

**Kansas State Board of Nursing  
Landon State Office Building  
Board of Nursing Library, Room 1051  
Investigative Committee Agenda  
March 25, 2024**

**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  
Ruth L.M. Burkhart, DNP, MSN, MA, RN-BC, LPCC  
Brenda Sharpe, Public Member

**Staff:** Linda Davies, MSN, BSN, RN, Practice Specialist  
Jill Simons, Executive Assistant

- I. Quorum (minimum of 3 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 – December 11, 2023  
January 22, 2024

**Consent Item Agenda**

- VII. Unfinished Business
  - 1. Investigative Committee Changes – After Action
  - 2. KNPA Self-Study Module
- VIII. New Business
  - 1. KNAP Statistical Summary for period 10/01/2023-12/31/2023
  - 2. JAWS Accommodation Update
  - 3. Performance Based Metric – review metric that 60% of cases completed once open
  - 4. Impaired Healthcare Provider Education Committee
  - 5. Virtual Committee Meeting Procedure
  - 6. Investigative Procedures update
  - 7. Five-year Statute Regulation Review
    - a. K.S.A. 65-1123 – Injunctions
    - b. K.S.A. 65-1126 – Invalidity of part

c. K.S.A. 65-1127 – Immunity

IX. Quasi-Judicial

X. Agenda for June 2024 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 structured 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/81211056332?pwd=aHNrdEt4V2pSSHNNYTFzQXcxQ2c3dz09>

Passcode: KsbnINVCom

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+1 669 444 9171 US

+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

After Action Discussion – March 25, 2024

1. Set dates for remaining calendar year (2024)
  - a. April 29 (Virtual)
  - b. June 10 (in person)
  - c. July 22 (Virtual)
  - d. Sept 9 (in person)
  - e. Oct 21 (Virtual)
  - f. Dec 9 (in person)
2. Quorum affects outcome
  - a. Committee membership
3. Virtual Connection
  - a. Open Meeting – Zoom (Invite 1)
  - b. Quasi-Judicial – Teams (Invite 2)
  - c. Open Meeting – Zoom (Invite 1)
  - d. KAPA proceedings – Teams (Invite 3)
4. Process to Recuse self from discussion
5. Timely response to Emails sent to ks.gov

# Kansas Nurses Assistance Program Statistical Summary

**Reporting Period: 10/01/2023 - 12/31/2023**

**Active Cases**

Participants Entered Into Program:	<u>9</u>	Total Number in Program:	<u>100</u>
<b>Referral Source:</b>		<b>Type of License:</b>	
Board:	<u>7</u>	ARNP	<u>6</u>
Employer:	<u>0</u>	CRNA	<u>3</u>
Co-Worker:	<u>0</u>	LPN	<u>18</u>
Self:	<u>4</u>	RN	<u>73</u>
Family-Friend:	<u>0</u>	<b>Board:</b>	
Other:	<u>0</u>	Known:	<u>80</u>
		Un-Known:	<u>20</u>
<b>Reasons for Referral :</b>		<b>Gender:</b>	
Alcohol:	<u>3</u>	Male:	<u>19</u>
Drugs:	<u>0</u>	Female:	<u>81</u>
Alcohol & Drugs	<u>2</u>	<b>Age:</b>	
Mental Health:	<u>0</u>	20's:	<u>13</u>
Gambling:	<u>0</u>	30's:	<u>26</u>
		40's:	<u>38</u>
<b>Released from Program:</b>		50's:	<u>14</u>
Successfully:	<u>7</u>	60's:	<u>8</u>
Non-Compliant:	<u>5</u>	<b>Nursing Employment Status:</b>	
Other:	<u>3</u>	Employed:	<u>87</u>
Death:	<u>0</u>	Unemployed:	<u>4</u>
No Diagnosis:	<u>0</u>	Outside Profession:	<u>2</u>
<b>State of Residency:</b>		<b>Nursing Employment Settings:</b>	
MO	<u>6</u>	Hospital:	<u>37</u>
KS	<u>94</u>	Nursing Home:	<u>46</u>
		Home Health:	<u>4</u>
<b>Contract Length:</b>		Other Agency:	<u>31</u>
7 Year's	<u>2</u>	Public Health	<u>6</u>
6 Year's	<u>2</u>		
5 Year's	<u>5</u>		
4 Year's	<u>7</u>		
3 Year's	<u>63</u>		
2 Year's	<u>2</u>		
1 Year	<u>11</u>		

## Investigative Committee – Performance Based Metric Review

March 25, 2024

Statutory Basis: K.S.A. 74-1112, 65-1120, 65-1122

Consequences of not funding Investigations of possible Violations of the NPA and Legal History on Applications:

- Public Protection jeopardized if licensees who violated the NPA were not disciplined
- All complaints received in the office must be reviewed and a priority applied.
- Anyone submitting a complaint to the Board of Nursing has the expectation that a thorough investigation will occur and the licensee will be disciplined if a violation occurred.
- Applicants with a legal history on their criminal background report must be reviewed to determine if it is safe to issue a license to the applicant.

Annual Report Objective 4: Investigate reported complaints in a timely manner and decrease unlicensed individuals from practicing.

- Outcome and Output Measures define Annual Report Objective 4.

Outcome Measure: Percentage of Complaints received in the agency and reviewed by Professional Staff within 2 weeks of date received.

Goal: 90%

FY 2019	FY 2020	*FY 2021	**FY 2022	FY 2023	FY 2024
7/1/18-6/30/19	7/1/19-6/30/20	7/1/20-6/30/21	7/1/21-6/30/22	7/1/22-6/30/23	7/1/23-6/30/24
	36%	7%	91.19%	95.31%	

\*Joined NLC 7/1/2019

\*Change in staff and data collection separated 12/2019.

\*\*Prof Rv process changed effective 7/1/2021. (QI project)

Outcome Measure: Percentage of investigations completed within 9 months of opening the case.

Goal: 60%

- Martin & Kaminski-Ozturk (2022) research determined 177 business days as standard.

FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
65%	66%	29.2%	48.4%	53%	

- FY 2019 and FY 2020, data reflective of all cases (applications, complaints)
- FY 2021 – data reflective of cases from a complaint only
- Application Cases were noted to be completed within 7-10 business days once all documents requested have been received.

Outcome Measure: Comparing outcomes to dollars

FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Funding: 1,107,880	1,176,076	1,183,210	1,266,471	1,252,893	
Cost/Inv: \$504	\$268	\$472	\$496	\$481	

Output Measure: Number of complaints received in the agency and reviewed by Professional Staff.

FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
2867	685	419	498	641*	540 (3/6/2024)

\*26% drug related violations

Output Measure: Number of applications with legal history reviewed.

FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
	3,192	1,908	1,902	1,548	823 (3/7/2024)

Output Measure: Number of investigations opened.

FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
2198	1197	597	715	690	

Output Measure: Number of nurses practicing without a current nursing license.

FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
86	91	44	121	48	

Output Measure: Number of individuals presenting themselves as a nurse but no nursing license (imposter).

FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
0	3	1	5	3	

Barriers to Effective, Efficient Case Processing – out of Inv Div Control

- Joining the NLC which prompted the reopening of cases due to nurse now having a MSL in another jurisdiction, so determination of probable cause/disciplinary action needs finalized as it may affect the Privilege to Practice
- Disciplinary outcomes can still be reported to NPDB when licensee was aware of a pending investigation. However, previous cases were closed when licensee and allowed license to lapse in lieu of license being disciplined.
- Board's request for more evidence
- Documents not received from Subpoena (Hosp, LTC, Staffing agency, Parent company, out of state holdings corporations – variation in medical records retention policy, and Personnel changes)
- Witnesses, Licensee, Facility employees do not return call
- Staff shortages in the KSBN Inv Div

- Caseload per investigator
- Pending Disciplinary Action to become final
  - No metrics in place for resolution of case outcome

Proposed:

- Track % of cases that are outside 177 business days
- Identify reason for delay
- Track % of applicants that do not submit documents timely
- Track critical cases (Significant investigations)
  - These could impact public health and safety more
- Track caseload of each investigator
- Define prioritization of cases
  - Considerations
    - Current Caseload of investigators
    - Volume of complaints received
    - Complexity of complaint and resulting case
    - Barriers to processing
  - Sworn complaints (avg is 20%)
  - Factors leading to high prioritization:
    - Patient harmed / or death occurred
    - Patient could be harmed
    - Multiple Drug Diversions
    - Abuse
- Inv Comm Chair will present data to the Board in the Committee report.

Reference

Martin, B. & Kaminski-Ozturk, N. (2022). Evaluating the operational efficiency of nursing regulatory boards' discipline case management, *Journal of Nursing Regulation*, 13(1), 62-69.

## Impaired Healthcare Provider Education Committee (IHPEC)

Members: KNAP, KSBN, KUMC Pharmacist, Risk Management

Duane Olberding, Exec Director, KNAP,  
Elizabeth Anderson Program Manager of KNAP,  
Troy Butcher, Pharmacy Manager, KUMC over Pharmacy Regulatory Compliance and  
Controlled Substance Diversion,  
Dr. Paula Ellis, past CEO at St. John's Hospital in Leavenworth,  
Linda Davies, Nurse Practice Specialist, Kansas State Board of Nursing  
Amber Styles, Senior Director Accreditation & Regulatory Compliance, Risk  
Management, KUMC

HAPN/KNAP Mission includes Advocacy and Education

Goal of IHPEC:

- Education presentations, including prevention education, to medical care professionals on coping with stress, mental health issues
- Establishing Connections with SON  
February 27, 2024 – presentation at KUMC

**65-1123. Injunctions.** When it appears to the board that any person is violating any of the provisions of this act or that any person, firm, corporation, institution or association is employing (except as permitted under K.S.A. [65-1124](#) and amendments thereto) a person to perform professional nursing or practical nursing in Kansas, who is not licensed under this act, the board may in its own name bring an action in a court of competent jurisdiction for an injunction against such violation or such employing, and the proper courts of this state may enjoin any person, firm or corporation, institution or association from violation of this act or such employing without regard to whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.

**History:** L. 1949, ch. 331, § 12; L. 1963, ch. 314, § 8; L. 1975, ch. 316, § 10; July 1.

**65-1126. Invalidity of part.** If any provision of this act or the application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

**History:** L. 1949, ch. 331, § 15; June 30.

**65-1127. Reporting of malpractice incidents and other information; immunity from liability in civil actions for reporting, communicating and investigating certain information concerning alleged malpractice incidents and other information; conditions.** (a) A licensee shall report to the board of nursing any information the licensee may have relating to alleged incidents of malpractice or the qualifications, fitness or character of a person licensed to practice professional nursing or licensed to practice practical nursing, including persons holding a multi-state license under the nurse licensure compact. No person reporting to the board of nursing under oath and in good faith any information such person may have relating to alleged incidents of malpractice or the qualifications, fitness or character of a person licensed to practice professional nursing or licensed to practice practical nursing shall be subject to a civil action for damages as a result of reporting such information.

(b) Any state, regional or local association of registered professional nurses or licensed practical nurses and the individual members of any committee thereof, which in good faith investigates or communicates information pertaining to the alleged incidents of malpractice or the qualifications, fitness or character of any licensee or registrant to the board of nursing or to any committee or agent thereof, shall be immune from liability in any civil action, that is based upon such information or transmittal of information if the investigation and communication was made in good faith and did not represent as true any matter not reasonably believed to be true.

**History:** L. 1976, ch. 261, § 4; L. 2018, ch. 42, § 6; July 1, 2019.