



Kansas State Board of Healing Arts Guidance for Healthcare Professionals in Kansas

***KSBHA EMERGENCY ACTIONS AND GUIDANCE STATEMENTS TO FACILITATE
IMMEDIATE ACCESS TO CARE DURING THE COVID-19 EMERGENCY
DECLARATION PERIOD***

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 immediately contribute to the capacity of our state’s healthcare system to respond to potential spikes in the numbers of patients seeking access to treatment related to COVID-19. The Board will continuously assess the situation as it continues to develop. Additional Board measures may be forthcoming, and the Board will comply with any future executive orders.

A. LICENSE OPTIONS.

1. Temporary COVID-19 emergency licensure.

The Board is accepting applicants seeking temporary licensure for the purpose of preparing for, responding to, and mitigating any effect of COVID-19. The Emergency Temporary License for the COVID-19 response is available for all health care professions regulated by the Board. Those who hold an emergency temporary license are limited to engaging in the practice of their profession for healthcare services relating to COVID-19 response efforts and/or mitigating any effect of COVID-19. The license will cancel in 90 days, if not renewed, and will automatically cancel 30 days after the declared Kansas state of emergency ends. 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;
- or
- (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;
- or
- (3) Currently hold a valid federally active license.

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 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://imlcc.org/applynow/>, and select “Additional Selections.”
- 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.

3. Military service members and spouses.

- Military service members and their spouses receive prioritized licensing application processing under existing law, pursuant to KSA 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:¹
 - 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.

6. **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.²
 - 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.³

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).

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 Required to obtain 12 CEUs each calendar year meeting criteria of K.A.R. 100-73-7.

³ *Id.*



- ✓ 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 March 22, 2020, Governor Laura Kelly signed [Executive Order 20-08](#), which contained the following order relating to telemedicine services:

“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 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.”

Waiver application form: [COVID-19 Practice of Telemedicine Notification Form](#)



C. **TEMPORARY WAIVER OF BOARD ENFORCEMENT OF MOST STATUTES, RULES, OR REGULATIONS THAT REQUIRE IN-PERSON EXAMINATION OF A PATIENT PRIOR TO PRESCRIBING MEDICATION**

On March 22, 2020, Governor Laura Kelly signed [Executive Order 20-08](#), which contained the following order relating to prescribing medication without the need for an in-person examination of patient:

“The Kansas State Board of Healing Arts ("the Board") shall not enforce any statute, rule, or regulation that would require physicians to conduct an in-person examination of a patient prior to the issuance of a prescription or order the administration of medication, including controlled substances, as long as the physician otherwise complies with the provisions of this order. . . .

Nothing in this order shall affect the enforcement or applicability of any laws, including K.S.A. 65-4a10 and K.S.A. 40-2,215, regulating the provision or performance of abortions in Kansas.”

D. **TEMPORARY MODIFICATONS TO BOARD ENFORCEMENT OF PHYSICIAN ASSISTANT REGULATIONS.**

On March 22, 2020, Governor Laura Kelly signed [Executive Order 20-08](#), which contained the following order relating to telemedicine services:

“ . . . The Board is authorized to temporarily waive, to the extent the Board determines such waiver will not harm public safety and welfare, any other regulatory requirements falling under the Board’s enforcement authorities for the purpose of preparing for, responding to, and mitigating any effect of COVID-19.”

Pursuant to this authority, the Board has temporarily modified the following requirements related to the practice of Physician Assistants:

1. Temporary limited waiver of physician supervision requirement for ED and ICU coverage.

This will apply to temporary emergency department or intensive care unit coverage work for a PA engaged in sch practice for the purpose of preparing for, responding to, and mitigating effects of COVID-19 if the PA is practicing within the scope of the PA’s education and training. The PA must [notify the Board in writing](#) within 30 days that the PA is engaged in these activities and the date range and location of such activities.



2. Temporarily limited suspension of enforcement of limitation on number of Physician Assistants that can be supervised at an off-site clinic.

Applies to PAs engaged in practice for the purpose of preparing for, responding to, and mitigating effects of COVID-19 during the existence of the Kansas emergency declaration if the PA is practicing within the scope of the PA's education and training. The PA must [notify the Board in writing](#) within 30 days that the PA is engaged in these activities and the date range and location of such activities.

3. Temporarily limited suspension of enforcement of initial 100% chart review requirements for new PA/supervising physician relationship.

Applies to PA engaged in practice for the purpose of preparing for, responding to, and mitigating effects of COVID-19 during the existence of the Kansas emergency declaration if the PA is practicing within the scope of the PAs education and training. The PA must [notify the Board in writing](#) within 30 days that the PA is engaged in these activities and the date range of such activities.

4. Temporary limited waiver of practice agreement protocol and documentation requirements.

This will allow PAs to temporarily (no more than 30 days, and must be during the existence of the declared Kansas state of emergency) practice under the direct or indirect supervision of any licensed Kansas M.D. or D.O. physician even if that physician is not the PA's documented supervising or substitute supervising physician if the PA is engaged in preparing for, responding to, or mitigating effects of COVID-19 and the PA is practicing within the scope of the PA's education and training. The PA must [notify the Board in writing](#) within 30 days that the PA is engaged in these activities and the date range of such activities. Upon request, the PA may be required to identify those physicians under whose supervision the PA was/is practicing as part of those activities.

- In other words, this will temporarily modify the usual written practice agreement requirements and allow PAs engaged in COVID-19 response efforts to practice under physicians who are not listed as their supervising physicians and under a more general scope limitation ("within the scope of education and training") than reflected in existing practice agreement documentation as long as they are directly or indirectly supervised by a licensed Kansas M.D. or D.O. physician.



E. GENERAL INFORMATION FOR PROVIDERS.

1. The Federation of State Medical Boards (of which Kansas is a member) announced that it will provide temporary [free access to its Physician Data Center](#) for hospitals, government agencies, credentials verification services, managed care facilities, placement services, and medical clinics or practice groups during the emergency period.
2. 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.
3. CMS Telemedicine Health Care Provider [Fact Sheet](#) (including information on 1135 waivers relating to Medicare billing for telehealth services).
4. HHS Emergency Situations: [Preparedness, Planning, and Response](#).
5. Kansas Department of Health and Environment [resource page](#).

F. 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.

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 violation of such mandates.

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, including suspension or revocation.

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. 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. Please be aware that the Kansas Board of Pharmacy has issued [guidance to pharmacists](#) on this issue. 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.

Physicians should carefully consider whether performance of non-urgent procedures is appropriate during this time. Such consideration should include whether those procedures expose healthcare workers and patients to increased risk of exposure to coronavirus and whether those procedures will expend resources and materials, including but not limited to masks, PPE, blood and blood products that are (or may likely become) in short supply and needed to address potential spikes in COVID-19 patients in Kansas. Please note that the [American College of Surgeons recommends](#) that surgeons curtail the performance of elective surgical procedures at this time.

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