KSBHA: COMPLAINTS

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ROADMAP

- Complaints, generally
- Submitting a complaint with KSBHA
- After a complaint is submitted to KSBHA
- Resources
- Q & A
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
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  CNM-I  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
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.
LICENSEE’S DUTY TO REPORT
K.S.A. 65-28,122

• “...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 may result in disciplinary action.
- When?
  - ASAP
  - Renewal
MEDICAL CARE FACILITIES
DUTY TO REPORT

• 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.
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 provider
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. 65-28121.
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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