

Agency Mission: To assure the citizens of Kansas safe and competent practice by nurses and mental health technicians.

**Kansas State Board of Nursing
Virtual Meeting
Investigative Committee Agenda
June 15, 2020**

**NOTE: The meeting will be held by Conference Call. To participate in the
Conference Call, dial 1-877-278-8686, Access 538011**

Committee Members: Jo Klaassen, RN, MN, JD, Chair
Rebecca Sander, MSN, RN, V. Chair
Julianna Rieschick, RN, MSN, NEA-BC
Tracie Mattivi Thomas

Staff: Linda Davies, BSN, RN, Practice Specialist
Carol Moreland, MSN, RN, Executive Administrator
Jill Simons, Executive Assistant
Victoria Bond, Administrative Specialist

- I. Call to order general session at **9:00 a.m. on Monday, June 15, 2020.**
 1. Review of onsite packets
 2. Additions and revisions to agenda
 3. Minutes
 - a. December 9 & 10, 2019 minutes
 - b. April 27 & 28, 2020 minutes
 4. Complaints/concerns
 5. Unfinished Business
 - a. Update on change in retention of Investigative Files
 - b. Update on Setting Priorities and Assignment of Investigative Cases
 6. New Business
 - a. Process Updates
 - a. KSBN Report Processing
 - b. Employer quarterly report format
 - c. K.S.A. 65-1120
 - d. 5 Year Legislative Review Schedule
 - i. Professional and Practical Nurses
 - a) 65-1121a Judicial Review – due 2020
 - b) 65-1129 Rules & Regs – due 2019
 - c) 65-1135 Complaint – due 2019
- II. Closure for quasi-judicial deliberations on investigations until concluded, or if necessary, recessed until 8:30 a.m., June 16, 2020, for further deliberation and action.
- III. Reconvene meeting for action
- IV. Adjourn

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.

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Investigative Files Retention Schedule

Current:

Series ID: 0021-482

Title: Investigative Files

Description: Documents relating to board investigations of possible violations by nursing professionals of the Nurse Practice Act and the Mental Health Technicians Licensure Act.

Retention: Permanent

Disposition: Permanent

Restrictions: KSA 45-221(a)(3)(9)(10)(11)(14)(20)(25)(30)

Approved: 2015-04-16

K.A.R. Number: 53-2-185

Proposed:

Series ID: 0021-482

Title: Investigative Files

Description: Documents relating to board investigations and enforcement of possible violations by nursing professionals of the Nurse Practice Act and the Mental Health Technicians Licensure Act.

Retention: Retain 10 years after case is closed

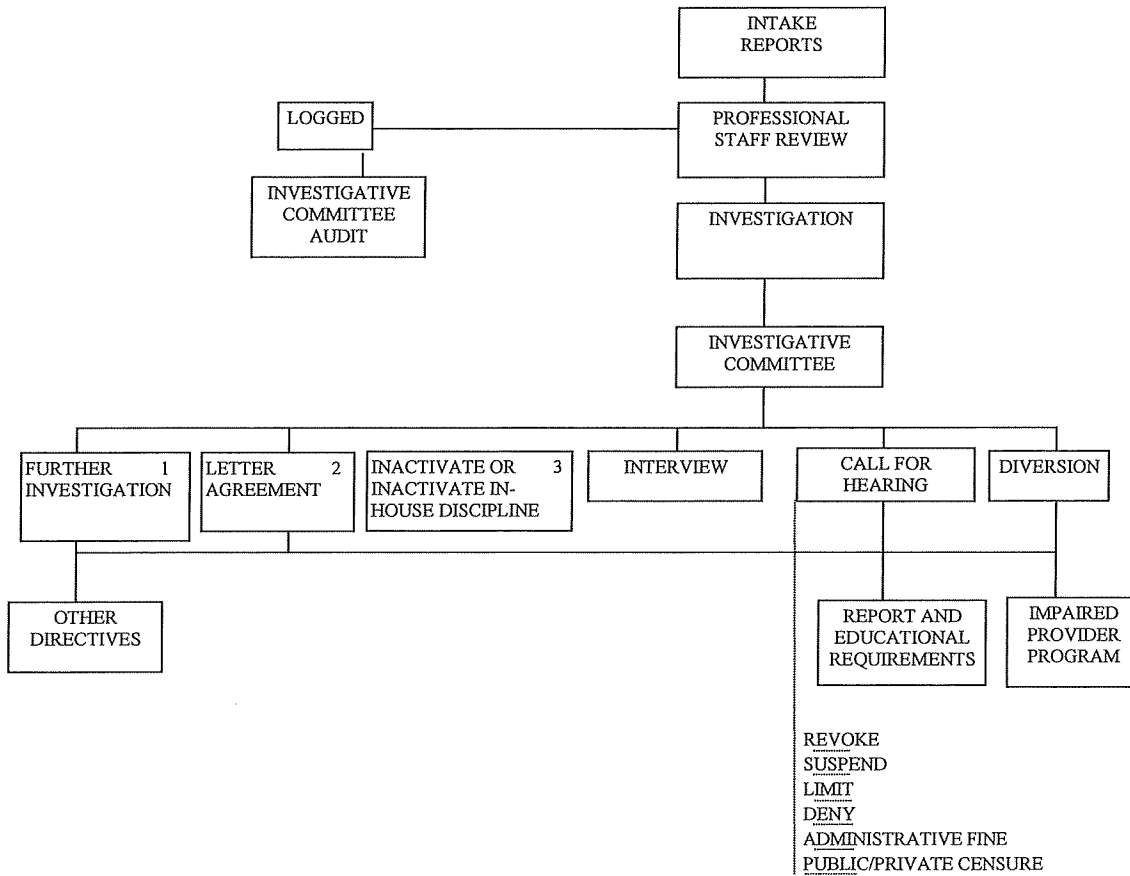
Disposition: Destroy.

Restrictions: K.S.A. 45-221(a)(2)(3)(9)(10)(11)(14)(25)(30), K.S.A. 65-4915, K.S.A. 4925, K.S.A. 65-1135, K.S.A. 65-5601, and 42 C.F.R. Part II.

Approved:

K.A.R. Number: 53-2-185

KANSAS STATE BOARD OF NURSING REPORT PROCESSING



Quarterly Performance Report General Instructions

The nurse is responsible to arrange for his or her employer to submit quarterly reports to the Board, when the nurse is employed in a position where a nursing license is required.

The report should be sent to:

**Legal Department
Kansas State Board of Nursing
900 SW Jackson, Suite 1051
Topeka, KS 66612-1230**

Reports are due on the 10th day of each of the months of January, April, July and October, to begin the first such month that occurs after the effective date of the agreement or order, and continuing until all required separate quarterly reports have been received.

The report shall be prepared and signed by the nurse's immediate supervisor who evaluates nurse's performance on a regular basis, and be based on the following guidelines:

(1) The report shall be on the employer's letterhead stationery. The report must be sent directly by the employer; *it is not acceptable for the nurse to mail these reports.*

(2) Letter format is acceptable, with the date of the report identified.

(3) Evaluator's name, telephone number, address, and nursing credentials shall be on the report.

(4) Nurse's name, address, telephone number, license number shall be on the report.

(5) A short explanation of the nurse's work performance in the following area: (a) standards met regarding facility policies and procedures; (b) compliance with the Kansas Nurse Practice Act; (c) supervisor evaluations; (d) overall appropriateness; (e) interaction with patients; and (f) interactions with staff and administration.

If the nurse is not employed in a position that utilizes his or her nursing license, the nurse will provide a signed statement to that effect, and which will be due on the same quarterly basis as the employer reports described above.



Coordinator: [Redacted]

NC Board of Nursing Work Performance Evaluation

Participant: [Redacted]

Position Title: Infection Control Practitioner

Month(s)/Year Evaluated: April 2019

Date of Hire: 8/24/18 (Sept)

Licensee's is a participant in the (check one) Alternative Program for Chemical Dependency

Chemical Dependency Discipline Program Probation License - Drug Screening

As a condition, Work Performance Evaluations completed by the clinical supervisor are due as scheduled to:

Regulatory Compliance Coordinator
Post Office Box 2129 Raleigh, NC 27602-2129
Fax 919-781-9461

Clinical Supervisor: [Redacted]

Phone(s): [Redacted]

Email: [Redacted]

Facility: [Redacted]

Unit: [Redacted]

Status (check one): Part-Time Full-Time PRN

Shift (check all that apply): Days Evenings Nights Rotate

Hours Worked per week: 40 *Must average 64h worked per month for work to satisfy conditions of program.

Quality of work: Satisfactory Needs improvement* Unsatisfactory*

*Please explain _____

Does the Licensee administer or have access to controlled substances? YES NO

If YES, have there been errors or discrepancies? YES NO

If YES, please explain: _____

To the best of your knowledge, since the last evaluation, has the nurse:

- Changed Work Location YES NO
- Changed Shift YES NO
- Changed Hours Scheduled YES NO
- Changed Position YES NO (ICU)
- Changed Supervisor YES NO
- Used drugs or alcohol YES NO
- Been counseled (including conference, oral or written) YES NO

If YES to any of the above, please explain and provide copy of counseling (if applicable):

Promoted to A Infection Control Practitioner and Wound Nurse reports directly to CND

Are you aware of the reasons the NC Board of Nursing is requiring evaluations? YES NO

[Redacted Signature]

4/26/19

(Signature and title of Approved Clinical Evaluator)

(Date)

Coordinator: [Redacted] ✓

NC Board of Nursing Work Performance Evaluation

Participant: [Redacted]

Position Title: Infection Control / Wound Nurse
Date of Hire: 10/8/18

Month(s)/Year Evaluated: May-July / 2019

Licensee's is a participant in the (check one) Alternative Program for Chemical Dependency

Chemical Dependency Discipline Program Probation License – Drug Screening

As a condition, Work Performance Evaluations completed by the clinical supervisor are due as scheduled to:

Regulatory Compliance Coordinator
Post Office Box 2129 Raleigh, NC 27602-2129
Fax 919-781-9461

Clinical Supervisor: [Redacted]

Phone(s): [Redacted]

Email: [Redacted]

Facility: [Redacted]

Unit: [Redacted]

Status (check one): Part-Time Full-Time PRN

Shift (check all that apply): Days Evenings Nights Rotate

Hours Worked per week: 40 *Must average 64h worked per month for work to satisfy conditions of program.

Quality of work: Satisfactory Needs improvement* Unsatisfactory*

*Please explain _____

Does the Licensee administer or have access to controlled substances? YES NO

If YES, have there been errors or discrepancies? YES NO

If YES, please explain: _____

To the best of your knowledge, since the last evaluation, has the nurse:

- Changed Work Location YES NO
- Changed Shift YES NO
- Changed Hours Scheduled YES NO
- Changed Position YES NO
- Changed Supervisor YES NO
- Used drugs or alcohol YES NO
- Been counseled (including conference, oral or written) YES NO

If YES to any of the above, please explain and provide copy of counseling (if applicable):

Are you aware of the reasons the NC Board of Nursing is requiring evaluations? YES NO

[Redacted Signature]
(Signature and Title of Approved Clinical Evaluator)

2/29/19
(Date)

Aug - Oct [Redacted]

Coordinator: [Redacted] ✓

NC Board of Nursing Work Performance Evaluation

Participant: [Redacted]

Position Title: Infection Preventionist
Date of Hire: 9/24/18 Wound Care

Month(s)/Year Evaluated: Oct 2019

Licensee's is a participant in the (check one) Alternative Program for Chemical Dependency

Chemical Dependency Discipline Program Probation License - Drug Screening

As a condition, Work Performance Evaluations completed by the clinical supervisor are due as scheduled to:

Regulatory Compliance Coordinator
Post Office Box 2129 Raleigh, NC 27602-2129
Fax 919-781-9461

Clinical Supervisor: [Redacted]

Phone(s): [Redacted]

Email: [Redacted]

Facility: [Redacted]

Unit: [Redacted]

Status (check one): Part-Time Full-Time PRN

Shift (check all that apply): Days Evenings Nights Rotate

Hours Worked per week: 40 *Must average 64h worked per month for work to satisfy conditions of program.

Quality of work: Satisfactory Needs improvement* Unsatisfactory*

*Please explain _____

Does the Licensee administer or have access to controlled substances? YES NO

If YES, have there been errors or discrepancies? YES NO

If YES, please explain: _____

To the best of your knowledge, since the last evaluation, has the nurse:

- Changed Work Location YES NO
- Changed Shift YES NO
- Changed Hours Scheduled YES NO
- Changed Position YES NO
- Changed Supervisor YES NO
- Used drugs or alcohol YES NO
- Been counseled (including conference, oral or written) YES NO

If YES to any of the above, please explain and provide copy of counseling (if applicable):

Are you aware of the reasons the NC Board of Nursing is requiring evaluations? YES NO

[Redacted Signature]

10/29/19
(Date)

Coordinator: [Redacted]

NC Board of Nursing Work Performance Evaluation

Participant: [Redacted] Position Title: Infection control / Wound nurse
Month(s)/Year Evaluated: Nov / Dec / Jan 2019-2020 Date of Hire: 10/8/18

Licensee's is a participant in the (check one) Alternative Program for Chemical Dependency

Chemical Dependency Discipline Program Probation License - Drug Screening

As a condition, Work Performance Evaluations completed by the clinical supervisor are due as scheduled to:

Regulatory Compliance Coordinator
Post Office Box 2129 Raleigh, NC 27602-2129
Fax 919-781-9461

Clinical Supervisor: [Redacted]

Phone(s): [Redacted] Email: [Redacted]

Facility: [Redacted] Unit: [Redacted]

Status (check one): Part-Time Full-Time PRN

Shift (check all that apply): Days Evenings Nights Rotate

Hours Worked per week: 40 *Must average 64h worked per month for work to satisfy conditions of program.

Quality of work: Satisfactory Needs improvement* Unsatisfactory*

*Please explain _____

Does the Licensee administer or have access to controlled substances? YES NO

If YES, have there been errors or discrepancies? YES NO

If YES, please explain: _____

To the best of your knowledge, since the last evaluation, has the nurse:

- Changed Work Location YES NO
- Changed Shift YES NO
- Changed Hours Scheduled YES NO
- Changed Position YES NO
- Changed Supervisor YES NO
- Used drugs or alcohol YES NO
- Been counseled (including conference, oral or written) YES NO

If YES to any of the above, please explain and provide copy of counseling (if applicable):

Are you aware of the reasons the NC Board of Nursing is requiring evaluations? YES NO

[Redacted Signature] (Signature and Title of Approved Clinical Evaluator)

11/24/20 (Date)

65-1120. Grounds for disciplinary actions; proceedings; witnesses; costs; professional incompetency defined; criminal justice record information.

- (a) Grounds for disciplinary actions. The board may deny, 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 hearing:
- (1) To be guilty of fraud or deceit 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 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. 74-120, 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 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. 2012 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;
 - (5) 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;
 - (6) to be guilty of unprofessional conduct as defined by rules and regulations of the board;
 - (7) to have willfully or repeatedly violated the 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 a license to practice nursing as a registered nurse or as a practical nurse 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 (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.
 - (C) A copy of the record of a judgment assessing damages under K.S.A. 2012 Supp. 60-4405, and amendments thereto.
- (b) 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.
- (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.
- (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. All moneys collected following board proceedings shall be credited in full to the board of nursing fee fund.

- (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.
- (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.

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.)

DRAFT

K.S.A. 65-1120(g) The board may defer discipline 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 regulations adopted by the board; 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.

65-1121a. Judicial review of board's actions. (a) 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.

65-1129. Rules and regulations. The board shall adopt and promulgate rules and regulations as are necessary to carry out the provisions of this act [*].

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

* This act means 65-1113, 65-1114, 65-1117, 65-1119, 65-1120, 65-1121, 65-1122 and 65-1128.

65-1135. Complaint or information relating to complaint confidential; exceptions. (a) Any complaint or report, record or other information relating to the investigation of a complaint about a person licensed by the board which is received, obtained or maintained by the board is confidential and shall not be disclosed by the board or its employees in a manner which identified or enables identification of the person who is the subject or source of such information except:

(1) In a disciplinary proceeding conducted by the board pursuant to law or in an appeal of the order of the board entered in such proceeding, or to any party to such proceeding or appeal or such party's attorney;

(2) to the proper licensing or disciplinary authority of another jurisdiction, if any disciplinary action authorized by K.S.A. 65-1120 and amendments thereto has at any time been taken against the licensee or the board has at any time denied a license certificate or authorization to the person; or

(3) to the person who is the subject of the information, but the board may require disclosure in such a manner as to prevent identification of any other person who is the subject or source of the information.

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

History: L. 1993, ch. 194, § 8; July 1.