

**Kansas State Board of Nursing
Landon State Office Building
Board of Nursing Library, Room 1051
Investigative Committee Agenda
June 9, 2025**

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: Julianna Rieschick, RN, MSN, NEA-BC, Chair
Adri Gouldsmith, LPN, V. Chair
Brenda Sharpe, Public Member

Staff: Linda Davies, MSN, BSN, RN, Practice Specialist
Stephanie Wiley, Sr. Administrative Assistant

- 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 – March 25, 2025

Consent Item Agenda

- VII. Unfinished Business
 - 1. Monitoring Interruption
- VIII. New Business
 - 1. Presentation Remedial Education by Catherine V. Caldicott, MD, FACP, Medical Director, PBI Education
 - 2. KNAP Statistical Summary, Jan-March 2025
 - 3. Presentation by KNAP Executive Director, Stephanie Becraft, LCAC
 - 4. 5-year Regulation Review
 - 5. Disciplinary Statutes Review
 - a. K.S.A. 65-1120 – DRAFT
 - b. K.S.A. 65-1120a – DRAFT
 - c. K.S.A. 65-1121a – DRAFT
 - d. K.S.A. 65-1129 – DRAFT
 - e. K.S.A. 74-110 – DRAFT
 - f. K.A.R. 60-3-110 – DRAFT
 - g. K.S.A. 65-xxxx - Impaired Provider Statute – DRAFT

L.M.H.T. Act

- h. K.S.A. 65-4203 – LMHT ... rules and regulations
- i. K.S.A. 65-4209 – LMHT Grounds for Disciplinary Action
- j. K.S.A. 65-4210 – LMHT Disciplinary Process
- k. K.S.A. 65-4211 – LMHT Administrative Process
- l. K.S.A. 65-4214 – LMHT Violations
- m. K.A.R. 60-7-105 – LMHT Standards of Practice
- n. K.A.R. 60-7-106 – LMHT Unprofessional Conduct

IX. Quasi-Judicial

X. Agenda for September 2025 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.

You are invited to a Zoom webinar!

When: Jun 9, 2025 08:30 AM Central Time (US and Canada)

Topic: Kansas State Board of Nursing - Investigative Committee

Join from PC, Mac, iPad, or Android:

<https://us02web.zoom.us/j/81096348363?pwd=J0MlkHHUBqLeOp9MbOZSWgrGOizbTq.1>

Passcode: KsbnINVCom

Phone one-tap:

+16694449171,,81096348363#,,,,*1486464307# US

+16699006833,,81096348363#,,,,*1486464307# US (San Jose)

Join via audio:

+1 669 444 9171 US

+1 669 900 6833 US (San Jose)

+1 719 359 4580 US

+1 253 205 0468 US

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 312 626 6799 US (Chicago)

+1 360 209 5623 US

+1 386 347 5053 US

+1 507 473 4847 US

+1 564 217 2000 US

+1 646 876 9923 US (New York)

+1 646 931 3860 US

+1 689 278 1000 US

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Review of Process relating to Monitoring Interruption from KNAP

Purpose: To ensure safe practice when a licensee approved for monitoring interruption returns to work.

Review

- Participant Agreement between KNAP and participant
- Contract Agreement between KSBN and KNAP

1. What is stated in the participant agreement:

I agree to notify and receive the permission of KNAP personnel for any overnight travel out of state while participating in the program. I further agree to provide documentation to verify requested travel and the reason for such travel. I understand if traveling within the United States, I will be required to continue to check-in and submit to drug screens as required. Requests for suspended status or monitoring interruptions during the program will **only** be considered for personal illness, family illness, military duty, or other unforeseen circumstances including a death or illness of an immediate family member. I understand a request for a monitoring interruption will need to be submitted along with documentation to the KNAP Program Manager in writing. International travel must be approved by Kansas State Board of Nursing.

2. What is in the Contract Agreement between KSBN and KNAP:

- 10) and of all Board requirements which may be required by the Board.
- Suspended status or modified requirements of the Program requirements due to personal illness, family illness, military duty or other special circumstances will be considered by the *Contractor's* Impaired Provider Committee when exemption is requested in writing with supporting documentation. Waiver of the Program requirements will be specifically outlined and will be granted for a specific period of time. At the end of the suspension period, the length of the *Contractor* agreement will be extended to coincide with the suspended time period. For participants with modified Program requirements, the *Contractor's* Impaired Provider Committee will determine if any extension in program time is required. Modifications will be specified in writing in the licensee's file. The Board will be notified if a licensee is placed on suspended status, or if modified requirements are granted. If unknown to the Board the notification will be made using the *Contractor's* case number. If known to the Board the notice will be made using the licensee's name, license number, *Contractor's* case number, KSBN case number and last known address. If required under a Diversion Agreement or Board order, the *Contractor* must first obtain approval and/or modification from the Board.
- 11) The *Contractor* shall not suspend, excuse, or authorize a leave for a licensee except for

Discussion:

Everyday they are approved for MI is added to the back end of their monitoring time.

Participants request multiple MI.



Educational Interventions to Address and Prevent Unprofessional Conduct



Remedial Education Program Brochure

In Joint Providership with the
University of California, Irvine School of Medicine
Investigative

PBI Education at a Glance

At PBI, we understand the risk to the public when unprofessional conduct goes unaddressed. We partner with regulators and organizations to provide clinicians with the tools necessary for safer practice. Our team is here to guide you in developing impactful educational plans for clinician remediation.

**23+ years of
remedial
experience**

**1,000+ referring
regulators,
organizations,
and attorneys**

**17,000+
clinicians
educated**

The PBI Course Difference

- Intensive, process-focused approach
- Multidisciplinary courses, limited to 15 (or fewer) participants
- Development of Personalized Protection Plan®
- Post-course reports (AIR Letters) available for additional insights
- CME accredited, independently funded
- Internationally-recognized faculty



PBI Virtual Live Classroom®

All remedial courses are facilitated live in a virtual, face-to-face format (i.e., participants' webcams are always on).

PBI-trained proctors enforce rigorous attendance and participation policies. They are also available to guide participants through technological difficulties.

Steps for Course Referral

1 Select appropriate course(s)

Our team is here to guide you in determining the most relevant course(s). Call 904-800-1237 or review the Course Selection Guide to get started.

2 Communicate expectations to licensee/clinician

Specify selected course(s) in written referral documentation (e.g., order, agreement, stipulated settlement, performance improvement plan, etc.)

3 Receive confirmation of course pass or failure

Clinicians that successfully complete their course will receive a course certificate. If they fail, PBI will notify you of the reasons for failure.



Post-Course Report: AIR Letter

AIR (Accomplishments, Impressions, and Recommendations) Letters serve as a supplement to a clinician's course certificate.

This letter describes the clinician's course accomplishments, provides faculty impressions, and may offer recommendations for enhanced remediation. Referral entities can request to receive an AIR Letter in the written referral documentation prior to the course.

Remedial Courses



Elevating Civility and Communication in Health Care (CC-30, CC-30EX)

Addresses disruptive, uncooperative, or uncollegial behaviors in the workplace

- Live, 3-day course
- 30-42 CME hours



Ethics and Professionalism

Addresses lapses in professionalism, including noncompliance with laws, rules, guidelines, codes, or policies

(ME-15, ME-15EX) (ME-22, ME-22EX)

- Live, 1-day course
- 15-27 CME hours
- Live, 2-day course
- 22-34 CME hours



Medical Record Keeping (MR-17, MR-17EX)

Addresses deficiencies, inaccuracies, and noncompliance in documentation

- Live, 2-day course
- 17-30 CME hours



Professional Boundaries (PB-24, PB-24EN, PB-24EX)

Addresses relationship-based misconduct, including sexual and non-sexual violations

- Live, 3-day course
- 24-46 CME hours



Proper Prescribing (RX-21, RX-21EX)

Addresses deficiencies, inaccuracies, and noncompliance in prescribing practices

- Live, 2-day course
- 21-33 CME hours



Risk Management Essentials (RM-10, RM-10EX)

Addresses common pitfalls and risks that impact clinicians and organizations

- Live, 1-day course
- 10-22 CME hours



Extended (EX) Editions:

PBI Maintaining Accountability with Support (MAS-12)

The extended (EX) editions of the courses above include a longitudinal follow-up component. These faculty-led group seminars elevate accountability through revisiting the Personalized Protection Plan®, and engage clinicians in a multi-disciplinary community of peer review and support.







- Teleconference format
- One-hour, weekly, for a total of 12 seminars
- 12 CME hours



Visit PBleducation.com to learn more about our US and Canadian course editions.

PBI Education Course Selection Guide

Use the chart below to determine the most appropriate course topic(s) to address specific conduct of concern.

COURSE TOPIC	CONCERNING OR UNPROFESSIONAL CONDUCT	
Civility and Communication 	<ul style="list-style-type: none"> Disruptive behavior (e.g., anger or harassment) Passive or overly aggressive behavior Ineffective, unproductive, or uncollegial communication 	<ul style="list-style-type: none"> Inappropriate humor Lack of self-awareness, self-control, or emotional-control Inadequate display of empathy/sensitivity
Ethics and Professionalism 	<ul style="list-style-type: none"> Breaking laws, rules, or codes HIPAA or confidentiality violations Lying, cheating, omission, or dishonesty Practicing with an expired license 	<ul style="list-style-type: none"> Regulatory/licensure noncompliance Fraud or intentional billing inaccuracy Driving under the influence
Medical Records 	<ul style="list-style-type: none"> Insufficient treatment justification Inaccuracies in EMR/EHR or copy/paste issues Incomplete or illegible records Tardiness in documentation 	<ul style="list-style-type: none"> Billing/coding inconsistencies, oversights, or inaccuracies Documentation that does not comply with laws and regulations
Professional Boundaries 	<ul style="list-style-type: none"> Dual relationships Inappropriate communication channels (e.g., social media, text, email) Exchange of gifts or money Practicing outside of scope 	<ul style="list-style-type: none"> Sexual misconduct, harassment, inappropriate touch, or sexualized humor Supervisory issues Addictions
Proper Prescribing 	<ul style="list-style-type: none"> Inappropriate dosing/CDS prescribing Insufficient patient agreements or drug screen policies Prescribing to non-patients (also a boundaries issue) 	<ul style="list-style-type: none"> Poor understanding of drug interactions Poor justification of prescribing in documentation (also a medical records issue)
Risk Management 	<ul style="list-style-type: none"> Disorganized practice management (e.g., billing errors, inappropriate marketing, scheduling problems) Failure to obtain adequate informed consent 	<ul style="list-style-type: none"> Non-compliance with licensure requirements Non-adherence to basic rules or policies Inappropriate social media use

On-Demand Courses from PBI

In addition to remedial education, PBI offers online, non-remedial courses designed to prevent lapses in professional conduct. These short, self-paced courses serve as a practical tool to preserve patient safety and reduce risk.

On-Demand Course Topics:

- Best Practice Prescribing
- Managing Clinician-Patient Conflicts
- Medical Chaperone Training Program
- Navigating Professional Boundaries in Health Care



Remedial Course Testimonials

"Excellent course! The instructor was not only a fantastic educator, but they also expertly involved each participant in equal ways. There was a very good balance of formal didactics as well as in-depth and less formal (but guided) discussions that involved every participant. That kept me engaged and on my toes throughout the course, and I thought that was done very well."

- Professional Boundaries Course Graduate

"PBI provided me with a mechanism to view myself and my behaviors from another perspective entirely. I wish I had been more self-aware. I firmly believe that had I taken these courses preemptively, my transgressions might never have happened. I cannot recommend PBI highly enough to other professionals."

- Ethics and Professionalism Course Graduate

"This course was outstanding in providing me education on communication, and skills to improve my communication. I wish I had had the opportunity to take a course like this when I was a resident or medical student."

- Civility and Communication Course Graduate



PBIeducation.com

904-800-1237

info@PBIeducation.com



This activity has been planned and implemented in accordance with the accreditation requirements and policies of the Accreditation Council for Continuing Medical Education (ACCME) through the joint providership of the University of California, Irvine School of Medicine and Professional Boundaries, Inc. The University of California, Irvine School of Medicine is accredited by the ACCME to provide continuing medical education for physicians.

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Remediation Intervention In Disciplinary Action

Kansas State Board of Nursing
Investigative Committee
June 9, 2025

Catherine V. Caldicott, MD, FACP
Medical Director, PBI Education
Kasey Cleary, BA
Project Manager, PBI Education

2025 DCM CONFERENCE

Investigative 14



Objectives

- Distinguish remedial educational interventions from other education
- Explain why remediation is useful
- Discuss who has remediation potential
- Justify the timing of remediation
- Describe how remedial education works
- List criteria for a reputable remedial course provider

Catherine Caldicott, MD

- Internal Medicine
- Academic career in ethics education, clinical consultation, research since 2001
- Remedial education faculty since 2007
- Program Director for a remedial ethics course x 7 years
- PBI Senior Faculty, Regulatory Liaison, Medical Director since 2017
- Publications on remediation

Kasey Cleary, BA

- PBI Project Manager since 2021
- Liaison with state medical and nursing boards
- Advises boards on educational interventions
- Serves as course proctor for remedial courses
- Works with organizations to implement preventative education in boundaries

Introduction

Regulators must make appropriate dispositions in response to licensee conduct of concern

- Educational courses
- Coaching
- Peer assessors
- Mentorship

WHAT

What is remediation

- “To remedy”
- To right a wrong or correct a fault

What is remedial education

Unlike usual nursing CE / CPD

- Intensity
- Topic (usually)
- Small group
- Plan of action
- Written report provided
- Failure is possible

WHY

Why refer for remediation

Investigation of a complaint

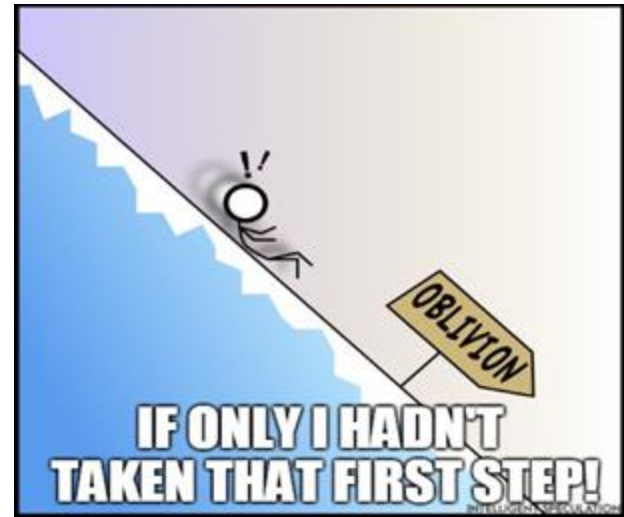
- Poor judgment
- Interpersonal issues
- Cut corners, bend rules, rationalize actions
- Caused harm

Why refer for remediation

- Departures from the standard of care
- Violations of the state Nursing Practice Act
- Conduct of concern that falls short of frank violations

Why refer for remediation

Left uncorrected, lesser misdeeds can become normalized and lead to worse conduct (and greater harms) later.



WHO

Who has remediation potential?

Who has infraction potential?



EVERYONE



Who has infraction potential?

- Not all nurses who commit infractions are created equal
- Nurses get into trouble in unique ways for unique reasons

Who has remediation potential?

THE VAST MAJORITY

Who has remediation potential?

- You can tell
 - Investigations: truth, insight, accountability
 - Formal assessments
- Course faculty can tell
 - Participation: drop resistance

Who might not have remediation potential?

Licensees who show resistance

- Defense mechanisms
- Allowed to misbehave in past
- Personality type or disorder

Who might not have remediation potential?

Licensees with significant history of trauma

Egregious conduct

- Well-trained investigators
- Outside assessment programs
- Remedial course faculty

WHEN

Immediacy matters

- Accelerates improvement in practice
- Reduces the risk of continued or additional wrongdoing prior to remedial intervention
- Increases the impact of regulatory proceedings
- Facilitates change
- Virtual platforms facilitate this

HOW

How remedial education works

- Start w/ first contact w/ course provider
- Pre-course assignments
 - Readings
 - Reading post-tests
 - Self-assessment questionnaires
 - “My Story”

How remedial education works

Expectations of participation

- Pre-course assignments
- Attentiveness and engagement
- Interactive

How remedial education works

Goals of the course

- Risks and vulnerabilities
- Red flags
- Consequences
- Plan of safeguards
- Professional lapses impact clinical judgment

How remedial education works

Process orientation

- HOW they acted against their better judgment

The licensee's perspective

The group process

- Telling their story
- Learning from others' stories

The licensee's perspective

- *I am now CONSTANTLY thinking about how to improve, how to avoid mistakes and slips and how to pass this information along*
- *I loved the virtual aspect of it which made me pay attention 100% throughout the course by seeing all the participants and the instructor right in front of my eyes at all times*

- *The outcome was transformation of mindset over a span of 3 days, a feat that in itself is staggering in terms of achieving measurable results.*
- *Educational as well as therapeutic and gave me the opportunity to learn from others.*
- *I will be continually modifying and making changes to how I practice.*

The regulator's perspective

Referral document(s)

The regulator's perspective

Post-course letter

- “AIR Letter”—accomplishments, impressions, recommendations

The regulator's perspective

“Successful completion”

- Course \neq remediation
- Remediation is a process, like lifelong learning

The regulator's perspective

Longitudinal follow-up

- Continued engagement with the material
- Keeps fresh in their minds
- Monitors compliance with plan
- Decreases professional isolation
- Continued learning from others' mistakes

The regulator's perspective

What about recidivism?

- Very hard to study well
 - Licenses in multiple states
 - Lag time in reporting to national databases
 - Problems that do not rise to the level of regulatory involvement
 - Secondary recidivism

The regulator's perspective

Total	Exclude		Include	Primary Recid (%)	Secondary Recid (%)	Other
	No reason for taking the course	Duplicate record				
322	87	25	210	6 (2.9%)	14 (6.7%)	28 (13.3%)

The faculty's perspective



The faculty's perspective



The faculty's perspective

Participants express

- Guilt, shame
- Remorse
- Fear
- Suicide
- Transformation

How to choose a reputable course provider

How to find a course

- Federation of State Medical Boards directory of remedial and assessment programs:
<https://www.fsmb.org/siteassets/spex/pdfs/remedprog.pdf>
- Ask your peers in other states
- Ask your colleagues in state professional health programs

How to choose a reputable course provider

- Staff communication training
- Faculty communication training
- Faculty trained to handle
 - Resistance
 - Reticence
 - Cultural constraints on communication

How to choose a reputable course provider

- Restorative, transformative, not punitive
- Small group (< 15)
- Designated faculty
- Strict confidentiality policy
- Clear criteria for passing
- Course proctor

How to choose a reputable course provider

- Telling story required
- Interactive, synchronous
- Plan w/ action steps to apply in practice
- Post-course report to regulator

How to choose a reputable course provider

- Triggers and red flags (in selves and others)
- Appreciating others' perspectives
- Paying attention, reflecting
- Risk factors inherent in nursing
- Personal vulnerabilities
- Burnout, trauma, isolation
- Development of accountability

How to make a referral

- Call or check course provider website
- Discuss course type if unsure
- Referral document

How to make a referral

- Post-course letter desired?
- Longitudinal follow-up course desired?

How to make a referral

The List Method

- Approved courses
- Approved course providers

Summary

- What are remedial educational interventions
 - Differ from CE, assessment
- Why nursing regulators would refer
 - Interrupting patterns
- Who has remediation potential, how to tell
- When to make referrals for remedial education
 - Immediacy matters
- How remedial education works

Questions

Thank you!

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Kansas Nurses Assistance Program Statistical Summary

Reporting Period: 1/1/2025 - 3/31/2025

Active Cases

Participants Entered Into Program:	<u>13</u>	Total Number in Program:	<u>72</u>
Referral Source:		Type of License:	
Board:	<u>8</u>	ARNP	<u>4</u>
Employer:	<u>1</u>	CRNA	<u>2</u>
Co-Worker:	<u>0</u>	LPN	<u>16</u>
Self:	<u>4</u>	RN	<u>50</u>
Family-Friend:	<u>0</u>	Board:	
Other:	<u>0</u>	Known:	<u>58</u>
Reasons for Referral :		Un-Known:	<u>14</u>
Alcohol:	<u>3</u>	Gender:	
Drugs:	<u>6</u>	Male:	<u>8</u>
Alcohol & Drugs	<u>2</u>	Female:	<u>64</u>
Mental Health:	<u>2</u>	Age:	
Gambling:	<u>0</u>	20's:	<u>8</u>
Released from Program:		30's:	<u>21</u>
Successfully: Non-	<u>7</u>	40's:	<u>25</u>
Compliant:	<u>3</u>	50's:	<u>13</u>
Voluntary Withdrawal:	<u>3</u>	60's:	<u>5</u>
Death:	<u>0</u>	Nursing Employment Status:	
Other:	<u>0</u>	Employed:	<u>57</u>
State of Residency:		Unemployed:	<u>11</u>
MO	<u>3</u>	Outside Profession:	<u>4</u>
KS	<u>78</u>	Nursing Employment Settings:	
Contract Length:		Hospital:	<u>17</u>
7 Year's	<u>0</u>	Nursing Home/Long Term Care:	<u>15</u>
6 Year's	<u>0</u>	Home Health:	<u>1</u>
5 Year's	<u>2</u>	Medical Office/Clinic:	<u>15</u>
4 Year's	<u>0</u>	School:	<u>2</u>
3 Year's	<u>69</u>	Other:	<u>7</u>
2 Year's	<u>0</u>		
1 Year	<u>11</u>		



KSBN Investigative Committee Presentation

June 9, 2025

Presenter: Stephanie Becraft, LCAC, Executive Director

stephanie@strategicprosolutions.org

Phone 913-236-7575

KSBN Investigative Committee Presentation

What is KNAP?

- Originally established in 1988 along with Strategic Professional Solutions (formerly Heart of America Professional Network) for allied healthcare professionals. Both are designed to aid nurses and healthcare providers, respectively, in the state of Kansas who may have a problem or illness that has or could impair their ability to practice safely.

KSBN Investigative Committee Presentation

These programs are “an alternative to discipline” approach to aiding healthcare providers. Prior to 1988 if a person had a substance use disorder, mental health disorder, age related impairment, etcetera, and came to their licensing boards attention their license was often suspended or revoked. There was no recourse or support system in place to aid the healthcare provider to obtain an evaluation and treatment and get them back to work as soon as possible.

KSBN Investigative Committee Presentation

What is KNAP?

- ▶ KNAP is a non-profit program, overseen by a voluntary Board of Directors selected from various nursing backgrounds.
- ▶ KNAP is funded partially through a contract with the Kansas State Board of Nursing.
- ▶ Additional funding comes from monthly participant fees.

KSBN Investigative Committee Presentation

Impairment

- ▶ The inability to practice with reasonable skill and safety due to physical or mental disabilities including deterioration through the aging process, loss of motor skills, or abuse of drugs or alcohol.





KSBN Investigative Committee Presentation

The most common mental health disorders leading to impairment include substance use disorders, depression, generalized anxiety disorder, panic disorder, obsessive-compulsive disorder, and post-traumatic stress disorder

KSBN Investigative Committee Presentation

The most common cause of impairment

- ▶ Alcohol
- ▶ Opioids, Hydrocodone, Oxycodone, Fentanyl
- ▶ Amphetamines, Adderall
- ▶ Cocaine/crack
- ▶ Cannabis, Marijuana

In the United States, disability and illness have increased by more than 50% since Covid with an estimation that 22% of the increase is due to increasing prevalence of drug use disorders, particularly opioid dependence. (National Institute on Drug Abuse)



KSBN Investigative Committee Presentation

Other Addictive Disorders

Common Process Addictions Include:

Gambling	Video Gaming	Food	Sex
Exercise	Shopping	Spending	
Pornography	Work	Self-Injury	

KSBN Investigative Committee Presentation

Referral to KNAP

- ▶ Self-referrals to the program are encouraged, but referrals may be made by the KSBN, a family member, a friend, employer, supervisor, or anyone concerned about the healthcare professional. Anonymous referrals are typically not accepted. However, a person may call for information or advice without giving their name.

KSBN Investigative Committee Presentation

Participants in KNAP

- ▶ Substance abuse (alcohol and/or drugs) is the primary cause for referral to KNAP
- ▶ About 70 % are referred from the KSBN and 30% are from self-referrals, employer, colleague, or family.

KSBN Investigative Committee Presentation

Evaluation

- Once a referral is made, notification is sent to the individual to obtain an evaluation and to sign release of information forms for the evaluator, employer, and their specific board. We have a network of evaluators throughout the state. When the evaluation is received in the KNAP office, it is reviewed, and a determination is made if monitoring is appropriate. This is based on ensuring public safety.

KSBN Investigative Committee Presentation

One-Year Extended Evaluation:

- ▶ Random drug screens, a minimum of 12-15 per year
- ▶ Employer reports every 90 days
- ▶ Attend one monthly monitor meeting with KNAP staff
- ▶ Provide prescriptions for all mood-altering medications taken
- ▶ Attend weekly support meetings with documentation to the KNAP office each month, if recommended

Any additional individualized treatment recommendations, as determined by the evaluation, are to be followed.

KSBN Investigative Committee Presentation

Three-Year Program:

- ▶ Random drug screens, a minimum of 12-15 per year
- ▶ Employer reports every 90 days
- ▶ Attend weekly support meetings with documentation to the KNAP office each month
- ▶ Attend one monthly monitor meeting with KNAP staff
- ▶ Provide prescriptions for all mood-altering medications taken

Any additional individualized treatment recommendations, as determined by the evaluation, are to be followed.

KSBN Investigative Committee Presentation

What is reported to the KSBN?

- ▶ Lack of cooperation when first referred.
- ▶ Any non-compliance with the monitoring agreement.
- ▶ All violations of the monitoring agreement.
- ▶ Any behaviors that give any concern of safety in patient care.
- ▶ Successful closure of participants files when known to the Board.
- ▶ All unsuccessful participant file closures.

KSBN Investigative Committee Presentation

Changes to consider/discuss:

- ▶ Key restriction language
- ▶ Monitoring interruptions
- ▶ International travel
- ▶ Anywhere drug/alcohol testing
- ▶ Issue specific monitoring agreements and requirements

KSBN Investigative Committee Presentation

KNAP Contact Information

- ▶ Stephanie Becraft, Executive Director
stephanie@strategicprosolutions.org
- ▶ Elizabeth Anderson, KNAP Program Manager
elizabeth@strategicprosolutions.org
- ▶ Duane Olberding, Community Outreach
duane@strategicprosolutions.org
- ▶ 6405 Metcalf Avenue, Suite 502, Cloverleaf complex Building #
3, Overland Park, Kansas 66202
- ▶ 913.236.7575 voice, 913.236.7779 fax

DRAFT

65-1120. Grounds for refusal to issue, renew, reinstate, condition, limit, suspend or revoke a license disciplinary actions; civil fines; proceedings; witnesses; costs; professional incompetency defined; criminal justice record information; deferred discipline; conviction defined.

- (a) Grounds for disciplinary administrative actions. The board may deny, refuse to issue, renew, or reinstate, condition, 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 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 the opportunity for a hearing:
- (1) To be guilty of have committed fraud or deceit or made a misrepresentation 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 convicted of:
 - (a) any felony offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated, 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 a 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, or K.S.A. 2014 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 and amendments thereto or a similar crime in another jurisdiction
 - (b) a misdemeanor offense involving alcohol or drugs and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated;
 - (c) any misdemeanor offense involving a crime against persons, theft, or dishonesty and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated
 - (d) a misdemeanor classified as a 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. 74-1120, 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 chapter 21 of the Kansas Statutes annotated, or K.S.A. 2014 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;
 - (3) to have committed an act of professional incompetency as defined in subsection (e);
 - (4) to be unable to practice with skill and safety due to current abuse of drugs or alcohol illness, or cognitive decline of mental condition, or loss of motor skills due to physical condition, or impairment including deterioration through aging process, loss of motor skills or abuse use of alcohol or drugs whether prescribed or not; or alcohol;
 - (5) to be a person who has have 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 have committed unprofessional conduct as defined by rules and regulations of the board;
 - (7) to have willfully or repeatedly violated the any 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;
 - (8) to have any professional or occupational registration, license or certification a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, conditioned, limited or suspended, or to be publicly or privately censured, by a licensing authority the board or a licensing authority of any state, of, an agency of the United States government, a territory of the United States or a country or to have other disciplinary action taken against the applicant or licensee by the board of another any state, an agency of the United States government, a territory of the United States or a country. A certified copy of the record or order of public or private censure, denial, suspension, condition, limitation, revocation or other disciplinary action of the licensing authority of another any 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 (8); or
 - (9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2012 Supp. 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. 2012 Supp. 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. 2012 Supp. 60-4404, and amendments thereto.

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(C) A copy of the record of a judgment assessing damages under K.S.A. 2012 Supp. 60-4405, and amendments thereto.

(10) to have practiced while the license was ~~invalidated~~ lapsed or inactive pursuant to K.S.A. 65-1117 and 65-1133 and amendments thereto;

(11) to have cheated on an examination administered under this act for licensure;

(12) to have failed to comply with any order of the board;

(13) has violated a provision of the Kansas nurse practice act or one or more of the rules and regulations of the board.

(14) to have abandoned a patient

(15) to have exceeded the terms of the collaborative agreement with a physician, or

(16) to fail to successfully complete the impaired provider program as set forth in K.S.A. 65-11XX and amendments thereto, or the alternative program as set forth in K.S.A. 65-11XX and amendments thereto.

(b) Civil fine. In addition to or in lieu of any other penalty prescribed in subsection (a) the board may assess a civil fine in an amount not to exceed \$2,000 for the first violation, \$3,000 for the second violation and \$5,000 for the third violation and for each subsequent violation. All fines assessed and collected under 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 to the credit of the state general fund.

(c) 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 such 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.

(d)(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. 2012 Supp. 21-5903, and amendments thereto.

(e)(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 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.

(f)(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 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 constitutes ordinary negligence, as determined by the board; or
- (3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

(g)(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) Deferred discipline. The board may defer discipline in a diversion agreement or other action against any impaired licensee who enters into a binding agreement, in a form satisfactory to the board, under terms of which such licensee agrees not to practice nursing or to practice nursing with limitations or conditions and to enter into, and comply with the requirements of, a board-approved treatment and/or monitoring program in accordance with K.S.A. 65-xxxx, and amendments thereto, or regulations adopted by the board under this act; provided that this subsection shall not apply to any licensee who has been convicted of, pleads guilty to, or enters a plea of *nolo contendere* to a felony offense involving a controlled substance. If a licensee fails to comply with the board-approved program, the board may then give the licensee notice of its intent to lift the stay or deferment and impose discipline or other action.

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(h) Conviction defined. As used in this section, a conviction includes a finding of guilty by a military court martial pursuant to the uniform code of military justice, by a court of the United States or by a court of competent jurisdiction in any state; or any diversion, agreed disposition, or deferred judgment agreement entered into in a felony or misdemeanor case.

History: (L. 1949, ch. 331, § 9; L. 1963, ch. 314, § 6; L. 1972, ch. 231, § 10; L. 1975, ch. 316, § 7; L. 1978, ch. 240, § 6; L. 1981, ch. 245, § 1; L. 1983, ch. 206, § 10; L. 1985, ch. 88, § 6; L. 1986 ch. 233, § 4; L. 1990, ch. 221, § 5; L. 1993, ch. 194, § 1, L. 1995, ch. 97, § 2, L. 1997, ch. 158, § 4; L. 1998, ch. 142 § 8; L. 2011, ch. 114 § 42; Jan. 1, 2012.)

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65-1120a. Reinstatement of revoked licenses; burden of proof; board of nursing report to legislature.

- (a) A person whose license has been revoked may apply for reinstatement of the license after the expiration of three years from the effective date of the revocation. Application for reinstatement shall be on a form approved by the board and shall be accompanied by a reinstatement fee established by the board under K.S.A. 65-1118, and amendments thereto. ~~The burden of proof by clear and convincing evidence shall be on the applicant to show sufficient rehabilitation to justify reinstatement of the license.~~
- (b) The board may reinstate a revoked license upon a finding that the applicant is otherwise qualified for licensure under the Kansas nurse practice act and amendments thereto and is sufficiently rehabilitated to warrant the public trust. The burden shall be upon the applicant to establish rehabilitation by clear and convincing evidence.
- (c) In determining whether an applicant is sufficiently rehabilitated to warrant the public trust, the board may consider any relevant evidence, and may, but shall not be required, to consider the following factors:
 - (1) the present moral fitness of the applicant to practice nursing;
 - (2) the demonstrated consciousness of the wrongful conduct and the disrepute which the conduct has brought to the nursing profession;
 - (3) the extent of the applicant's rehabilitation;
 - (4) the seriousness of the original misconduct;
 - (5) the applicant's conduct subsequent to discipline;
 - (6) the time elapsed since the original discipline;
 - (7) the applicant's character, maturity, and experience at the time of the original discipline;
 - and
 - (8) the applicant's present competence to engage in the nursing profession; and
 - (9) other relevant factors bearing on the applicant's ability to practice nursing.
- (d) If the board determines a license should not be reinstated, the person shall not be eligible to reapply for reinstatement for three years from the effective date of the denial.
- (e) All proceedings conducted on an application for reinstatement shall be in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act. ~~The board, on its own motion, may stay the effectiveness of an order of revocation of license.~~
- (f) ~~On or before January 8, 2018, and on~~ or before the first day of the regular session of the Kansas legislature each year thereafter, the board of nursing shall submit a written report to the senate standing committee on public health and welfare and the house of representatives standing committee on health and human services that includes on an anonymous but individual and itemized basis: The number of individuals who applied for reinstatement of a revoked license during the immediately preceding calendar year; the amount of moneys charged to each such applicant; the number of such reinstatement applications that were granted and denied; and the basis given to deny any such reinstatement application.
- (g) This section shall be part of and supplemental to the Kansas nurse practice act.

History: L. 2017, ch. 31, § 2; July 1.

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65-1121a. Administrative Proceedings; Judicial review of board's actions.

- (a) All administrative proceedings regarding licensure under this act shall be conducted under Kansas administrative procedures act. Any agency action of the board of nursing pursuant to the Kansas nurse practice act is subject to review in accordance with the Kansas judicial review act.
- (b) This section shall be part of and supplemental to the Kansas nurse practice act.

History: (L. 1986, ch. 318, § 145; L. 2010, ch. 17, § 128; July 1.)

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65-1129. Rules and regulations. ~~The board shall adopt and promulgate rules and regulations as necessary to carry out the provisions of this act (*).~~ The board is authorized to adopt and promulgate rules and regulations as are necessary to carry out the provisions in article 11 of chapter 65.

History: (L. 1978, ch. 240, § 9; July 1.)

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74-1110. Civil fine. ~~The board of nursing, in addition to any other penalty prescribed by law, may assess a civil fine, after proper notice and an opportunity to be heard, against any person granted a license, certificate of qualification or authorization to practice by the board of nursing for a violation of a law or rule and regulation applicable to the practice for which such person has been granted a license, certificate of qualification or authorization by the board in an amount not to exceed \$1,000 for the first violation, \$2,000 for the second violation and \$3,000 for the third violation and for each subsequent violation. All fines assessed and collected under 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 to the credit of the state general fund.~~ **Disciplinary action.** In all matters before the Kansas state board of nursing, the board shall have the power to revoke a license or authorization issued to a person who does not renew the license or authorization or who voluntarily surrenders such person's license or authorization while an investigation or charges are pending or anticipated that involve an alleged misconduct violation of any provision of the Kansas nurse practice act or any rules and regulations adopted by the board.

History: (L. 1992, ch. 151, § 6; L. 2001, ch. 5, § 304; July 1.)

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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;
- ~~(j)~~(k) violating the confidentiality of information or knowledge concerning any patient;
- ~~(k)~~(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;
- ~~(l)~~(m) leaving an assignment that has been accepted, without notifying the appropriate authority and allowing reasonable time for replacement;
- ~~(m)~~(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;
- ~~(n)~~(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;
- ~~(o)~~(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;
 - ~~(r)~~(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-_____.)

65-xxxx. The board may contract with or establish an impaired provider program, purpose of program, screening, completion of program, effect of, disciplinary action for failure to complete, confidentiality.

- (a) The state board of nursing may contract for or establish an impaired provider program to promote the identification, intervention, treatment, and monitoring of registered professional nurses, licensed practical nurses, advanced practice registered nurses, registered nurse anesthetists or mental health technicians whose license is issued by the board who may be impaired by reason of substance use or potential for substance use or by mental or behavioral health conditions affecting the ability to practice.
- (b) The impaired provider program is available, upon board discretion, to applicants and licensees who:
 - (1) admit to the use of substances that for purposes of this section, substance means alcohol, drugs, controlled substances, or any combination thereof;
 - (2) self-refer;
 - (3) test positive in a pre-employment or for-cause drug or alcohol screen;
 - (4) have refused to obtain an alcohol or drug screen requested by an employer, the board, or a professional licensing agency in Kansas, another state, United States territory, or country; or
 - (5) have entered a plea of nolo contendere, pled guilty to, been found guilty, or entered into a diversion, agreed disposition, or deferred judgment program in a court of competent jurisdiction in Kansas, another state, territory of the United States, or country of any offenses, whether classified as a felony or misdemeanor, involving alcohol, drugs, or a controlled substance.
- (c) The program shall be a minimum of one year in duration and may require:
 - (1) random drug and alcohol testing at the participant's expense;
 - (2) substance dependency evaluation at the participant's expense;
 - (3) mental/behavioral health evaluation at the participant's expense; or
 - (4) any other conditions deemed necessary by the board to protect the public or as provided for in rules and regulations promulgated by the board.
- (d) Upon receiving a complaint or an application, the board shall screen the information submitted to determine whether the individual may be eligible for the impaired provider program. Upon enrollment, applicant or licensee shall enter into a written agreement setting forth the requirements of the impaired provider program. If declined, the board may proceed with its regular process of investigating a complaint or application for a determination of any disqualification for licensure or discipline as set forth in K.S.A. 65-1120 and amendments thereto. The board shall retain sole discretion to offer the program at any time.
- (e) Upon successful completion of the impaired provider program, the licensee shall be deemed to have no disciplinary action against his or her license and shall not be required to disclose participation in the program, except evidence of such participation in the program may be admitted or considered for a subsequent violation involving alcohol, drugs, or controlled substances.
- (f) If a licensee does not successfully complete the impaired provider program or violates any term of the program prior to completion of the program, the board may pursue disciplinary action as set forth in K.S.A. 65-1120 and amendments thereto. Records from the program may be used as evidence in any such proceedings or hearings initiated under the Kansas administrative proceedings act.
- (g) The board may promulgate administrative rules and regulations subject to the provisions of this section and K.S.A. 65-1120 and amendments thereto to administer, implement, and enforce any impaired provider program established pursuant to this section.
- (h) The board may expend appropriated funds necessary to provide for operational expenses of any impaired provider program established pursuant to this section.
- (i) Any board member, board staff member, members of the programs, as well as any administrator, staff member, consultant, agent, or employee of the programs, acting within the scope of his or her duties and without actual malice, and all other persons who furnish information to the programs in good faith and without actual malice, shall not be liable for any claim of damages as a result of any statement, decision, opinion, investigation, or action taken by the programs, or by any individual member of the programs, by any board member, by any board staff member or by a presiding officer in any administrative proceeding or hearing.
- (j) All information, interviews, reports, statements, memoranda, drug or alcohol testing results, or other documents furnished to or produced by the programs, as well as communications to or from the

programs, any findings, conclusions, interventions, treatment, rehabilitation, or other proceedings of the programs which in any way pertain to an applicant or licensee who may be, or who actually is, impaired shall be privileged and confidential. Any records produced in conjunction with the impaired provider program shall not be considered public records under the Kansas Open Records Act and shall not be subject to court subpoena or subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings except as set forth in subsection (f) of this section.

(k) This section shall be part of and supplemental to the Kansas nurse practice act.

History:

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Kansas Nurse Practice Act and Licensed Mental Health Technician Act

Current Description	KNPA	L.M.H.T. Act
Civil Fine	K.S.A. 74-1110	
Grounds for Disciplinary Action	K.S.A. 65-1120	K.S.A. 65-4209
Violations; penalties		K.S.A. 65-4214
Reinstatement, revoked license	K.S.A. 65-1120a	
Administrative Process	K.S.A. 65-1121a	K.S.A. 65-4211
Rules and Regulations	K.S.A. 65-1129	K.S.A. 65-4203
Unprofessional Conduct	K.A.R. 60-3-110	K.A.R. 60-7-106
Standards of Practice		K.A.R. 60-7-105
Disciplinary proceedings		K.S.A. 65-4210
Impaired Provider Statute DRAFT	DRAFT	

65-4203. Licensure of mental health technicians; application; qualifications; examination; refresher course; temporary permits; exempt license; rules and regulations. (a) *Qualification.* An applicant for a license to practice as a mental health technician shall:

(1) Have graduated from a high school accredited by the appropriate legal accrediting agency or have obtained the equivalent of a high school education, as determined by the state department of education;

(2) have satisfactorily completed an approved course of mental health technology; and

(3) file with the board a written application for a license.

(b) The board may issue a license to an applicant to practice as a mental health technician who has:

(1) Met the qualifications set forth in subsection (a);

(2) passed a written examination in mental health technology as prescribed by the board; and

(3) no disqualifying factors under K.S.A. [65-4209](#), and amendments thereto.

(c) *Licensure examination within 24 months of graduation.* (1) Persons who do not take the licensure examination within 24 months after graduation shall petition the board for permission prior to taking the licensure examination. The board may require the applicant to submit and complete a plan of study prior to taking the licensure examination.

(2) Persons who are unsuccessful in passing the licensure examination within 24 months after graduation shall petition the board for permission prior to subsequent attempts. The board may require the applicant to submit and complete a plan of study prior to taking the licensure examination a subsequent time. The study plan shall contain subjects related to deficiencies identified on the failed examination profiles.

(d) An application for initial licensure will be held awaiting completion of meeting qualifications for a time period specified in rules and regulations.

(e) *Refresher course.* Notwithstanding the provisions of subsection (a), an applicant for a license to practice as a mental health technician who has not been licensed to practice as a mental health technician for five years preceding application shall be required to successfully complete a refresher course as defined by the board in rules and regulations.

(f) The board may issue a one-time temporary permit to practice as a mental health technician for a period not to exceed 120 days when a reinstatement application has been made.

(g) *Exempt license.* The board may issue an exempt license to any licensee as defined in rules and regulations who makes written application for such license on a form provided by the board, who remits a fee as established pursuant to K.S.A. [65-4208](#), and amendments thereto, and who is not regularly engaged in mental health technician practice in Kansas but volunteers mental health technician service or is a charitable health care provider as defined by K.S.A. [75-6102](#), and amendments thereto. Each exempt licensee shall be subject to all provisions of the mental health technician act, except as otherwise provided in this subsection (e). Each exempt license may be renewed biennially subject to the provisions of this section. The holder of the exempt license shall not be required to submit evidence of satisfactory completion of a program of continuing education for renewal. To convert an exempt license to an active license, the exempt licensee shall meet all the requirements of subsection (b) or K.S.A. [65-4205](#), and amendments thereto. The board shall have authority to write rules and regulations to carry out the provisions of this section.

(h) The board may adopt rules and regulations as necessary to administer the mental health technician's licensure act.

History: L. 1973, ch. 308, § 3; L. 1975, ch. 333, § 1; L. 1983, ch. 207, § 5; L. 1987, ch. 247, § 1; L. 1992, ch. 151, § 4; L. 1993, ch. 194, § 17; L. 1995, ch. 97, § 4; L. 1997, ch. 158, § 8; L. 1999, ch. 84, § 4; L. 2001, ch. 161, § 11; L. 2017, ch. 31, § 4; July 1.

65-4209. Grounds for disciplinary actions; proceedings; witnesses; costs; professional incompetency defined; criminal history record information. (a) The board may deny, revoke, limit or suspend any license to practice as a mental health technician issued or applied for in accordance with the provisions of this act, may publicly or privately censure a licensee or may otherwise discipline a licensee upon proof that the licensee:

(1) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice mental health technology;

(2) is unable to practice with reasonable skill and safety due to current abuse of drugs or alcohol;

(3) 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;

(4) is incompetent or grossly negligent in carrying out the functions of a mental health technician;

(5) has committed unprofessional conduct as defined by rules and regulations of the board;

(6) has been convicted of a felony or has been convicted 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, certificate of qualification or authorization to practice as a licensed mental health technician 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 or K.S.A. [21-6104](#), [21-6325](#), [21-6326](#) or [21-6418](#), and amendments thereto;

(7) has committed an act of professional incompetency as defined in subsection (e);

(8) to have willfully or repeatedly violated the provisions of the mental health technician's licensure act or rules and regulations adopted under that act and amendments thereto; or

(9) to have a license to practice mental health technology 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).

(b) Upon filing 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 to believe 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 Kansas administrative procedure act.

(c) No person shall be excused from testifying in any proceedings before the board under the mental health technician's licensure act or in any civil proceedings under such act before a court of competent jurisdiction on the ground that the 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) 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 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) 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 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 constitutes ordinary negligence, as determined by the board; or

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

practice mental health technology.

(f) The board upon request shall receive from the Kansas bureau of investigation such criminal history record information relating to criminal convictions as necessary for the purpose of determining initial and continuing qualifications of licensees of and applicants for licensure by the board in accordance with K.S.A. 2024 Supp. [22-4715](#), and amendments thereto.

(g) All proceedings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

History: L. 1973, ch. 308, § 9; L. 1983, ch. 207, § 8; L. 1984, ch. 313, § 129; L. 1987, ch. 247, § 2; L. 1993, ch. 194, § 5; L. 1995, ch. 97, § 6; L. 1997, ch. 158, § 10; L. 2011, ch. 30, § 245; L. 2024, ch. 15, § 60; July 1.

65-4210. Disciplinary proceedings; complaint; notice and hearing. (a) If a sworn complaint is filed with the board by any person charging a mental health technician with having been guilty of any of the actions specified as a ground for disciplinary action, the board shall fix a time and place for hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing, to be personally served on the accused mental health technician, in the manner provided by the provisions of the Kansas administrative procedure act.

(b) The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If the accused mental health technician is found guilty of the charges, or any of them, the board may withhold, revoke, or suspend an existing license, or otherwise discipline a licensee as provided in this act. A revoked or suspended license may be reissued thereafter by the board in its discretion.

(c) Any meeting of the board may be adjourned or continued by an affirmative vote of a majority of the board members present at the hearing or meeting.

History: L. 1973, ch. 308, § 10; L. 1983, ch. 216, § 2; L. 1984, ch. 313, § 130; July 1, 1985.

65-4211. Judicial review. (a) Any person aggrieved by a decision of the board, and affected thereby, shall be entitled to judicial review in accordance with the provisions of the Kansas judicial review act.

(b) Any party may have review of the final judgment or decision of the district court by appeal to the supreme court pursuant to the Kansas judicial review act.

History: L. 1973, ch. 308, § 11; L. 1984, ch. 313, § 131; L. 2010, ch. 17, § 159; July 1.

65-4214. Violations; penalties. (a) It is a violation of law for any person, including any corporation, association, partnership to:

(1) Fraudulently obtain, sell, transfer, or furnish any mental health technician diploma, license, renewal of license or record, or aid or abet another therein;

(2) advertise, represent, or hold oneself out in any manner as a mental health technician or to practice as a mental health technician without having a license to so practice issued under the mental health technician's licensure act, except as provided in K.S.A. [65-4212](#) and amendments thereto;

(3) use in connection with one's name any designation intending to imply that such person is a licensed mental health technician without having such license issued as herein provided;

(4) practice as a mental health technician during the time such person's license is suspended or revoked;

(5) otherwise violate any of the provisions of the mental health technician's licensure act; or

(6) represent that a provider of continuing education is approved for educating mental health technicians, unless the provider of continuing education has been approved by the board and the approval is in full force.

(b) Any person who violates this section is guilty of a class B misdemeanor, except that, upon conviction of a second or subsequent violation of this section, such person is guilty of a class A misdemeanor.

History: L. 1973, ch. 308, § 14; L. 1993, ch. 194, § 6; July 1.

Kansas Administrative Regulations

Agency 60

State Board of Nursing

Article 7.—Requirements for Licensure and Standards of Practice

60-7-105. Standards of practice. A. The licensed mental health technician shall: 1. Be familiar with the mental health technician's licensure act.

2. Function primarily in a psychiatric-mental retardation setting, and shall not substitute for registered nurses or licensed practical nurses in adult care facilities. (Authorized by K.S.A. 65-4201 *et seq.*, K.S.A. 1974 Supp. 74-1106 *et seq.*; modified, L. 1975, Ch. 302, Sec. 10, May 1, 1975.)

**** *Authenticated Kansas Administrative Regulation* ****

Kansas Administrative Regulations

Agency 60

State Board of Nursing

Article 7.—Requirements for Licensure and Standards of Practice

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.)

***** *Authenticated Kansas Administrative Regulation* *****