In light of unique challenges presented by the COVID-19 pandemic, the Kansas State Board of Healing Arts (“Board”) has identified ways the Board can contribute to the capacity of our state’s healthcare system to respond to COVID-19 consistent with Kansas law and relevant executive orders. The Board will continuously assess the situation as it develops.

A. LICENSE OPTIONS.

1. Temporary COVID-19 emergency licensure.

The Emergency Temporary License for COVID-19 response and mitigation is available for all health care professions regulated by the Board. The license will automatically cancel in 90 days, if not renewed, or 30 days after the declared Kansas state of emergency ends, whichever is sooner. All license fees will be waived for this license.

Requirements for this license are any of the following:

(1) Currently hold a valid, full, active and unencumbered license in another state to engage in the same profession and are not the subject of any professional discipline or investigation in another state;

(2) Have held an active or exempt license in Kansas within the past 2 years, and such license was not suspended or revoked as a result of Board investigation or discipline;

(3) Currently hold a valid federally active license;

(4) Meet all requirements for licensure in Kansas (or reinstatement of licensure within 5 years of lapsed license) but are currently unable to pay the fee due to effects of the pandemic;

(5) Meet all requirements for licensure in Kansas except licensing examination due to the exam being cancelled as a result of the pandemic and there is no temporary license/permit available under the relevant Kansas practice act.

License application: [COVID-19 Emergency Temporary License Application](#)

2. Previously existing expedited practice options for physicians.
Interstate Medical Licensure Compact (“IMLC”)
- Kansas is a member of the IMLC compact.
- Licensure through the IMLC is expedited for physicians who are eligible. To see if you are eligible, please see https://www.imlcc.org/apply/ or K.S.A. 65-28,133, Section 2(k)(1)-(9).
- If you have received a license in another state through the IMLC, and your Letter of Qualification (“LOQ”) was issued within the past 365 days, you can quickly add Kansas. Please visit https://www.imlcc.org/add-states/, and select “Go to Add States.”

Exempt license. An MD, DO, or DC who has an exempt license in Kansas can work at a local health department or an indigent healthcare clinic. K.S.A. 65-2809(f).
- The Board encourages those who hold an exempt license and are not currently employed, but want to aid in the response, to contact a local health department or an indigent healthcare clinic to see if there is need for their employment.

Special permit for University of Kansas medical school graduates who have not yet begun postgraduate program. A graduate of the University of Kansas school of medicine who has not yet begun postgraduate training can apply for a special permit to provide charitable care in a medically underserved area under the supervision of a licensed Kansas physician. K.S.A. 65-2811a.
- To receive an application for a special permit, please email KSBHA_Licensing@ks.gov.

3. Military service members and spouses.
- Military service members and their spouses receive prioritized licensing application processing under existing law, pursuant to K.S.A. 48-3406.

4. Previously existing expedited practice option for physician assistants. (And see section D, below, for more information on waiver of certain regulatory requirements relating to PA practice).
- Exempt license. A PA who has an exempt license in Kansas can work at a local health department or an indigent healthcare clinic. K.S.A. 65-28a03(g).
- The Board encourages those who hold an exempt license and are not currently employed, but want to aid in the response, to contact a local health department or an indigent healthcare clinic to see if there is need for their employment.

5. Previously existing expedited practice options for Respiratory Therapists.
- Special permits are available for students enrolled in an approved RT program and practice respiratory therapy under the supervision of a licensed respiratory therapist. K.S.A. 65-5508(c).
Temporary licenses are available for those who meet requirements for permanent licensure or meet requirements for permanent licensure except the exam. K.S.A. 65-5508(d).
- Valid for up to 6 months

Under K.S.A. 65-5514(b), the following individuals are not construed to be practicing respiratory therapy and therefore are not required to be licensed:
- Persons rendering assistance in the case of an emergency.
- Persons whose services are performed under the delegation of and under the supervision of a Kansas licensed respiratory therapist.
- Students while in attendance of an approved respiratory program and under the supervision of a licensed respiratory therapist.

Previously existing expedited practice options for Radiologic Technologists.

Temporary licenses are available for those who meet all qualifications for licensure, or those who meet requirements for licensure except the exam. K.S.A. 65-7305(b).
- Valid for up to 180 days

Under K.S.A. 65-7304, the following individuals do not need a Kansas radiologic technology license to provide radiologic technology services:
- A Kansas licensed physician, dentist, podiatrist, chiropractor, physician assistant, advanced practice registered nurse or naturopathic doctor.
- A person who has a Kansas postgraduate permit.
- Radiologic technology students under the supervision of a qualified instructor.
- Persons rendering assistance in the case of an emergency.
- A licensed physician assistant, nurse, or unlicensed person who has been trained on the proper use of the equipment, working under the supervision of a licensed practitioner.

---

1 Any patient monitoring assessment or other procedures designed to evaluate the effectiveness of prescribed respiratory therapy must be performed by or pursuant to the delegation of a licensed respiratory therapist or other health care provider.

2 See K.A.R. 100-55-11 (Delegation and supervision of respiratory therapy procedures performed by an unlicensed person).

3 Required to obtain 12 CEUs each calendar year meeting criteria of K.A.R. 100-73-7.
A licensed physician assistant, nurse, or unlicensed person who has been trained on the proper use of the equipment, working under the supervision of a person designated by a hospital licensed by KDHE.\(^4\)

7. Previously existing expedited practice options for Physical Therapists/Physical Therapy Assistants.

- **Exempt license.** A physical therapist or physical therapy assistant who has an exempt license in Kansas can work at a local health department or an indigent healthcare clinic. K.S.A. 65-2910(f)(1).
- The Board encourages those who hold an exempt license and are not currently employed, but would like to aid in the response, to contact a local health department or an indigent healthcare clinic to see if they need their employment.
- **Temporary permits** are available for physical therapist and physical therapy assistants who meet requirements for licensure or meet requirements for licensure except the exam. K.S.A. 65-2909(c).
  - Valid for up to 3 months

8. Occupational Therapists/Occupational Therapy Assistants.

- **Temporary licenses** are available for occupational therapists and occupational therapy assistants who meet requirements for licensure or meet requirements for licensure except the exam.
  - Valid for up to 1 year

B. TEMPORARY WAIVER OF LICENSURE REQUIREMENT FOR QUALIFIED TELEMEDICINE SERVICES.

On June 9, 2020, House Bill 2016 was published and became effective, which contained the following provision relating to telemedicine services, which is applicable until January 26, 2021:

“Out-of-state physicians may utilize telemedicine when treating patients in Kansas without the necessity of securing a license to practice medicine in the state, provided the out of state physician advises the Kansas Board of Healing Arts of the physician’s practice in this state via telemedicine in writing in a manner to be determined by the Kansas Board of Healing Arts and holds an unrestricted license to practice medicine in the

\(^4\) *Id.*
state in which the physician practices and is not the subject of an investigation or disciplinary proceeding. The Kansas Board of Healing Arts is authorized to extend the provisions of this paragraph to other healthcare professionals regulated by the board to the extent the board deems such extension both necessary or appropriate to address impacts of the COVID-19 pandemic and consistent with patient safety.”

Telemedicine Waiver Form: download here

C. OUT OF STATE PROVIDER COMPLIANCE CONFIRMATION PROCESS

Although the Board has expressed, and continues to express, concerns relating to the current provision in HB2016 allowing out of state providers to practice in Kansas without state regulatory oversight, the Board has created a Kansas compliance confirmation process implementing the temporary authority permitted in House Bill 2016 allowing qualified health care providers licensed in another state to temporarily practice in Kansas. Please note that using this process does not confer a valid Kansas license to practice any profession. The Board strongly recommends that any out of state provider who wishes to practice without limitation in Kansas utilize the temporary license process if you qualify, or apply for a permanent license by endorsement, both of which confer a valid Kansas license.

D. CONTINUING EDUCATION DEADLINE EXTENSIONS

The Board is extending continuing education deadlines until 90 days following the termination of the State of Disaster Emergency declaration for licensees who were unable to obtain the required continuing education due to the COVID-19 pandemic. Licensees currently in the renewal process will certify either that you have completed the required CEs, or, if you have not yet completed them, that you understand you are required by law to complete them within 90 days. The Board will verify compliance by auditing an undetermined percentage of renewal applications.

E. GENERAL INFORMATION FOR PROVIDERS.

2. COVID19 related guidance from professional associations:
   a. Kansas Medical Society.
   d. Kansas Academy of Physician Assistants.

3. HHS Office for Civil Rights (“OCR”) announced a limited waiver of some HIPPA requirements for good faith use of telehealth during the nationwide public health emergency due to COVID-19, and provided guidance on limited general waivers of enforcement during the declared nationwide health emergency.
   a. On March 30, 2020, HHS issued additional blanket waivers and clarified certain elements of waivers that had already been released.
   b. On March 30, 2020, CMS also released an Interim Final Rule with Comment Period (CMS-1744-IFC) that revises several Medicare and Medicaid regulations in response to the COVID-19 national emergency, including approved telehealth services.

4. CMS Telemedicine Health Care Provider Fact Sheet (including information on 1135 waivers relating to Medicare billing for telehealth services).


6. American College of Surgeons April 17th guidance (factors to consider to determine the appropriateness of resumption of elective surgery).

7. CMS updated guidance regarding resumption of non-urgent care.

G. BOARD GUIDANCE STATEMENTS.

Technical violations of the Healing Arts Act or other applicable practice act by healthcare providers that do not endanger or defraud the public, which are committed in the course of good faith COVID-19 response efforts during the Kansas emergency declaration period, will generally not be treated as a disciplinary matter by the Board.

If the Board finds that any licensee has taken advantage of the COVID-19 crisis for personal gain in a fraudulent, misleading, or unethical manner that constitutes
unprofessional conduct under the Healing Arts Act, the Board will consider such conduct to be an aggravated violation of the Healing Arts Act or other applicable practice act and will exercise its full authority to impose discipline for such conduct, up to and including suspension or revocation.

In the context of violations (not involving gross negligence, serious danger to patient or public safety, misleading or deceptive conduct, unethical conduct, or fraud) of the Healing Arts Act or other applicable practice act by healthcare providers in the course of good faith COVID-19 response efforts, the Board will consider the fact that the provider committed the violation in the course of good faith participation in COVID-19 response efforts to be a significant mitigating factor in the event a complaint is filed against the provider for such violation.

The Board will consider violations of any mandatory quarantine provisions issued by the KDHE, Governor, or CDC that are both willful and substantive to constitute unprofessional conduct if the licensee continues to interact with patients or other healthcare providers in professional settings in violation of such mandates.

The Board cautions health care providers to ensure that they are complying with the standard of care and standards of professional conduct in regard to any prescription order for “off-label” uses of drugs that may be in limited supply during the emergency period. As always, medication side effects, drug interactions, and contraindications should be weighed against potential risks and benefits to the specific patient when prescribing any medications for treatment of COVID-19. Drug therapy decisions should be evidence-based. The Board urges prescribers to consider that patients currently relying on hydroxychloroquine for FDA approved indications (for example, lupus) could be negatively affected by shortages in supply caused by overly aggressive off-label prescribing for general prophylactic purposes outside of hospitals or other controlled clinical settings. Further, the Board of Healing Arts urges prescribers to review AMA Code of Ethics Opinion 1.2.1 relating to treating themselves or immediate family members. The Board notes that the Kansas Board of Pharmacy has issued guidance to pharmacists on this issue, and the Federation of State Medical Boards and the National Association of Pharmacy Boards have issued a joint statement on this issue.\(^5\)

Please note that, on April 17\(^{th}\), the American College of Surgeons issued guidance on factors to consider to determine the appropriateness of resumption of elective surgery.\(^6\)

\(^5\) The Board neither adopts nor rejects the guidance and statements of these organizations. The Board provides this information to physicians to help inform their professional judgment and their interactions with other healthcare professionals.

\(^6\) The Board has neither adopted nor rejected the ACS guidelines, but believes those guidelines serve as one credible reference source that may help inform physician judgment.

Current as of July 1, 2020
/s/ Tucker Poling
Tucker L. Poling, JD
Acting Executive Director
General Counsel
Kansas Board of Healing Arts
800 SW Jackson St., Lower Level-Suite A
Topeka, KS 66612
Phone: (785) 296-8066