KSBHA: INVESTIGATIONS

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DISCLAIMER

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THE BOARD’S MISSION

- To protect the public by authorizing only those persons who meet and maintain certain qualifications to be licensed in the healthcare professions regulated by the Board.

- To protect the public from incompetence or unprofessional conduct by persons who have been licensed to practice in Kansas and from unauthorized practice by persons and entities who have not been licensed to practice in Kansas.
Board meeting second Friday of every other month

Next Board meeting is August 11, 2023

15 Board members, appointed by the Governor

Councils

33,000+ licensees

KSBHA LOGISTICS
GENERAL OVERVIEW OF DISCIPLINARY PROCESS

1. Complaint
2. Investigation
3. Reviewed by Review Committee or Council (if SOC)
4. Reviewed by Disciplinary Panel
5. Board
Investigations
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.
INVESTIGATION - OPENED

- 8 Investigators, 1 Investigator Supervisor
- Opened → Investigator assigned
- Investigative plan, begins process of investigating allegations in the complaint
INVESTIGATION PROCESS, GENERALLY

- Request records
- Conduct interviews of relevant parties
- Interview licensee under investigation
- Gather other relevant evidence
- Issue subpoenas
- Visit the scene
HOW LONG DO INVESTIGATIONS TAKE?

• Varies
• Average 6 months – 1 year
• Variety of factors that impact length:
  ➢ Waiting for information from 3rd parties
  ➢ Waiting for information from Licensee
  ➢ Cooperation
  ➢ Review Committee/Council for review
Licensee generally receives a letter when an investigation is opened.

Licensee can request status updates directly from the investigator assigned.

Licensee receives a letter when the investigation has been closed.
DUTY TO PROVIDE INFORMATION

• “...Every licensee, registrant, permit holder or certificate holder in this state, including members of the board, shall furnish the board such evidence as such person may have relative to any alleged violation which is being investigated...” K.S.A. 65-2864

• A licensee’s license may be disciplined for failing to furnish the board, or its investigator any information legally requested by the Board. K.S.A. 65-2836(r).

• Considered unprofessional conduct, and grounds for disciplinary action, to obstruct a Board investigation by falsifying or concealing a material act; knowingly making or causing to be made any false or misleading statement or writing; or other acts or conduct likely to deceive or defraud the Board. K.S.A. 65-2837(34).
Common investigations

- Professional competency
- Unprofessional conduct
- Impairment
- Boundary violations
- Collateral violations
- Practicing outside scope of license
- Unlicensed practice
PROFESSIONAL INCOMPETENCY

- One or more instances of **gross negligence**.
  - Wanton conduct; reckless disregard.

- Repeated instances of **ordinary negligence**.
  - What a reasonable [healthcare professional] would have done under the same or similar circumstance.

- A pattern or practice or other behavior which demonstrates a manifest incapacity or incompetence to practice the healing arts.
UNPROFESSIONAL CONDUCT, GENERALLY

- Dishonesty
- Fraudulent advertising
- Fraudulent billing
- Failing to adequately supervise
- Willful betrayal of confidential information
- Delegated professional responsibilities to a person licensee knows or has reason to know such person is not qualified by training, experience, or licensure to perform.

IMPAIRMENT

- Inability to practice [healthcare profession] with reasonable skill and safety to patients by reason of physical or mental illness, or condition or use of alcohol, drugs, or controlled substances.
Sexual harassment
Sexual abuse, sexual misconduct
- Felony
- Disciplinary action by another state
- Sanctions taken against a licensee by a peer review committee, healthcare facility, etc.
- Adverse judgment, award, or settlement resulting from a medical liability claim related to acts or conduct that would constitute grounds for disciplinary action
- Failing to furnish the Board legally requested information
Closed for lack of evidence of a violation of the applicable practice act

Sent to a Review Committee/Council – Standard of Care

Sent directly to Disciplinary Panel for review (conduct)
INVESTIGATION

REVIEWED BY REVIEW COMMITTEE OR COUNCIL (IF SOC)

COMPLAINT
REVIEW COMMITTEES

- Members of the same profession
- Appointed by the Board
- Generally, meet quarterly
- Review investigation
- Determine whether standard of care was met

- 5 MD Review Committees; DO Review Committee; DC Review Committee; DPM Review Committee
COUNCILS

- Created by law
- Members of the profession appointed by the Governor; additional members appointed by the Board
- Generally, meet quarterly
- Review investigation
- Determine whether standard of care was met
- PA, LRT, RT, OT, PT, AT, CNMI, LAc, ND
Standard of care was met → closed

Standard of care was not met → Disciplinary Panel
DISCIPLINARY PANEL

- Subcommittee of the Board
- Generally, 1 MD, 1 DO, 1 DC, and 1 public member
- Meets monthly
- Reviews the investigation, Review Committee/Council determination if applicable, the law, and determines action to pursue in a case. (Close → Disciplinary Action)
COMPLAINT

INVESTIGATION

REVIEWED BY REVIEW COMMITTEE OR COUNCIL (IF SOC)

REVIEWED BY DISCIPLINARY PANEL

BOARD
BOARD ACTIONS

- Letter of Concern
- Professional Development Plan
- Public Censure
- Fine
- Probation
- Limitation
- Suspension
- Revocation
<table>
<thead>
<tr>
<th>Statutorily authorized under K.S.A. 65-2838a</th>
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</thead>
<tbody>
<tr>
<td>Letter of Concern</td>
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<tr>
<td>Professional Development Plan</td>
</tr>
<tr>
<td>Not reported to NPDB, FSMB, FSBPT, CINBAD, etc.</td>
</tr>
<tr>
<td>Not posted on website</td>
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Part of public agency record

Reported to NPDB, FSMB, FSBPT, CINBAD, etc.

Posted on the Board’s website under “Board Actions”

Press Release (Emergency suspension or limitation, revocation, voluntary surrender in lieu of formal proceeding)
Can be used if determined there is reasonable cause to believe:

- Grounds exist for disciplinary action; and
- The immediate continuation in practice by the licensee would constitute an imminent danger to the public health and safety

Emergency hearing held to determine if the emergency suspension/limitation should be vacated, lifted, lifted with conditions, or remain in place pending litigation on the underlying Petition.
PREVENTION

- Renew license on time
- Practice within scope of profession
- Be honest
- Stay current with CEUs
- Seek help and/or treatment early
- Consider seeking independent legal counsel
- Utilize state association as a resource
- Don’t break the law
- Cooperate in Board investigations
Investigations serve as an objective fact gathering process.

Investigations are confidential.

If a licensee is under investigation, best point of contact for that person is the investigator assigned.

Many resolutions of investigations and cases (close → confidential non-disciplinary → public disciplinary action)

Integral process of the Board that helps us protect Kansans.
PROTECTING THE PUBLIC

FSMB supports America's state medical boards in licensing, disciplining and regulating physicians and other healthcare professionals. Our end goal: keep patients safe.

Learn More

Register Today

Join us November 3-4 in San Diego, CA for this two-day event that highlights the current legal issues and trends facing state medical boards.

New: U.S. Licensing and Disciplinary Data

COVID-19 Resources

Change and Continuity in Medicine: Histori...
PROFESSIONAL HEALTH PROGRAMS

MD/DO/PA/DC

- Kansas Medical Society – Professionals Health Program
  - (785) 231-1306
  - Angela Grittman
  - agrittman@kmsonline.org

- Kansas Association of Osteopathic Medicine
  - (785) 234-5563
  - Kemper Tell, Executive Director
  - kemper@kansasdo.org

PT/PTA/OT/OTA/RT/AT

- Heart of America Professional Network
  - (913) 236-7575
  - Jennifer Payea, Executive Director
  - ed@hapn.org
Physician Support Line
1 (888) 409-0141

Psychiatrists helping our US physician colleagues and medical students navigate the many intersections of our personal and professional lives.

Free & Confidential | No appointment necessary
Open 7 days a week | 8:00AM - 1:00AM ET
Welcome.

The Emotional PPE Project connects healthcare workers in need with licensed mental health professionals who can help. No cost. No insurance. Just a trained professional to talk to.

Healthcare Workers Affected By The COVID-19 Crisis

Mental Health Practitioners Looking To Help

All Services Provided Through The Emotional PPE Project Are Free Of Charge.

The Emotional PPE Project is a directory that provides contact information of volunteer mental health practitioners to healthcare workers whose mental health has been impacted by the COVID-19 crisis.

The Emotional PPE Project is an independent tax-exempt nonprofit (501(c)(3)) organization fully staffed by volunteers.

You may contact us at: contact@emotionalppe.org // Click here to review our Terms of Use // Click here to read our FAQs

Follow Us On Social Media!
988 Suicide & Crisis Lifeline

We can all help prevent suicide. The Lifeline provides 24/7, free and confidential support for people in distress, prevention and crisis resources for you or your loved ones, and best practices for professionals in the United States.

The 988 Lifeline

988 is now active across the United States. This new, shorter phone number will make it easier for people to remember and access mental health crisis services. (Please note, the previous 1-800-273-TALK (8255) number will continue to function indefinitely.) Click below to learn more about 988.

LEARN MORE
Practice Handbooks

Policies

Education & Outreach tab on [www.ksbha.org](http://www.ksbha.org)

[KSBHA_complaints@ks.gov](mailto:KSBHA_complaints@ks.gov)

[KSBHA_Licensing@ks.gov](mailto:KSBHA_Licensing@ks.gov)

[KSBHA_LegalQuestions@ks.gov](mailto:KSBHA_LegalQuestions@ks.gov)
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