

KSBHA Stakeholder meetings

Implementation of HB 2673 and the regulations needed

Tuesday, July 15, 2014, 2:00 PM at KSBHA offices

Topic: HB 2673 statutes or regulations related to the Physician Assistant (PA) practice act

- Repeal of the 2 PA supervision limit
- What criteria are key to proper supervision of multiple PAs by a single physician?
 - Stakeholder information on how practice setting, scope, practice type, or other variables can help define appropriate criteria
 - Supervision and delegation
 - Regulation amendments needed
 - Current statutes: See attached for statute text
 - Current regulations: See attached for regulation text
- PA scope of practice related to dispensing
 - Stakeholder information on how practice setting, scope, practice type, or other variables can help define appropriate criteria
 - Regulation amendments needed to implement statutory changes
 - Current statutes: See attached for statute text
 - Current regulations: See attached for regulation text

Thursday, July 17, 2014 10:00 AM at KSBHA offices

Topic: HB 2673 statutes related to the Healing Arts Act (HAA) and other regulatory changes

- Active license designation requirements
 - Increase minimum requirements from 1 year of ACGME residency to 3 years
- Postgraduates qualifications for issuance of an active license (aka authorize postgraduates to practice while in postgraduate program)
- Endorsement licensure requirements for an active license (clarify terminology and definitions)
- Re-entry license (new license type, develop criteria and definitions)
- Exempt license – when should CME be required
 - Stakeholder information on what variables should be set forth in regulations
 - Regulation amendments needed
 - Current statutes: See attached for statute text
 - Current regulations: See attached for regulation text

Statutes and Regulations on issues to be discussed:

K.S.A. 65-28a10. Limitation on number of physician assistants a responsible physician may direct and supervise. The board shall limit the number of physician assistants a responsible physician may supervise at any one time to the equivalent of two full-time physician assistants as approved in each case by the board. Any limitation on the number of physician assistants in this section shall not apply to services performed in a medical care facility, as defined in K.S.A. 65-425 and amendments thereto.

100-28a-13. Prescription-only drugs.

- a. A physician assistant may prescribe a prescription-only drug or administer or supply a prescription-only drug as authorized by the drug prescription protocol required by K.A.R. 100-28a-9 and as authorized by this regulation.
- b. As used in this regulation, "emergency situation" shall have the meaning ascribed to it in K.A.R. 68-20-19(a)(5).
- c. A physician assistant may directly administer a prescription-only drug as follows:
 1. If directly ordered or authorized by the responsible or designated physician;
 2. if authorized by a written drug prescription protocol between the responsible physician and the physician assistant; or
 3. if an emergency situation exists.
- d.
 1. A physician assistant may prescribe a schedule II controlled substance in the same manner as that in which the physician assistant may perform acts that constitute the practice of medicine and surgery as specified in K.A.R. 100-28a-6. Except as specified in paragraph (d)(2), each prescription for a schedule II controlled substance shall be in writing.
 2. A physician assistant may, by oral or telephonic communication, prescribe a schedule II controlled substance in an emergency situation. Within seven days after authorizing an emergency prescription order, the physician assistant shall cause a written prescription, completed in accordance with appropriate federal and state laws, to be delivered to the dispenser of the drug.
- e. A physician assistant may orally, telephonically, or in writing prescribe a controlled substance listed in schedule III, IV, or V, or a prescription-only drug not listed in any schedule as a controlled substance in the same manner as that in which the physician's assistant may perform acts that constitute the practice of medicine and surgery as specified in K.A.R. 100-28a-6.
- f. Each written prescription order by a physician assistant shall meet the following requirements:
 1. Contain the name, address, and telephone number of the responsible physician;
 2. contain the name, address, and telephone number of the physician assistant;
 3. be signed by the physician assistant with the letters "P.A." following the signature;

4. contain any DEA registration number issued to the physician assistant if a controlled substance is prescribed; and
 5. indicate whether the prescription order is being transmitted by direct order of the responsible or designated physician, pursuant to a written protocol, or because of an emergency situation.
- g. A physician assistant may supply a prescription-only drug to a patient only if all of the following conditions are met:
1. If the drug is supplied under the same conditions as those in which a physician assistant may directly administer a prescription-only drug, as described in subsection (b) above;
 2. if the drug has been provided to the physician assistant or the physician assistant's responsible physician or employer at no cost;
 3. if the drug is commercially labeled and is supplied to the patient in the original prepackaged unit-dose container; and
 4. if the drug is supplied to the patient at no cost.
- h. A physician assistant shall not administer, supply, or prescribe a prescription-only drug for any quantity or strength in excess of the normal and customary practice of the responsible physician.

(Authorized by K.S.A. 2000 Supp. 65-28a03; implementing K.S.A. 2000 Supp. 65-28a08; effective , T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001.)

K.A.R. 100-28a-17. Limitation on number of physician assistants supervised.

- a. A responsible physician shall not provide direction and supervision to more than two physician assistants without the board's prior approval.
- b. Each responsible physician wishing to provide direction and supervision to more than two physician assistants shall provide a written and signed request to the board with the following information:
 1. The name of each physician assistant to whom the responsible physician proposes to provide direction and supervision; and
 2. the reason for the request.
- c. The reasons for requesting approval to provide direction and supervision to more than two physician assistants shall include at least one of the following:
 1. The usual number of hours worked each week by one or more of the physician assistants is less than full time.
 2. The usual number of days worked each week by one or more of the physician assistants is less than full time.
 3. One or more of the physician assistants will temporarily leave the responsible physician's direction and supervision.

65-28a08. Practice of physician assistant; direction and supervision of physician; prescription of drugs; identification to patient of physician assistant; rules and regulations; "drug" defined. (a) The practice of a physician assistant shall include medical services within the

education, training and experience of the physician assistant that are delegated by the responsible physician. Physician assistants practice in a dependent role with a responsible physician, and may perform those duties and responsibilities through delegated authority or written protocol. Medical services rendered by physician assistants may be performed in any setting authorized by the responsible physician, including but not limited to, clinics, hospitals, ambulatory surgical centers, patient homes, nursing homes and other medical institutions.

(b) A person licensed as a physician assistant may perform, only under the direction and supervision of a physician, acts which constitute the practice of medicine and surgery to the extent and in the manner authorized by the physician responsible for the physician assistant and only to the extent such acts are consistent with rules and regulations adopted by the board which relate to acts performed by a physician assistant under the responsible physician's direction and supervision. A physician assistant may prescribe drugs pursuant to a written protocol as authorized by the responsible physician.

(c) Before a physician assistant shall perform under the direction and supervision of a physician, such physician assistant shall be identified to the patient and others involved in providing the patient services as a physician assistant to the responsible physician. Physician assistants licensed under the provisions of this act shall keep their license available for inspection at their primary place of business. A physician assistant may not perform any act or procedure performed in the practice of optometry except as provided in [K.S.A. 65-1508](#) and [65-2887](#) and amendments thereto.

(d) The board shall adopt rules and regulations governing the prescribing of drugs by physician assistants and the responsibilities of the responsible physician with respect thereto. Such rules and regulations shall establish such conditions and limitations as the board determines to be necessary to protect the public health and safety. In developing rules and regulations relating to the prescribing of drugs by physician assistants, the board shall take into consideration the amount of training and capabilities of physician assistants, the different practice settings in which physician assistants and responsible physicians practice, the degree of direction and supervision to be provided by a responsible physician and the needs of the geographic area of the state in which the physician's physician assistant and the responsible physician practice. In all cases in which a physician assistant is authorized to prescribe drugs by a responsible physician, a written protocol between the responsible physician and the physician assistant containing the essential terms of such authorization shall be in effect. Any written prescription order shall include the name, address and telephone number of the responsible physician. In no case shall the scope of the authority of the physician assistant to prescribe drugs exceed the normal and customary practice of the responsible physician in the prescribing of drugs.

(e) The physician assistant may not dispense drugs, but may request, receive and sign for professional samples and may distribute professional samples to patients pursuant to a written protocol as authorized by the responsible physician. In order to prescribe controlled substances, the physician assistant shall register with the federal drug enforcement administration.

(f) As used in this section, "drug" means those articles and substances defined as drugs in [K.S.A. 65-1626](#) and [65-4101](#) and amendments thereto.

K.A.R. 100-28a-10. Supervision and direction; adequacy.

- a. Direction and supervision of the physician assistant shall be considered to be adequate if the responsible physician meets all of the following requirements:
 1. Engages in the practice of medicine and surgery in Kansas;
 2. verifies that the physician assistant has a current license issued by the board;
 3. at least annually, reviews, evaluates, and determines whether the physician assistant has performed patient services constituting the practice of medicine and surgery with professional competence and with reasonable skill and safety;
 4. at least annually, reviews any drug prescription protocol and determines if any modifications, restrictions, or terminations are required. Each modification, restriction, or termination shall be conveyed to the physician assistant and set forth in all copies of the drug prescription protocol required by K.A.R. 100-28a-9;
 5. reports to the board any knowledge of disciplinary hearings, formal hearings, public or private censure, or other disciplinary action taken against the physician assistant by any state's licensure or registration authority or any professional association. The responsible physician shall report this information to the board within 10 days of receiving notice of the information;
 6. reports to the board the termination of responsibility by the responsible physician or any litigation alleging conduct by the physician assistant that would constitute grounds for disciplinary action under the physician assistant licensure act. The responsible physician shall report this information to the board within 10 days of receiving notice of the information;
 7. reviews and authenticates each patient record of treatment provided by a physician assistant in an emergency situation if the treatment exceeded the authority granted to the physician assistant by the responsible physician in the responsible physician request form. The responsible physician shall perform the review and authentication of the patient record within 48 hours of the treatment;
 8. provides for a designated physician to provide supervision and direction on each occasion when the responsible physician is temporarily absent, is unable to be immediately contacted by telecommunication, or is otherwise unavailable at a time the physician assistant could reasonably be expected to provide professional services; and
 9. delegates to the physician assistant only those acts that constitute the practice of medicine and surgery that the responsible physician believes or has reason to believe can be competently performed by the physician assistant, based upon the physician assistant's background, training, capabilities, skill, and experience.
- b. The responsible physician shall develop and implement a written method for evaluating whether the physician assistant has performed patient services constituting the practice of medicine and surgery with professional competence and with reasonable skill and safety, in accordance with the provisions of the responsible physician request form.
 1. During the first 90 days of the responsible physician-physician assistant supervisory relationship, the responsible physician shall review and authenticate all medical records and charts of each patient evaluated or treated by the

physician assistant within 14 days of the date the physician assistant evaluated or treated the patient. The responsible physician shall authenticate each record and chart by original signature or initials and shall record the date of the review. Electronically generated signatures shall be acceptable if reasonable measures have been taken to prevent unauthorized use of the electronically generated signature.

2. After the first 90 days of the responsible physician-physician assistant supervisory relationship, the responsible physician shall document the periodic review and evaluation of the physician assistant's performance required by paragraph (a)(3), which may include the review of patient records and charts. The written review and evaluation shall be signed by the responsible physician and the physician assistant. This documentation shall be kept on file at each practice location and shall be made available to the board upon request.
- c. Except as otherwise required by K.A.R. 100-28a-13, a responsible physician shall not be required to cosign orders or prescriptions written in a patient's medical record or chart by a physician assistant to whom the responsible physician has delegated the performance of services constituting the practice of medicine and surgery.

K.A.R. 100-6-2. General qualifications.

- a. Each applicant for licensure in medicine and surgery who is a graduate of an accredited school of medicine shall present to the board proof of completion of a postgraduate training or residency training program that is at least one year in length. This program shall have been approved by the council of education of the American medical association or its equivalent in the year in which the training took place.
- b. Each applicant for licensure in medicine and surgery who is a graduate of an unaccredited school of medicine shall present to the board proof of completion of a postgraduate training or residency training program that is at least two years in length. This program shall have been approved by the council of education of the American medical association or its equivalent in the year in which the training took place.
- c. Each applicant for licensure in osteopathic medicine and surgery who is a graduate of an accredited school of osteopathic medicine shall present to the board proof of completion of a postgraduate training program that is at least one year in length. This program shall have been approved by the American osteopathic association or its equivalent in the year in which the training took place.
- d. Each applicant for licensure in chiropractic who matriculates in chiropractic college on or after January 1, 2000 shall present proof of having received a baccalaureate degree from an accredited school or college. If the baccalaureate degree is granted by a chiropractic school or college, at least 90 semester hours applicable to the baccalaureate degree shall be earned at an accredited school or college, with none of these hours applying to the doctor of chiropractic degree. For purposes of this subsection, an "accredited school or college" shall meet the standards for accreditation of the north central association of colleges and schools or its regional equivalent, as in effect July 1, 1999, which are hereby adopted by reference.

K.S.A. 65-2811. Issuance of temporary permits; postgraduate permits.

- a. The board may issue a temporary permit to practice the appropriate branch of the healing arts to any person who has made proper application for a license by endorsement, has the required qualifications for such license and has paid the prescribed fees, and such permit, when issued, shall authorize the person receiving the permit to practice within the limits of the permit until the license is issued or denied by the board, but no more than one such temporary permit shall be issued to any one person without the approval of 2/3 of the members of the board.
- b. The board may issue a postgraduate permit to practice the appropriate branch of the healing arts to any person who is engaged in a full time, approved postgraduate training program; has made proper application for such postgraduate permit upon forms approved by the board; meets all qualifications of licensure, except the examinations required under K.S.A. 65-2873 and amendments thereto and postgraduate training, as required by this act; has paid the prescribed fees established by the board for such postgraduate permit; has passed such examinations in the basic and clinical sciences approved under rules and regulations adopted by the board; and, if the person is a graduate of a foreign medical school, has passed an examination given by the educational commission for foreign medical graduates.
- c. The postgraduate permit issued under subsection (b) shall authorize the person receiving the permit to practice the appropriate branch of the healing arts in the postgraduate training program while continuously so engaged but shall not authorize the person receiving the permit to engage in the private practice of the healing arts.
- d. A postgraduate permit issued under subsection (b) shall be canceled if:
 1. The holder thereof ceases to be engaged in the postgraduate training program;
or
 2. the holder thereof has engaged in the practice of the healing arts outside of the postgraduate training program.

K.S.A. 65-2833. Endorsement licenses; requirements.

The board, without examination, may issue a license to a person who has been in the active practice of a branch of the healing arts in some other state, territory, the District of Columbia or other country upon certificate of the proper licensing authority of that state, territory, District of Columbia or other country certifying that the applicant is duly licensed, that the applicant's license has never been limited, suspended or revoked, that the licensee has never been censured or had other disciplinary action taken and that, so far as the records of such authority are concerned, the applicant is entitled to its endorsement. The applicant shall also present proof satisfactory to the board:

- a. That the state, territory, District of Columbia or country in which the applicant last practiced has and maintains standards at least equal to those maintained by Kansas.

- b. That the applicant's original license was based upon an examination at least equal in quality to the examination required in this state and that the passing grade required to obtain such original license was comparable to that required in this state.
- c. Of the date of the applicant's original and any and all endorsed licenses and the date and place from which any license was attained.
- d. That the applicant has been actively engaged in practice under such license or licenses since issued, and if not, fix the time when and reason why the applicant was out of practice.
- e. That the applicant has a reasonable ability to communicate in English.

An applicant for endorsement registration shall not be licensed unless the applicant's individual qualifications meet the Kansas legal requirements.

In lieu of any other requirement prescribed by law for satisfactory passage of any examination in any branch of the healing arts the board may accept evidence satisfactory to it that the applicant or licensee has satisfactorily passed an equivalent examination given by a national board of examiners in chiropractic, osteopathic medicine and surgery or medicine and surgery as now required by Kansas statutes for endorsement from other states.

65-2809. Expiration date of licenses; continuing education requirements; evidence licensee maintaining professional liability insurance; notice of expiration; fees; cancellation of license; reinstatement, when; exempt licensees; inactive license; federally active license.

- a. There is hereby created a designation of exempt license. The board is authorized to issue an exempt license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an exempt license established pursuant to K.S.A. 65-2852 and amendments thereto. The board may issue an exempt license to a person who is not regularly engaged in the practice of the healing arts in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder to all privileges attendant to the branch of the healing arts for which such license is issued. Each exempt license may be renewed subject to the provisions of this section. Each exempt licensee shall be subject to all provisions of the healing arts act, except as otherwise provided in this subsection (f). The holder of an exempt license shall not be required to submit evidence of satisfactory completion of a program of continuing education required by this section. Each exempt licensee may apply for a license to regularly engage in the practice of the appropriate branch of the healing arts upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-2852 and amendments thereto. For the licensee whose license has been exempt for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for exempt licensees to become licensed to regularly practice the healing arts within Kansas. Any licensee whose license has been exempt for more than two years and who has not been in the active practice of the healing arts or engaged in a formal educational program since the license has been exempt may be required to complete such additional testing, training or education as the board may deem necessary to establish

the licensee's present ability to practice with reasonable skill and safety. Nothing in this subsection (f) shall be construed to prohibit a person holding an exempt license from serving as a coroner or as a paid employee of

1. local health department as defined by K.S.A. 65-241 and amendments thereto, or
2. an indigent health care clinic as defined by K.S.A. 75-6102 and amendments thereto.

K.A.R. 100-10a-5. Conversion.

- a. A holder of an exempt license desiring to become licensed to regularly practice the healing arts within Kansas shall submit a form provided by the board containing identical information to that required of individuals desiring to reinstate a license.
- b. Each holder of an exempt license desiring to become licensed to regularly practice the healing arts within Kansas shall submit proof of continuing education as follows:
 1. If the individual has held the exempt license for less than one year, no continuing education in addition to that which would have been necessary had the exempt licensee continued to hold an active license shall be required.
 2. if the exempt licensee has held the exempt license more than one year but less than three years, the individual must submit evidence of satisfactory completion of a program of continuing education in accordance with the requirements of K.A.R. 100-15-2; and if the exempt licensee has held the exempt license for more than three years, the applicant must complete a program recommended by the board.