

**Kansas State Board of Nursing  
Landon State Office Building  
Board of Nursing Library, Room 1051  
Investigative Committee Agenda  
September 11, 2023**

**NOTE:** The audience may attend in person or via Zoom. Link to access meeting to follow agenda.

**Time:** 9:00 a.m. – Until Finished

**Committee Members:** Rebecca Sander, MSN, RN – Chair  
Adri Gouldsmith, LPN, V. Chair  
Michaela Hysten, MSN, BSN, RN

**Staff:** Linda Davies, MSN, BSN, RN, Practice Specialist  
Hana Dajani, Administrative Specialist

- I. Quorum (minimum of 2 members present) – Yes or No
- II. Call to Order
- III. Review of On-Site packets
- IV. Additions/Revisions to the agenda
- V. Announcements
- VI. Approval of minutes –June 12, 2023
- VII. Unfinished Business
  1. Update on Investigative Committee Changes
- VIII. New Business
  1. Impaired Provider Program Contract Update
  2. KNAP Statistical Summary for period 04/01/2023-06/30/2023
  3. KNAP Statistical Summary for FY23
  4. New Regulations Review Process
    - a. K.A.R. 60-3-110 – Unprofessional conduct
    - b. K.A.R. 60-7-106 – Unprofessional conduct
- IX. Quasi-Judicial
- X. Agenda for December 2023 Committee meeting
- XI. Adjourn

**Committee Responsibilities:**

To review and recommend revisions in investigative and discipline statutes and regulations. To conduct a review of cases opened by the legal department, determine what type of disciplinary proceeding, and recommend proceedings be initiated. To review and recommend changes to investigative and discipline policies and procedures. To maintain a structure system for monitoring impaired licensees; to review and recommend revisions to the impaired assistance program yearly contract.

**Please Note:** Additional items, which have come to the attention of the Board or Committee, will be handled as time permits. Agenda is subject to change based upon items to come before the Board. Handouts or copies of materials brought to the board or committees for discussion by committee members or visitors must be submitted to staff 30 calendar days prior to start of the meeting. Any items received after the 30th calendar day may be addressed at the meeting at the discretion of the President of the Board or chairperson of the committee.

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/83372712424?pwd=aXdXcVNyWlprOmV1RkNJTHpLaFlsdz09>

Passcode: KsbnINVCom

Or One tap mobile :

+13462487799,,83372712424#,,,,\*8165327815# US (Houston)

+16694449171,,83372712424#,,,,\*8165327815# US

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

+1 346 248 7799 US (Houston)

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+1 719 359 4580 US

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+1 253 215 8782 US (Tacoma)

+1 689 278 1000 US

+1 301 715 8592 US (Washington DC)

+1 305 224 1968 US

+1 309 205 3325 US

+1 312 626 6799 US (Chicago)

+1 360 209 5623 US

+1 386 347 5053 US

+1 507 473 4847 US

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### **Investigative Committee Process Change to Implement:**

- 1) Beginning after September 2023 Board meeting
  - a. Investigative Committee will meet at the 6-week mark between board meetings
    - i. Oct 23 – virtual
    - ii. Dec 11 (board meeting week – in person)
    - iii. Jan 22, 2024 – virtual
    - iv. March 2024 - (board meeting week – in person)
    - v. April 22 or 29, 2024 – virtual
    - vi. June 10, 2024 - (board meeting week – in person)
    - vii. July 22, 2024 – virtual
    - viii. Sept 9, 2024 - (board meeting week – in person)
  - b. Re-evaluate at 1 year.
- 2) Number of cases proposed to review at each virtual meeting: averages 35-40
  - a. Estimated time is half day.
  - b. Type of cases brought to virtual could be prioritized as such, i.e. a significant investigation drug diversion, workplace impairment, abuse
- 3) Plan:
  - a. Meeting Virtually the week of October 23.
  - b. Time
  - c. Zoom Meeting for Open Meeting
  - d. Quasi Judicial and KAPA meetings (closed to public)
  - e. Committee packet sent 2 weeks prior
  - f. Agenda approved 3 weeks prior

# Kansas Nurses Assistance Program Statistical Summary

Prepared by Heart of America Professional Network

**Reporting Period: 04/01/23 - 6/31/23**

Participants Entered Into Program: 20

## Type of license:

LPN	25
RN	93
APRN	3
CRNA	3

## State of Residency:

Kansas	116
Missouri	7
Colorado	1

## Board Status:

Known	97
Unknown	25

## Age of Licensee:

20-29	13
30-39	39
40-49	45
50-59	18
60+	11

## Nursing Employment Status:

Employed	96
Unemployed	6
Outside Profession	2

## Nursing Employment Settings:

Hospital	39
Nursing Home	72
Home Health	5
Other Agency	41
Public Health	7

## Release from Program:

Successfully	24
Non-Compliant	33
Other	1
Death	1
No Diagnosis	1

## Referral Source:

Board	26
Employer	4
Co-worker	15
Family Friend	0
Other	

## Participants Entered and Reasons for Referral:

Alcohol	13
Drugs	20
Alcohol & Drugs	9
Mental Health	1
Gambling	0

# Kansas Nurse Assistance Program Statistical Summary

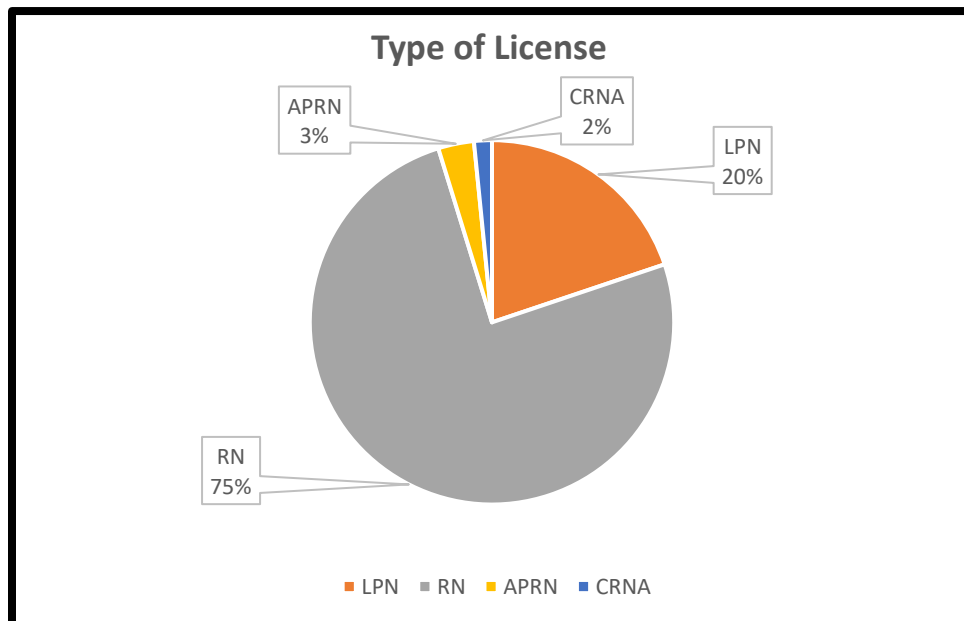
Reporting Period: 07/01/2022-06/30/2023

## Active Cases

Total Number in Program as of 06/03/23: 126

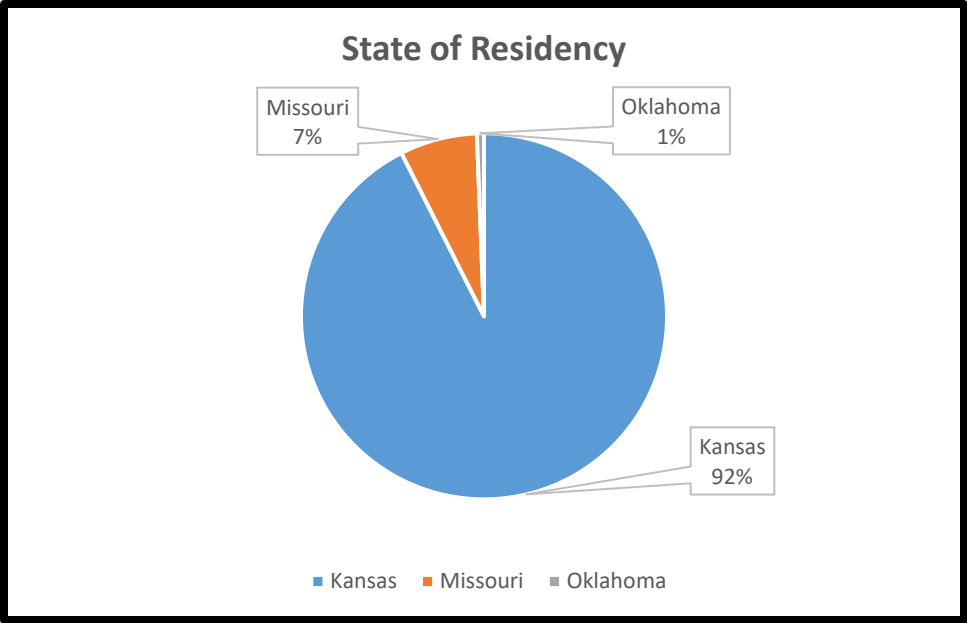
Type of License:

LPN	25
RN	95
APRN	4
CRNA	2



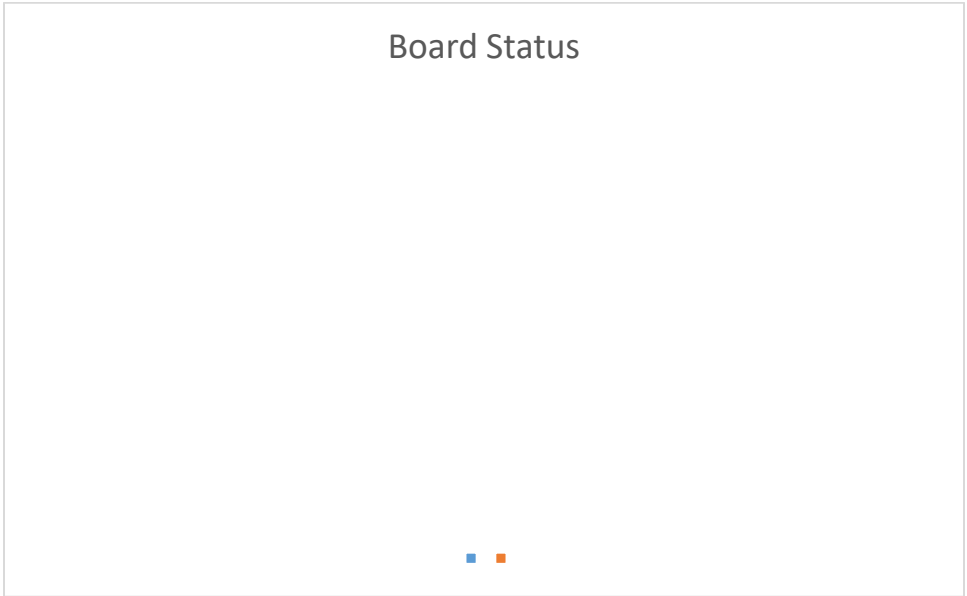
State of Residency:

Kansas	117
Missouri	8
Colorado	1



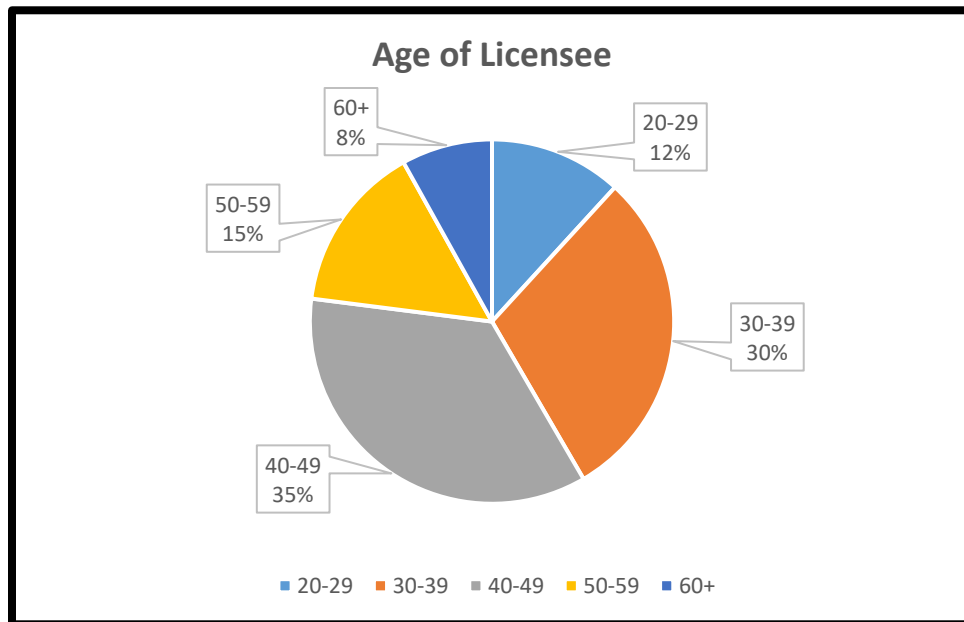
**Board Status:**

Known	97
Unknown	29

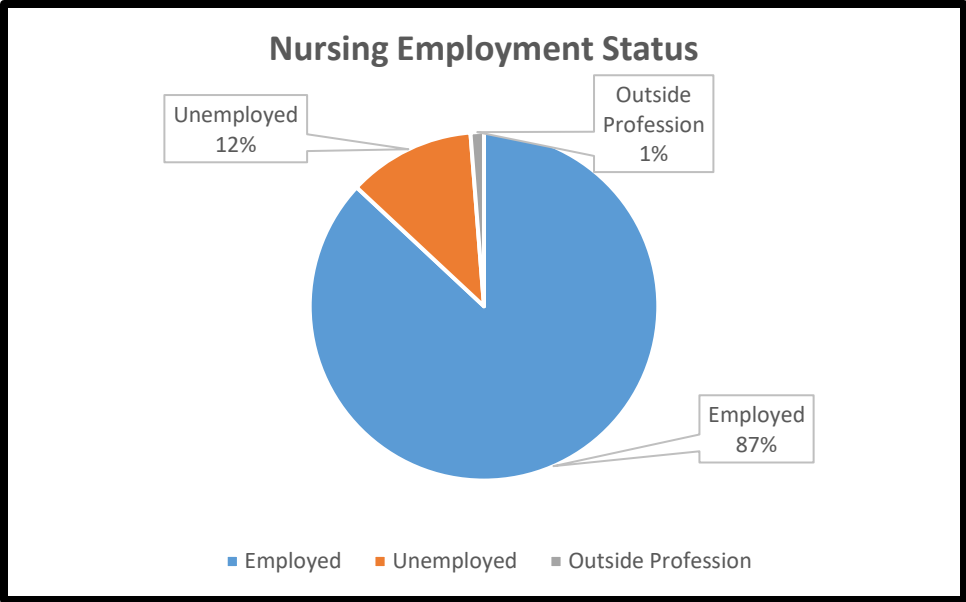


**Age:**

20-29	13
30-39	38
40-49	45
50-59	18
60+	11

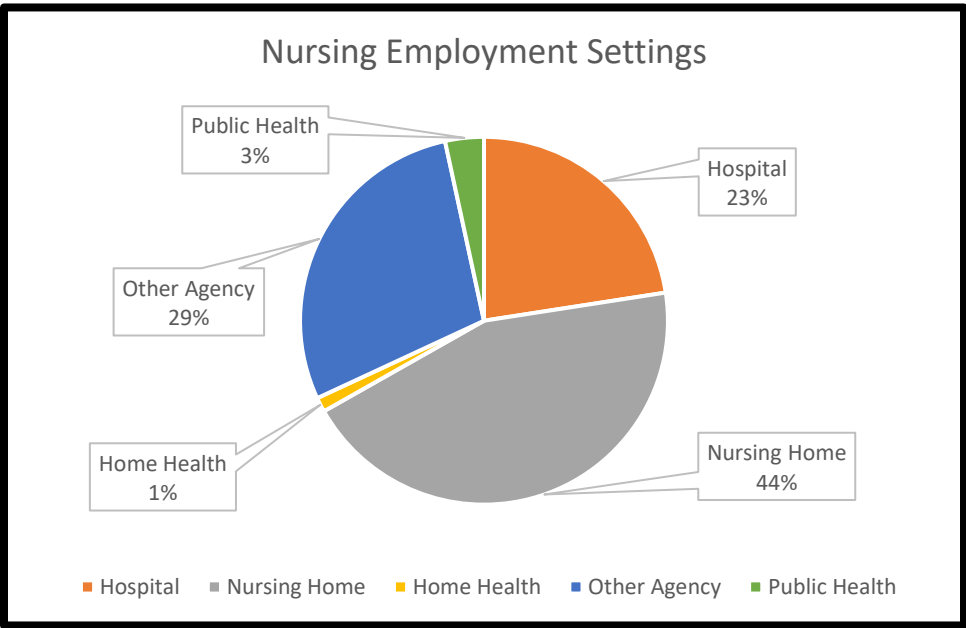
**Nursing Employment Status:**

Employed	96
Unemployed	6
Outside Profession	2



**Nursing Employment Settings:**

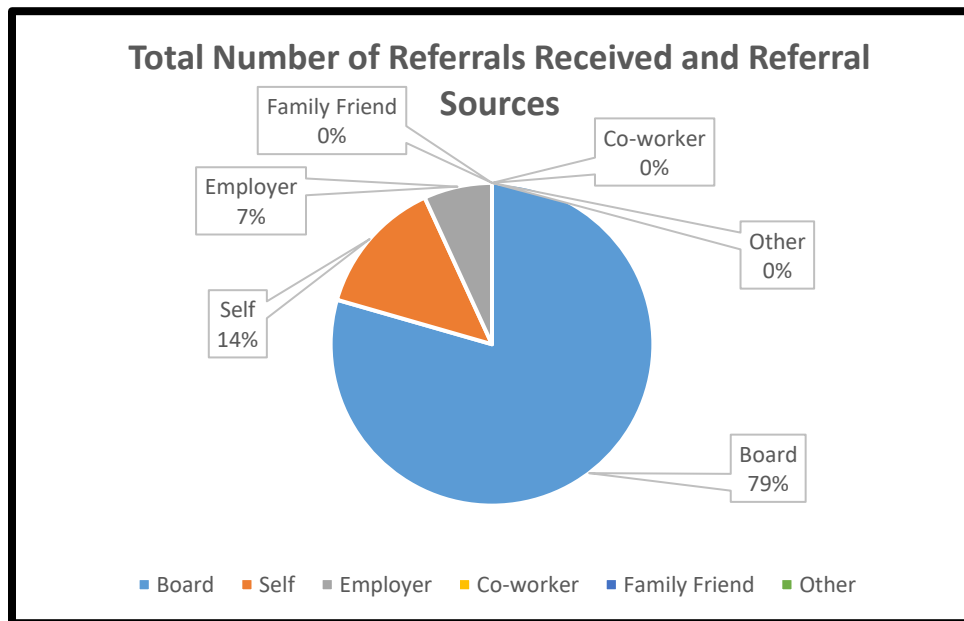
Hospital	39
Nursing Home	72
Home Health	5
Other Agency	41
Public Health	7



## Participants Entered into KNAP Program: 56

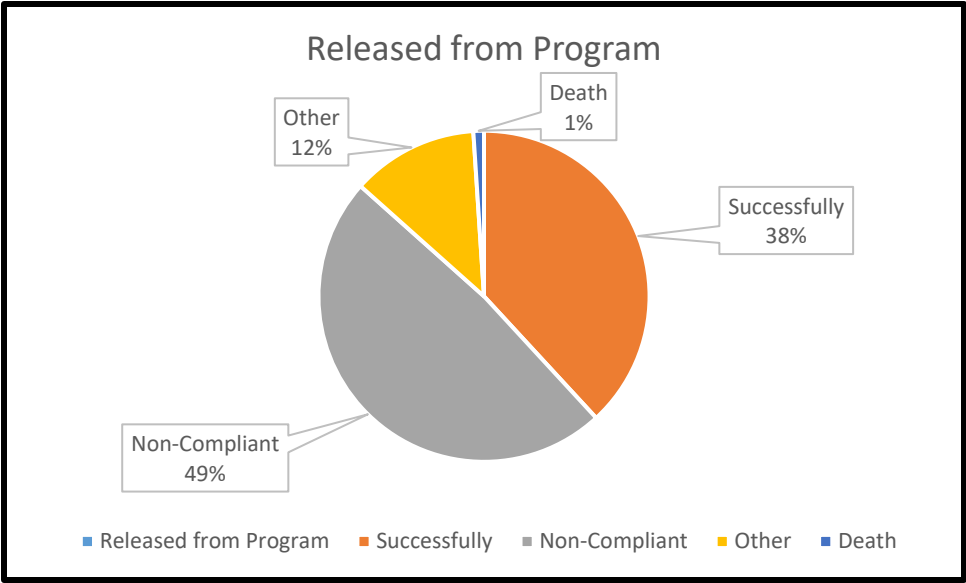
### Total Number of Referrals Received and Referral Sources:

Board	26
Self	15
Employer	4
Co-worker	0
Family Friend	0
Other	0



### Participants Released from Program:

Successfully	34
Non-Compliant	33
Other	0
Death	1



## KSBN Regulation Review Process

As per K.S.A. 77-440, as amended in 2022, state agencies are required to submit a report regarding an intensive review of their regulations every five years. In the past we have reviewed each regulation on a five-year schedule, however that review did not contain all the information that must be completed by the Board for this intensive review. **The report from KSBN must be submitted by July 15, 2025.** There are 90 regulations in the Kansas Nurse Practice Act that must have the intensive review completed by that date. These regulations have been assigned to the appropriate committees to conduct the intensive review. There will be some regulations to review at each committee meeting and the committee members should come prepared for this review. The regulations to review at the committee meeting will be listed on the agenda and a copy of the regulation will be placed in the committee packet. A copy of the KSBN Regulation Review Form will also be placed in the committee packet for each of the regulations listed on the agenda for review. Agency staff will complete Part 1 that includes information about the history of the regulation. **The rest of the questions on the form must be answered by the committee members.** Committee members need to answer the following questions:

- **Necessity (2 questions):**
  - Is the rule and regulation necessary for the implementation and administration of state law?
  - Does the rule and regulation serve an identifiable public purpose in support of state law?
- **Potential for revocation** (taking the regulation off the active list of regulations and no longer be utilized):
  - Briefly describe how revocation would affect Kansans (max 800 characters)
  - Is the rule and regulation being revoked?
  - If the rule and regulation is not in active use, would revocation require a change to the authorizing or implementing statute?
  - If the rule and regulation is not in active use and revocation would require a change in the authorizing or implementing statute, which changes? (maximum 400 characters)
- **Additional information:** additional information necessary to understanding the necessity of the rule and regulation (maximum 1,200 characters)

It is imperative each committee member review the regulation and the review form and come to the committee meeting prepared to discuss their answers. The committee will decide the final answers that should be submitted for each regulation. If the committee needs to table until the next meeting in which more discussion needs to occur, please realize **all the regulation review must be completed no later than the June 2025 committee meetings.**

If you have questions about this process, please see the staff contacts for each committee.

## KSBN Regulation Review Form

### **Part 1 (completed by agency staff):**

Regulation Number: 60

Article Title: 3

Rule and Reg Title: 110 Unprofessional conduct

Type (New/Amended): Amended 04/29/2016

Effective Date (history): 05/01/1982

Authorizing K.S.A. 65-1129

Implementing K.S.A. 2015 Supp. 65-1120

### **Part 2 (completed by committee members):**

#### **Necessity:**

1. Is the rule and regulation necessary for the implementation and administration of state law? Y ☐ or N ☐
2. Does the rule and regulation service an identifiable public purpose in support of state law? Y ☐ or N ☐

#### **Potential for Revocation:**

1. Briefly describe how revocation would affect Kansans (max. 800 characters)
2. Is the rule and regulation being revoked? Y ☐ or N ☐
3. If the rule and regulation is not in active use, would revocation require a change to the authorizing or implementing statute? Y ☐ or N ☐
4. If the rule and regulation is not in active use and revocation would require a change in the authorizing or implementing statute, which changes? (max. 400 characters)

#### **Additional information:**

Additional information necessary to understanding the necessity of the rule and regulation (max. 1,200 characters)

Committee:

Chair:

Date:

An official State of Kansas government website. [Here's how you know.](#)

**Agency 60**  
**State Board of Nursing**

Article 3.—Requirements for Licensure and Standards of Practice

[Printable Format](#)

**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;
- (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 or agency 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 threat, menacing conduct, or other nontherapeutic or inappropriate action 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) assigning the practice of nursing to a licensed individual in violation of the Kansas nurse practice act or to the detriment of patient safety;
- (j) violating the confidentiality of information or knowledge concerning any patient;
- (k) willfully or negligently failing to take appropriate action to safeguard a patient or the public from incompetent practice performed by a registered professional nurse or a licensed practical nurse. "Appropriate action" may include reporting to the board of nursing;
- (l) leaving an assignment that has been accepted, without notifying the appropriate authority and allowing reasonable time for replacement;
- (m) engaging in conduct related to licensed nursing practice that is likely to deceive, defraud, or harm the public;
- (n) diverting drugs, supplies, or property of any patient or agency;
- (o) 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;
- (p) 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;
- (q) advertising nursing superiority or advertising the performance of nursing services in a superior manner;
- (r) failing to comply with any disciplinary order of the board;
- (s) 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) failing to complete the requirements of the impaired provider program of the board;
- (u) failing to furnish the board, its investigators, or its representatives with any information legally requested by the board;
- (v) engaging in nursing practice while using a false or assumed name or while impersonating another person licensed by the board;
- (w) practicing without a license or while the license has lapsed;
- (x) allowing another person to use the licensee's license to practice nursing; or
- (y) knowingly aiding or abetting another in any act that is a violation of any health care licensing act. (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.)

[Printable Form](#)

## KSBN Regulation Review Form

### **Part 1 (completed by agency staff):**

Regulation Number: 60

Article Title: 7

Rule and Reg Title: 106 Unprofessional conduct

Type (New/Amended): Amended 04/29/2016

Effective Date (history): T-88-48, 12/16/1987; 09/27/1993

Authorizing K.S.A. 65-4203

Implementing K.S.A. 2015 Supp. 65-4209

### **Part 2 (completed by committee members):**

#### **Necessity:**

1. Is the rule and regulation necessary for the implementation and administration of state law? Y ☐ or N ☐
2. Does the rule and regulation service an identifiable public purpose in support of state law? Y ☐ or N ☐

#### **Potential for Revocation:**

1. Briefly describe how revocation would affect Kansans (max. 800 characters)
2. Is the rule and regulation being revoked? Y ☐ or N ☐
3. If the rule and regulation is not in active use, would revocation require a change to the authorizing or implementing statute? Y ☐ or N ☐
4. If the rule and regulation is not in active use and revocation would require a change in the authorizing or implementing statute, which changes? (max. 400 characters)

#### **Additional information:**

Additional information necessary to understanding the necessity of the rule and regulation (max. 1,200 characters)

Committee:

Chair:

Date:

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**Agency 60**  
**State Board of Nursing**

Article 7.—Requirements for Licensure and Standards of Practice

[Printable Format](#)

**60-7-106. Unprofessional conduct.** Any of the following shall constitute "unprofessional conduct":

- (a) Performing acts beyond the authorized scope of mental health technician practice for which the individual is licensed;
- (b) assuming duties and responsibilities within the practice of mental health technology without adequate preparation or without maintaining competency;
- (c) failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard the patient;
- (d) inaccurately recording, falsifying, or altering any record of a patient, an agency, or 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 restraints, 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 a punishment, for convenience, in conflict with a physician's order or a policy and procedure of the facility or a 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 threat, menacing conduct, or other nontherapeutic or inappropriate action that results in or might reasonably be expected to result in a patient's unnecessary fear or emotional or mental distress; or
  - (4) any 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) the 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 mental health technician to an unlicensed individual in violation of the mental health technician's licensure act or to the detriment of patient safety;
- (i) assigning the practice of mental health technology to a licensed individual in violation of the mental health technician's licensure act or to the detriment of patient safety;
- (j) violating the confidentiality of information or knowledge concerning any patient;
- (k) willfully or negligently failing to take appropriate action to safeguard a patient or the public from incompetent practice performed by a licensed mental health technician. "Appropriate action" may include reporting to the board of nursing;
- (l) leaving an assignment that has been accepted, without notifying the appropriate authority and without allowing reasonable time for the licensee's replacement;
- (m) engaging in conduct related to mental health technology practice that is likely to deceive, defraud, or harm the public;
- (n) diverting drugs, supplies, or property of any patient or agency or violating any law or regulation relating to controlled substances;
- (o) 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;
- (p) 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;
- (q) failing to comply with any disciplinary order of the board;
- (r) if the licensee is participating in an impaired provider program approved by the board, failing to complete the requirements of the program;
- (s) 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 mental health technology 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) failing to furnish the board of nursing, or its investigators or representatives, with any information legally requested by the board of nursing;
- (u) engaging in mental health technology practice while using a false or assumed name or while impersonating another person licensed by the board;
- (v) practicing without a license or while the individual's license has lapsed;
- (w) allowing another person to use the licensee's license to practice mental health technology;
- (x) knowingly aiding or abetting another in any act that is a violation of any health care licensing act;
- (y) having a mental health technician license from a licensing authority of another state, agency of the United States government, territory of the

United States, or country denied, revoked, limited, or suspended or being subject to any other disciplinary action. A certified copy of the record or order of denial, suspension, limitation, revocation, or any other disciplinary action issued by 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;

(z) failing to report to the board of nursing any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, a law enforcement agency, or a court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action under this regulation; or

(aa) cheating on or attempting to subvert the validity of the examination for a license. (Authorized by K.S.A. 65-4203 implementing K.S.A. 2015 Supp. 65-4209; effective, T-88-48, Dec. 16, 1987; effective Sept. 27, 1993; amended Sept. 6, 1994; amended April 20, 2007; amended April 29, 2016.)

[Printable Form](#)