

Kansas State Board of Nursing

The KSBN is a regulatory agency that licenses Registered Nurses, Licensed Practical Nurses and Licensed Mental Health Technicians. The role of KSBN is to protect the citizens of Kansas. The regulatory process and licensing assures citizens of Kansas that nurses and licensed mental health technicians have met minimum competence requirements. Testing establishes minimum competence. Statutes and regulations found in the Kansas Nurse Practice Act (KNPA) define your scope of practice and outline unacceptable conduct. There are actions for which your license may be called into question. When a licensee's conduct is questioned, KSBN has authority to investigate and collect information. If a sworn complaint is received KSBN is required to investigate you.

K.S.B.N.'s Scope of Authority

If the KSBN believes a violation of the KNPA (K.S.A. 65-1120) has occurred, it may commence an administrative action against your license. The Board through an administrative action may deny, revoke, suspend, limit, or publicly or privately censure a license. The Board may also levy fines (K.S.A.74-1110) against a license. The first offense is not to exceed \$1,000.00, second offense is not to exceed \$2,000.00, and third and subsequent offenses are not to exceed \$3,000.00.

Kansas Administrative Procedure Act

The KSBN is a regulatory agency. Being licensed is a privilege not a right. A license once obtained, is a form of a property right. The Board takes action against this property right not the person, but the action against the license may affect the licensee. Because the license is a property right the KSBN must afford you certain constitutional

protections. All disciplinary actions before the KSBN are subject to the Kansas Administrative Procedure Act (KAPA). The KAPA is a set of statutes that outline the procedures the KSBN must follow. It provides for due process. This includes things such as reasonable notice, fair and impartial hearing, and right to representation, right to question witnesses or present evidence. KAPA is applied to all regulatory agencies of varying sizes.

What Happens If I Apply During An Investigation?

We receive applications for initial licensure, endorsement, renewal and reinstatement. Your completed application is a request for an order or a license. KSBN must acknowledge receipt and status of your application within 30 days. If a question is raised and you are investigated, KSBN must complete the process in 90 days or "as is practicable". KSBN licenses over 70,000 people and investigates an average of 2300 cases per year. The majority of requests/applications are processed immediately. If not immediately processed, you will receive a letter of notification from KSBN on your application status.

Informal Resolutions

The committee may request the licensee to sign an agreement and/or meet conditions designed to impose an educational remedy. In this way the Board's primary purpose of protecting the public is met and the licensee's practice is improved and maintained.

Formal Discipline Process

The process can begin one of two ways. First, an applicant may receive a document called "Summary Order". This document states the facts and legal reasons for action on a license. If the licensee disagrees he/she may request a hearing. Second, a licensee may be served with a petition stating facts and law and asking for action upon the license.

The request for hearing by the licensee or petition filed by the Attorney General is followed by a notice of hearing which sets a time and date for the licensee to appear and defend. The notice gives directions on how to ask for additional time (called a continuance) if a licensee is unable to appear on the date set. The notice also warns that if a licensee fails to appear or contact the KSBN the matter will proceed, and judgement may be entered in the matter affecting the license. Documents and statements may be requested by the licensee or the Board's attorney and are exchanged in a process known as discovery.

You may appear in front of the entire Board, a panel of Board members or the Board's appointed hearing officer. A licensee may represent yourself or be represented by an attorney. The proceeding is recorded. Oaths are administered to those who testify. Each party can require witnesses to appear and testify. Each party may cross-examine witnesses presented by the other side. Each party may submit exhibits. The hearing officer / panel may also ask questions. Evidence may be written or oral and must be relevant to the claim. Hearsay can be introduced and is to be weighed appropriately. Evidence submitted varies from case to case. If your fitness to practice nursing is in question, factors to be considered include but are not limited to: (1) danger to the public health safety and welfare, (2) the present moral fitness, (3) your consciousness of what you did wrong and the effect on profession, (4) what you did and are doing for rehabilitation (5) nature and seriousness of misconduct, (6) current conduct, (7) time elapsed

since prior discipline or criminal activity, (8) character, maturity and experience (9) present competence and skill. These points are not all inclusive.

At the conclusion the hearing officer/panel weighs and considers the evidence and renders a decision. A written order, which consists of findings of fact, conclusions of law, and any sanctions imposed, is served upon the parties after the decision. Costs of the proceeding may be charged to the applicant or licensee. The written order will state the time when it becomes effective and provide notice to both sides of their appeal rights.

Appeal Process

Within a set period of time the parties have the right to request to have a decision reviewed by the Board. If the Board affirms the decision, or if the Board declines to review the decision, or makes a decision not liked by either party, either party may appeal to District Court. An appeal in District Court is subject to an act called the Kansas Judicial Review Act (KJRA).

Appeals to District Court for the KSBN are not tried again. The KJRA sets out the court's scope of review. The court considers the party's stated appeal grounds and decides whether the KSBN's order/record is supported by substantial evidence. Once the District Court enters its order either party, if not satisfied, has one more opportunity for appeal to the Court of Appeals or Supreme Court of the State. There are established time lines in which such requests or notices must be filed.

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Disclaimer

The information provided in this pamphlet is not intended to be legal advice or a complete explanation of legal rights.

Note: Statutes available at www.ksbn.org and www.kansas.gov.

Investigative Committee

JoAnn Klaassen, RN, MN, JD, Chair
Olathe, KS
Rebecca Sander, MSN, RN, Vice Chair
Hays, KS
Julianna Rieschick, RN, MSN, NEA-BC
Andover, KS

Staff

Vacant
Practice Specialist
Tina Beach
Administrative Specialist
Kathleen D. Chalkley, L.P.N.
Special Investigator II
Beth Peters, MSN, R.N.
RN Senior Investigator
Debra Quintanilla, R.N.
RN Senior Investigator
Mickie Walker, BSN, R.N.
RN Senior Investigator
Margaret Zillinger, BSN, R.N.
RN Senior Investigator
Kim Balzer, R.N.
RN Senior Investigator
Ruth Humbert, R.N.
RN Senior Investigator
Kevin Wade, BSN, R.N.
RN Senior Investigator
Amanda Huguenin
Senior Administrative Assistant
Bryce Benedict, J.D.
Assistant Attorney General
William Skepnek, J.D.
Assistant Attorney General

KANSAS STATE BOARD OF NURSING

*YOUR RIGHTS BEFORE THE
KANSAS STATE BOARD OF NURSING*



Kansas State Board of Nursing
900 SW Jackson, Suite 1051
Landon State Office Building
Topeka, Kansas 66612-1230
785-296-4325