

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 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 consistent with Kansas law and relevant executive orders. The Board will continuously assess the situation as it develops.

GENERAL INFORMATION FOR PROVIDERS:

1. Kansas Department of Health and Environment [resource page](#).
2. COVID19 related guidance from professional associations:
 - a. [Kansas Medical Society](#).
 - b. [Kansas Association of Osteopathic Medicine](#).
 - c. [Kansas Chiropractic Association](#).
 - d. [Kansas Academy of Physician Assistants](#).
 - e. [Kansas Physical Therapy Association](#).
3. 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.
4. 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.*
5. CMS Telemedicine Health Care Provider [Fact Sheet](#) (including information on 1135 waivers relating to Medicare billing for telehealth services).
6. HHS Emergency Situations: [Preparedness, Planning, and Response](#).

7. American College of Surgeons [March 24th guidance](#) (elective surgery guidelines) and [April 10th guidance](#) (factors to consider to determine the appropriateness of resumption of elective surgery).
8. CMS [updated guidance](#) regarding resumption of non-urgent care.

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, 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 actively 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.¹

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, oxygen, medication (both prescription medication and nonprescription medication such as acetaminophen) 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, on April 17th, the [American College of Surgeons issued guidance](#) on factors to consider to determine the appropriateness of resumption of elective surgery.²

¹ 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.

² 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.