

GUIDEWIRE

NEWS OF THE HEALING ARTS



Volume 4 / Issue 1

INSIDE THIS ISSUE:

Dr. McMaster	2
Patient Med Records Release / Storage	3
Physician Preceptorship Program	4
Board of Pharmacy Article	5-6
Agency Information	7

CURRENTLY SCHEDULED PUBLIC MEETINGS THROUGH September 2012 can be found on page 6 of this publication. Please refer to our website at: <http://www.ksbha.org/public.html> For a complete and up to date listing.

Welcome KSBHA Medical Director

by Kathleen Selzler Lippert, Executive Director

Welcome – KSBHA Medical Director John F. McMaster, MD

Dr. McMaster, MD joined the Kansas State Board of Healing Arts (KSBHA) this year as the new part-time contract medical director. Dr. McMaster is board certified by the American Board of Emergency Medicine and American Board of Family Practice. He brings a wealth of experience in the practice of medicine including private group practice, hospital practice, and independent consulting.

The Kansas Legislature enacted legislation in 2008, with the support of the Kansas Medical Society and other health care stakeholders, that gave authority for KSBHA to have a medical director. Funding was subsequently authorized and the new position was filled in January 2012.

The mission of KSBHA is to protect the public. The mission is simply stated; however, its implementation can be complex as well as time and labor intensive. Dr. McMaster has invested time, effort, and energy to become acquainted with board processes, procedures, and the varied issues faced in the medical regulatory field. Dr. McMaster will join KSBHA staff in their continuing efforts to fulfill our mission to protect the public.



KSBHA News Notes:

- Eustaquio O. Abay, II, MD was appointed by Governor Brownback to serve as one of the five KSBHA MD board members. Dr. Abay is a Neurological Surgeon and practices in the Wichita, Kansas area.
- The Medical Society of Sedgwick County, Dr. Estep, President and Jon Rosell, Executive Director invited KSBHA to present to their membership. May 2012
- Decatur Health System, through Lynn Doeden, CEO, Oberlin Kansas, organized a regional forum for health care stakeholders to learn about KSBHA. May 2012
- The Medical Society of Johnson and Wyandotte Counties and Dr. Snow extended an invitation to board staff to participate in their Physician Preceptor Program. June 2012
- Several hospitals invited the board to present to their medical staff, grand rounds or other forums to learn about KSBHA.
- PA regulations modifying the signature requirement for supervision became effective end of March 2012. If you are a PA or supervise a PA, check out the new changes in supervision by reviewing K.A.R. 100-28a-10.

MEMBER of the

**Federation of
STATE
MEDICAL
BOARDS**

www.fsmb.org

Dr. McMaster—KSBHA Medical Director

It is with great pleasure and a degree of trepidation and excitement that I undertook and accepted this position with the Kansas State Board of Healing Arts. Since 1982 when I graduated from Louisiana State University-Shreveport, the licensure process for all states has evolved to encompass far more than any of us ever expected. The practice and regulation of the “healing arts” is under increased scrutiny by the public, elected officials, business, and industry. Regardless of one’s opinion whether this represents progress or improvement, it is the world in which we live and practice, and to that end I will attempt to utilize my training, education, and experience to advise, educate, and protect our Kansas licensees while serving in the best interest of our patients.



My introduction and exposure to the Kansas State Board of Healing Arts has been eye opening, exciting, and rewarding, much like the clinical skills and decision making process I continue to enjoy in my area of specialty practice, Emergency Medicine.

As I complete my first six months in this newly created, part-time position, I wish to identify some of my personal observations about the Kansas State Board of Healing Arts:

The board staff is a great group of dedicated professionals that are available to assist licensees and address any concerns that may arise. They are not the “enemy”.

Licensure and re-licensure complications arise out of not paying attention to detail and delegating this yearly task to others.

A letter of inquiry from an investigator seeking information regarding a “patient complaint” does not mean that the allegations have been established as “fact” and that a licensee has been tried and found “guilty”, but rather represents your chance to tell “the real story”.

All information received with respect to “investigations” is confidential, non-public, and not reportable. Furthermore, it is thoroughly reviewed exclusively by “peer panels” and not by licensees from any of the other 14 professions licensed by the Kansas State Board of Healing Arts.

Licensure to practice the “Healing Arts” is a privilege to which is attached a responsibility to the public. Inappropriate, unethical, illegal and unprofessional conduct anywhere and at any time can detract from that public trust and negatively impact our professions.

Just like the perfect electronic medical record, the perfect computer system for the Kansas State Board of Healing Arts is outside of our control or jurisdiction.

Our peers throughout this state that have taken time out of their busy practices to serve on the professional review committees and professional councils deserve much more credit and appreciation than any one licensee can imagine.

I accepted this position for three primary reasons, to protect the profession, protect the public, and to give back to the State of Kansas that for which I am so grateful. I look forward to this new career challenge and if I can be of assistance to any of you as you navigate the unknowns with respect to the Kansas State Board of Healing Arts, feel free to contact me.

John F. McMaster, M.D.

Medical Director

Kansas State Board of Healing Arts

800 SW Jackson

Lower Level- Suite A

Topeka, KS 66612

Patient Medical Record Release and Storage

Some of the most frequently asked questions received by the Board's administrative office throughout the year relate to the release and storage of patient medical records. Following are some of the state Statutes and Regulations regarding patient records that you may find helpful:

K.S.A. 65-4971. Same; copies of health care records; authorization; health care provider withholding; fees.

(a) Subject to applicable law, copies of health care records shall be furnished to a patient, a patient's authorized representative or any other person or entity authorized by law to obtain or reproduce such records, within 30 days of the receipt of the authorization, or the health care provider shall notify the patient or the patient's authorized representative of the reasons why copies are not available. A health care provider may withhold copies of health care records if the health care provider reasonably believes that providing copies of the requested records will cause substantial harm to the patient or another person. Health care providers may condition the furnishing of the patient's health care records to the patient, the patient's authorized representative or any other person or entity authorized by law to obtain or reproduce such records, upon the payment of charges not to exceed a \$15 fee for the cost of supplies and labor; and for copies of health care records routinely duplicated on a standard photocopy machine, \$.50 per page for the first 250 pages and \$.35 per page for additional pages. Providers may charge for the reasonable cost of all duplications of health care record information which cannot be routinely duplicated on a standard photocopy machine.

(b) On January 1, 2004, and annually thereafter, the fees set forth in subsection (a) shall be increased by the secretary of labor in accordance with the all-items consumer price index published by the United States department of labor.

K.A.R. 100-22-1. Release of records. (a) Unless otherwise prohibited by law, each licensee shall, upon receipt of a signed release from a patient, furnish a copy of the patient record to the patient, to another licensee designated by the patient, or to a patient's legally designated representative. However, if the licensee reasonably determines that the information within the patient record is detrimental to the mental or physical health of the patient, then the licensee may withhold the record from the patient and furnish the record to another licensee designated by the patient.

(b) A licensee may charge a person or entity for

reasonable costs to retrieve or reproduce a patient record. A licensee shall not condition the furnishing of a patient record to another licensee upon prepayment of these costs.

(c) Any departure from this regulation shall constitute prima facie evidence of dishonorable conduct pursuant to K.S.A. 65-2836(b), and any amendments thereto. (Authorized by K.S.A. 65-2865; implementing K.S.A. 1997 Supp. 65-2836, as amended by L. 1998, Ch. 142, Sec. 12; effective May 1, 1985; amended Nov. 13, 1998.)

K.A.R. 100-24-2. Patient record storage. (a) Each licensee shall maintain the patient record for a minimum of 10 years from the date the licensee provided the professional service recorded. Any licensee may designate an entity, another licensee, or health care facility to maintain the record if the licensee requires the designee to store the record in a manner that allows lawful access and that maintains confidentiality.

(b) Patient records may be stored by an electronic data system, microfilm, or similar photographic means. A licensee may destroy original paper records stored in this manner if the stored record can be reproduced without alteration from the original.

(c) Each electronically stored record shall identify existing original documents or information not included in that electronically stored record. (Authorized by K.S.A. 65-2865; implementing K.S.A. 1997 Supp. 65-2837, as amended by L. 1998, Ch. 170, Sec. 2; effective Nov. 13, 1998.)

K.A.R. 100-24-3. Notice of location of records upon termination of active practice. Each licensee of the board who terminates the active practice of the healing arts within this state shall, within 30 days after terminating the active practice, provide to the board the following information: (a) The location where patient records are stored;

(b) if the licensee designates an agent to maintain the records, the name, telephone number, and mailing address of the agent;

(c) the date on which the patient records are scheduled to be destroyed, as allowed by K.A.R. 100-24-2. (Authorized by K.S.A. 65-2865; implementing K.S.A. 1997 Supp. 65-2837, as amended by L. 1998, Ch. 142, Sec.19 and L. 1998, Ch. 170, Sec. 2 and K.S.A. 65-2865; effective May 7, 1999.)

You might also like to review the following additional statutes:

K.S.A. 65-4970. Access to health care records; definitions.

K.S.A. 65-4972. Same; enforcement.

K.S.A. 65-4973. Same; state board of healing arts; adoption of rules and regulations.

These and other Statutes and Regulations governing those professions licensed and regulated by the Board can be found on the Board's website at www.ksbha.org.

28TH ANNUAL PHYSICIAN PRECEPTORSHIP PROGRAM

Volume 4 / Issue 1

Board Members

President

Gary L. Counselman, DC
Topeka

Vice-President

Kimberly J. Templeton, MD
Leawood

Eustaquio O. Abay, II, MD
Wichita

Michael J. Beezley, MD
Lenexa

Ray N. Conley, DC
Overland Park

Frank K. Galbraith, DPM
Wichita

Anne Hodgdon
Public Member
Lenexa

M. Myron Leinwetter, DO
Rossville

Richard A. Macias, JD
Public Member
Wichita

Garold O. Minns, MD
Bel Aire

John Settich, PhD
Public Member
Atchison

Carolina M. Soria, DO
Wichita

Terry L. Webb, DC
Hutchinson

Nancy J. Welsh, MD
Topeka

Ronald N. Whitmer, DO
Ellsworth

Agency Department Heads

Kathleen Selzler Lippert
Executive Director
klippert@ksbha.ks.gov

Kelli Stevens
General Counsel
kstevens@ksbha.ks.gov

Katy Lenahan
Licensing Administrator
klenahan@ksbha.ks.gov

Dan Riley
Disciplinary Counsel
driley@ksbha.ks.gov

Reese Hays
Litigation Counsel
rhays@ksbha.ks.gov

28TH ANNUAL PHYSICIAN PRECEPTORSHIP PROGRAM

Two Members of the KSBHA staff participated in the 28th Annual Physician Preceptorship Program hosted by the Medical Society of Johnson and Wyandotte Counties.

The Medical Society of Johnson and Wyandotte Counties have developed an innovative Physician Preceptorship Program (PPP). This program allows individuals from health care stakeholder organizations such as Office of the Inspector General's Health and Human Services Department, Center for Medicare/Medicaid Services (CMS), and the Kansas State Board of Healing Arts to see the complexities of providing medical care. There were eleven participants in the PPP and two were from the Kansas State Board of Healing Arts. Steve French, Special Investigator with twenty-five years of experience at KSBHA and Brandy Snead, Associate Litigation Counsel with nine months of experience at KSBHA, both participated in the Physician Preceptorship Program.

Brandy Snead joined KSBHA in October 2011 and brought with her experience from both the civil and military legal systems. Since joining the board, she has seen a variety of complaints from patients, family members, and other sources. This preceptorship allowed her to step behind the scenes and experience medical care through the doctors' eyes and in her words, it was "a rare opportunity". The program lasted two days and was split into morning and afternoon sessions which allowed participants to observe four different medical settings. Ms. Snead watched multiple surgeries. The first was for placement of an arterial-venous fistula in the arm of a dialysis patient which would be used as the access point for dialysis. The second was an aorta-bilateral femoral bypass done for obstructed aortic and iliac arteries. During the other rotations she observed the hyperbaric chamber (HBO), physicians in the orthopedic department and specialty consults by a critical care pulmonologist and two residents.. Ms. Snead saw firsthand the number of people involved in caring for a patient before, during, and after surgery; as well as varied other settings. This brought home the fact that the medical profession requires numerous professionals to work in concert with each other to ensure appropriate care is provided to each patient. Each person had their responsibilities, and without each person performing their job, the excellent level of care that was provided to the patients would not have been possible. Ms. Snead was told by almost every patient that the doctors were the best; the patients could not say enough good things about the care and treatment they received. A common theme observed by Ms. Snead was that all the physicians, regardless of specialty area, schedule, and employer were tremendously talented, intelligent, and concerned about patient care

Steve French has been a Special Investigator with KSBHA for twenty-five years. His job requires him to hear nothing but complaints against physicians. The time Mr. French spent in the Physician Preceptorship Program was a great opportunity to see medicine in practice. Mr. French spent time in a wound care clinic, emergency room, nephrology clinic, and orthopedics. These stations provided him an opportunity to see the impact of a very compassionate physician, the effect of a physician's calm demeanor for a patient as they anxiously waited for the call to come in for a transplant, and the genuine admiration for a physician by a patient struggling with difficult medical conditions. Mr. French noted that it was amazing to see the impact of electronic medical records (EMR). EMRs mandate physicians to spend extra time going through a longer electronic form. He witnessed the struggle to balance time for hands-on patient care with the time required for complete record keeping. It was incredible for Mr. French to be in the electronic hub and watch the physician (with dual screens) pull up the lab or radiology report and then swing around to the electronic x-ray screen and have the radiology studies right there all together. "The chance to see compassionate physicians talking to patients on their level, with patience galore and the ability to remain calm in demeanor," concluded Mr. French, "illustrated that these physicians genuinely loved practicing medicine."

KSBHA appreciates the wonderful opportunity the Medical Society of Johnson and Wyandotte Counties' Physician Preceptorship Program gave to our staff. Our ability to protect the public and strengthen the profession was enriched.

Revisions to the Pharmacy Practice Act and Controlled Substances Act

Kansas Board of Pharmacy Newsletter Article, re-printed with consent of Pharmacy Board

The 2012 Legislature amended K.S.A. 65-1637 so that a pharmacist may provide up to a three-month supply of a prescription drug that is not a controlled substance or psychotherapeutic drug when a practitioner has written a drug order to be filled with a smaller supply but included sufficient numbers of refills for a three-month supply. “Psychotherapeutic drug” is not defined in the statute but generally are those prescribed for their effects relieving symptoms of anxiety, depression, or other mental disorders. This change takes effect on July 1, 2012. The complete legislation can be found in Senate Bill 211.

Senate Bill 134 has amended K.S.A. 65-4111 and 65-4113, respectively, to include carisoprodol to Schedule IV and ezogabine to the Schedule V controlled substance list. K.S.A.

65-1626 was amended by adding language that will permit a nonnarcotic depressant listed in Schedule V to be distributed as a sample. There are currently three drugs that meet this requirement. They are ezogabine, lacosamide, and pregabalin. No other controlled substances may be distributed as a sample in Kansas.

A prescription for a Schedule III, IV, or V controlled substance may authorize no more than five refills within six months following the date on which the prescription is issued. These changes are effective May 17, 2012.

Several changes were made to the statute that applies to the K-TRACS Prescription Drug Monitoring Program. The Board is now authorized to accept grants, donations, gifts, or bequests that further the K-TRACS program.

The Board of Pharmacy is authorized to provide data from the K-TRACS data to medical examiners, coroners, or other persons authorized under law to investigate or determine causes of death.

The K-TRACS Advisory Committee is now authorized to review and analyze data from K-TRACS for purposes of identifying patterns and activities of concern. If a review of the information appears to indicate that a patient may be obtaining prescriptions in a manner that represents misuse or abuse of controlled substances or drugs of concern, the advisory committee may notify the prescribers and dispensers. If there is reasonable suspicion of criminal activity the committee may notify the appropriate law enforcement agency.

The advisory committee may also establish criteria regarding appropriate standards of care and utilize a volunteer peer review committee of professionals with expertise in the particular practice in order to determine whether the standards for that profession have been exceeded. The committee is authorized to provide educational resources or professional advising to health care professionals when appropriate. The committee may also make referrals to regulatory or law enforcement agencies when warranted.

A person who knowingly, and without authorization, obtains or attempts to obtain prescription monitoring information shall be guilty of a severity level 10, nonperson felony. Changes to K-TRACS legislation are effective May 17, 2012. Senate Bill 134 also made changes to the definitions in the Pharmacy Practice Act and the Controlled Substances Act related to electronic prescriptions. Definitions have been added to K.S.A. 65-1626 defining electronic prescriptions and electronic transmissions as well as other technical terms related to electronic prescribing. A “valid prescription order” has been defined to mean a prescription that is issued for a legitimate medical purpose by an individual prescriber licensed by law to administer and prescribe drugs and acting in the usual course of such prescriber’s professional practice. A prescription issued

Highlights from 2012 pharmacy legislation:

First and Last name of prescriber’s agent are required when a prescription is faxed or orally transmitted.

Pharmacist may provide up to a three-month supply of some prescriptions; see article for specifics.

Nonnarcotic Schedule V depressant (ezogabine, lacosamide, and pregabalin) may be distributed as a sample.

K-TRACS changes

A prescription issued solely on the basis of an Internet-based questionnaire or without an appropriate prescriber-patient relationship is not a valid prescription.

Signature requirements for electronic prescription for a controlled substance.

....continued on page 6

PUBLIC MEETINGS

(all meetings are held at KSBHA, 800 SW Jackson, Lower Level - Suite A, unless indicated below)

- July 2012
 - 13 LRT Council Meeting @ 12:00 pm
 - 18 OT Council Meeting @ 12:00 pm
- August 2012
 - 1 Disciplinary Panel Meeting @ 1:00 pm
 - 7 AT Council Meeting @ 10:00 am
 - 9 PA Council Meeting @ 1:00 pm
 - 15 RT Council Meeting @ 1:30 pm
 - 17 KSBHA Board Meeting @ 8:30 am
 - 22 PT Council Meeting @ 2:00 pm
- September 2012
 - 19 Disciplinary Panel Meeting @ 1:00 pm
 - 24 Bradley David Eck, DC. Prehearing Conference at OAH @ 1:15 pm



2011-2012 Kansas State Board of Healing Arts Board Members

Left to Right Front Row (seated): Nancy J. Welsh, MD; John F. Settich, Ph.D, Public Member; Gary L. Counselman, DC, President; Kimberly J. Templeton, MD, Vice President; Carolina M. Soria, DO.

Left to Right Back Row (standing): Richard A. Macias, JD, Public Member; Frank Galbraith, DPM; Ray N. Conley, DC; M. Myron Leinwetter, DO; Garold O. Minns, MD; Terry L. Webb, DC; Ronald N. Whitmer, DO; Michael J. Beezley, MD.

Not Pictured: Eustaquio O. Abay, II, MD and Anne Hodgdon, Public Member.

.....continued from page 5.

solely on the basis of an Internet-based questionnaire or consultation without an appropriate prescriber-patient relationship is not a valid prescription.

Senate Bill 134 also amended the Pharmacy Practice Act so that there are definitions that relate to both written, oral, faxed, or electronically prepared and transmitted prescription orders. A major change is that prescriptions that are oral, faxed, or transmitted by the prescriber's agent shall now include both the first and last names of the transmitting agent. If the prescription is for a controlled substance and is written or printed from an electronic prescription application, the prescription shall be manually signed by the prescriber prior to delivery of the prescription to the patient or prior to facsimile transmission of the prescription to the pharmacy.

An electronically prepared prescription shall not be electronically transmitted to the pharmacy if the prescription has been printed prior to electronic transmission. An electronically prepared and transmitted prescription that is printed following electronic transmission shall be clearly labeled as a copy, not valid for dispensing.

An authorization to refill a prescription order or to renew or continue an existing drug therapy may be transmitted to a pharmacist through oral communication, in writing, by facsimile transmission, or by electronic transmission initiated by or directed by the prescriber. If the transmission is completed by the prescriber's agent, the first and last names of the transmitting agent need to be included in the order; the prescriber's signature is not required on the fax or alternate electronic transmission.

If the refill order or renewal order differs in any manner from the original order, such as a change of the drug strength, dosage form, or directions for use, the prescriber shall sign the order. The Board is now authorized to conduct pilot projects related to any new technology implementation when deemed necessary and practicable, except that no state moneys shall be expended for such purpose. Unrelated to pilot projects, the Board shall consult with industry and conduct a study on the issues of electronic transmission of prior authorizations and step therapy protocols. The report results shall be completed and submitted to the legislature no later than January 15, 2013.

House Bill 2523 amended K.S.A. 65-443 so that no person shall be required to perform, refer for, or participate in medical procedures or in the prescription or administration of any device or drug, which results in the termination of a pregnancy or an effect of which the person reasonably believes may result in the termination of a pregnancy, and the refusal of any person to perform, refer for, or participate in those medical procedures, prescription, or administration shall not be a basis for civil liability to any person. This law takes effect July 1, 2012.

The Board of Pharmacy will post a complete copy of each bill on its Web site at www.kansas.gov/pharmacy under the link for Kansas Pharmacy and Related Laws if you would like to review a complete copy of each change.

Have You Changed Your Mailing Address?

Throughout the year the Board mails renewal notices and other pertinent information to you at the last address that you furnished to us. It is important that you keep your contact information updated with the Board as failure to receive a renewal notice does not relieve you of your obligation to timely renew.

All address changes must be submitted to the Board in writing, using the Change of Address Form, which can be found on the Board's website at <http://www.ksbha.org/forms/acr.pdf>. Please download and complete the form and fax it to our office at 785-296-0852 or mail it to our office at 800 SW Jackson, Lower Level Suite A, Topeka, Kansas 66612.

BUSINESS ENTITY / PROFESSIONAL CORPORATION CERTIFICATE REQUESTS

The formation of certain business entities requires that the Board approve of the business name and certify the professional licenses forming the business. When making a request for name approval and license certification, you should anticipate 7-10 business days for processing. Requests which do not include the items listed below may be delayed to obtain further information.

To make your request, please send an e-mail to pkostreles@ksbha.ks.gov and include the following:

1. Proposed name of the business entity;
2. Complete names of all shareholder(s)/proposed shareholder(s), partners or members;
3. A statement verifying that the business entity is/will be organized as
 - a. a professional association under Kansas Professional Corporation law;
 - b. a professional corporation under the Kansas Professional Corporation Law;
 - c. a professional limited liability company under the Kansas revised Limited Liability Company Act.
4. A statement of the professional purpose of the business entity (ex. to practice medicine);
5. If the business entity is new, please include a copy of the proposed partnership agreement, articles of incorporation or articles of organization; and
6. To whom and where to send the certification documents.

*Refer to K.S.A. 17-2706 *et seq.* for professional corporation legal requirements.

*If you are a healthcare provider participating in the Health Care Stabilization Fund (HCSF), please refer to their requirements for business entities:

<http://hcsf.kansas.gov/providers/Pages/businessentities.aspx>

*Please contact Patty at (785) 296-3146 with additional questions.

If you are setting up a new professional corporation, changing the name of your existing corporation, or adding / deleting shareholders, you must contact the Board of Healing Arts to obtain approval and a certificate noting the changes. To the right is the information we require (from our website):



Renewal Cycles by Date & Profession

	<u>Regular</u>	<u>Late</u>
Occupational Therapists	2/15 ~ 3/31	4/1 ~ 4/30
Occupational Therapy Assistants	2/15 ~ 3/31	4/1 ~ 4/30
Respiratory Therapists	2/15 ~ 3/31	4/1 ~ 4/30
Doctors of Medicine & Surgery	5/15 ~ 6/30	7/1 ~ 7/31
Doctors of Osteopathy	8/15 ~ 9/30	10/1 ~ 10/31
Doctors of Podiatry	8/15 ~ 9/30	10/1 ~ 10/31
Radiologic Technologists	8/15 ~ 9/30	10/1 ~ 10/31
Athletic Trainers	10/15 ~ 11/30	12/1 ~ 12/31
Doctors of Chiropractic	11/15 ~ 12/31	1/1 ~ 1/31
Doctors of Naturopathy	11/15 ~ 12/31	1/1 ~ 1/31
Physician Assistants	11/15 ~ 12/31	1/1 ~ 1/31
Physical Therapists	11/15 ~ 12/31	1/1 ~ 1/31
Physical Therapy Assistants	11/15 ~ 12/31	1/1 ~ 1/31