departure may endanger the health, safety and welfare of those patients entrusted to the licensee's care.
- ~~(x)~~(z) allowing another person to use the licensee's license to practice nursing; or
- ~~(y)~~(aa) knowingly aiding or abetting another in any act that is a violation of any health care licensing act.

History: (Authorized by K.S.A. 65-1129; implementing K.S.A. 2015 Supp. 65-1120; effective May 1, 1982; amended Sept. 27, 1993; amended Sept. 6, 1994; amended Oct. 25, 2002; amended April 29, 2016; amended P-\_\_\_\_\_.)