The Kansas State Board of Healing Arts does not render legal advice or services to private individuals or entities. All statements are intended as general guidance and do not necessarily represent the position of the Board. No warranties or representations are made regarding the completeness or adequacy of the information provided. You should not construe this general guidance as legal advice or the establishment of an attorney-client relationship. It is necessary that you obtain independent legal counsel for an application of the law to your particular situation.
ROADMAP

Complaints, generally
Submitting a complaint with KSBHA
After a complaint is submitted to KSBHA
Resources
Q & A
ROLE OF STATE MEDICAL BOARDS

- Ability to practice a profession licensed by the KSBHA is a privilege.
- Government system structured to ensure state medical boards protect the public by regulating the practice of the profession within their borders.
- Help ensure quality of medical care.

Are Kansas patients safe?
HOW COMPLAINTS HELP KSBHA PROTECT THE PUBLIC

- Brings possible misconduct to the Board’s attention
- Helps ensure healthcare professions we regulate are held accountable
- Helps ensure similar misconduct does not occur in the future
JURISDICTION

Under Kansas law, KSBHA is authorized to investigate and discipline only the healthcare professions it licenses.
WHO WE LICENSE AND REGULATE

MD/DO
DC
DPM
PA
PT/PTA
OT/OTA
RT
AT
LRT
LAc
ND
CNMI
CLD
CPM
WHO WE DON’T LICENSE & REGULATE

- Nurses
- Dentists
- Optometrists
- Pharmacists
- Speech Pathologists
- Social Workers
- Hospitals
- Healthcare facilities

Other healthcare professions not listed on previous slide
WHO CAN SUBMIT A COMPLAINT?

- Anyone
- Do not have to be the patient
- Some individuals or facilities may have a legal duty to submit a complaint in certain circumstances
- Can submit anonymously, but...
COMMON COMPLAINT SOURCES

Patients
Patient family members
Other licensees
Law enforcement
Hospitals
Other state boards
Medical care facilities licensed under K.S.A. 65-425 et seq., **must** report to the Board any information such facility has which appears to show that a person licensed to practice the healing arts has committed an act which may be grounds for disciplinary action.

Medical care facilities **must** report when practice privileges of any person licensed to practice the healing arts are terminated, suspended or restricted, or voluntarily surrendered or limited for reasons relating to professional competence.

- See K.S.A. 65-28,121
MEDICAL FACILITY REPORTING REQUIREMENTS UNDER K.S.A. 65-4923

• **Must** report if a medical care facility has knowledge that a health care provider has committed a reportable incident...

• Knowledge is defined as “familiarity because of direct involvement or observation of the incident” K.S.A. 65-4923(a)(4)

• Reportable incident includes:
  - Any finding by the committee that a health care provider acts below SOC which action has reasonable probability of causing harm or injury to the patient; or
  - In any manner which may be grounds for disciplinary action by the appropriate licensing agency.
(a) Each facility shall assure that analysis of patient care incidents complies with the definition of a “reportable incident” set forth at K.S.A. 65-4921. Each facility shall use categories to record its analysis of each incident, and those categories shall be in substantially the following form:

1. Standards of care met;
2. Standards of care not met, but with no reasonable probability of causing injury;
3. Standards of care not met, with injury occurring or reasonably probable; or
4. Possible grounds for disciplinary action by the appropriate licensing agency.

(b) Each reported incident shall be assigned an appropriate standard-of-care determination under the jurisdiction of a designated risk management committee. Separate standard-of-care determinations shall be made for each involved provider and each clinical issue reasonably presented by the facts. Any incident determined by the designated risk management committee to meet category (a)(3) or (a)(4) shall be considered a “reportable incident” and reported to the appropriate licensing agency in accordance with K.S.A. 65-4923.
“...Any person licensed, registered or certified to practice any profession regulated by the board who possesses knowledge not subject to the physician-patient privilege that another person so licensed, registered or certified has committed any act enumerated under any practice act administered by the board which may be grounds for disciplinary action shall immediately report such knowledge, under oath, to the state board of healing arts.”

“Knowledge” means familiarity because of direct involvement or observation of the incident.
I AM A LICENSEE. DO I SELF REPORT?

- Licensees should self-report if they believe they have violated their applicable practice act.
- Failure to self-report or dishonesty in reporting may result in disciplinary action.
- When?
  - ASAP
  - Renewal
NO LEGAL OBLIGATION TO REPORT. CAN I STILL REPORT? SHOULD I STILL REPORT?
No person, or state, regional or local association composed of persons licensed to practice a profession by the Board, who reports in good faith any information such person may have relating to alleged incidents of malpractice, or the qualifications, fitness or character of, or disciplinary action taken against shall be subject to a civil action for damages as a result of reporting such information, and such person reporting shall be immune from any civil liability that might otherwise be incurred in an action resulting from reporting such information. K.S.A. 65-2898.
Any person or entity which, in good faith, reports or provides information or investigates any healthcare provider as authorized by K.S.A. 65-4923 or K.S.A. 65-4924 shall not be liable in a civil action for damages or other relief arising from the reporting, providing of information or investigation except upon clear and convincing evidence that the report or information was completely false, or that the investigation was based on false information, and that the falsity was actually known to the person making the report, providing the information or conducting the investigation at the time thereof. K.S.A. 65-4926.
FILING A COMPLAINT WITH KSBHA DOES NOT:

1. Resolve disputes with healthcare professionals
2. Persuade a healthcare professional to change his or her mind about treatment
3. Obtain a financial settlement
4. Prepare or file a lawsuit against a healthcare professional
WHEN TO SUBMIT A COMPLAINT

• KSBHA is best able to obtain accurate and complete information when a complaint is submitted ASAP after the alleged conduct.
• No statute of limitations.
• But medical care facilities must report within 30 days after receipt of information required to be reported under K.S.A. 65-28,121.
SUBMITTING A COMPLAINT TO KSBHA

- Complaint form online at www.ksbha.org/complaints.shtml
- Complaint Coordinator can help navigate through process of submitting a complaint
  - KSBHA_complaints@ks.gov
  - (785) 296-1788
COMMON TYPES OF COMPLAINTS

- Negligence
- Unprofessional conduct
- Impairment
- Sexual misconduct
- Advertising
- Dishonesty
- Practicing outside scope of license
- Unlicensed practice
WILL MY COMPLAINT BE TAKEN SERIOUSLY?

- Each complaint is thoroughly evaluated to determine if a possible violation of state law has occurred.
- If there is a possible violation of the applicable practice act, an investigation is opened.
CONFIDENTIALITY OF COMPLAINTS & INVESTIGATIONS

“Any complaint or report, record or other information relating to a complaint which is received, obtained or maintained by the board shall be confidential and shall not be disclosed by the board or its employees in a manner which identifies or enables identification of the person who is the subject or source of the information...” K.S.A. 65-2898a(a)
WHAT CAN I EXPECT AFTER I SUBMIT A COMPLAINT TO KSBHA?

- INITIAL CONTACT WITH THE INVESTIGATOR
- COMMUNICATION WITH THE INVESTIGATOR DURING THE INVESTIGATION
- CLOSURE LETTER
KEY CONSIDERATIONS

- KSBHA has authority to take disciplinary actions against a license only when it determines a violation of the applicable practice act has occurred.
- Licensee’s complaint history is confidential by law.
- Are there other agencies I should also submit my complaint to?
OTHER AGENCIES TO CONTACT

- Attorney General’s Office
- Kansas Board of Nursing
- Behavioral Sciences Regulatory Board
- Kansas Dental Board
- Kansas Board of Cosmetology
- Kansas Department of Health and Environment
- Kansas Board of Pharmacy
- Kansas Board of Emergency Medical Services
KSBHA RESOURCES

- Practice Handbooks
- Policies
- KSBHA_Complaints@ks.gov
- KSBHA_LegalQuestions@ks.gov
- Education & Outreach
  ➢ www.ksbha.org/education.shtml
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