

**KANSAS STATE BOARD
OF
HEALING ARTS**



**KANSAS
STATUTES
ANNOTATED**

AND

**KANSAS
ADMINISTRATIVE
REGULATIONS**

Relating to the practice of

Acupuncture

January 2020

NOTE: The laws and regulations listed in this website booklet are not to be considered the official authority on the current law. While every effort has been made to ensure the accuracy and completeness of this information, for legal purposes the law should be obtained from the Kansas statute books and the regulations from the Kansas Secretary of State's Administrative Regulations.

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65-7601
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65-7601. Citation of act. K.S.A. 65-7601 through 65-7624, and amendments thereto, shall be known and may be cited as the acupuncture practice act.

History: L. 2016, ch. 92, § 6, eff. July 1, 2016.

65-7602
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65-7602. Definitions. As used in the acupuncture practice act:

(a) “ACAOM” means the national accrediting agency recognized by the U.S. department of education that provides accreditation for educational programs for acupuncture and oriental medicine. For purposes of the acupuncture practice act, the term ACAOM shall also include any entity deemed by the board to be the equivalent of ACAOM.

(b) “Act” means the acupuncture practice act.

(c) “Acupuncture” means the use of needles inserted into the human body by piercing of the skin and related modalities for the assessment, evaluation, prevention, treatment or correction of any abnormal physiology or pain by means of controlling and regulating the flow and balance of energy in the body and stimulating the body to restore itself to its proper functioning and state of health.

(d) “Board” means the state board of healing arts.

(e) “Council” means the acupuncture advisory council established by K.S.A. 65-7613, and amendments thereto.

(f) “Licensed acupuncturist” means any person licensed to practice acupuncture under the acupuncture practice act.

(g) “NCCAOM” means the national certification commission for acupuncture and oriental medicine. NCCAOM is a national organization that validates entry-level competency in the practice of acupuncture and oriental medicine through the administration of professional certification examinations. For purposes of the acupuncture practice act, the term NCCAOM shall also include any entity deemed by the board to be the equivalent of the NCCAOM.

(h) “Physician” means a person licensed to practice medicine and surgery or osteopathy in Kansas.

(i) “Practice of acupuncture” includes, but is not limited to:

(1) Techniques sometimes called “dry needling,” “trigger point therapy,” “intramuscular therapy,” “auricular detox treatment” and similar terms;

(2) mechanical, thermal, pressure, suction, friction, electrical, magnetic, light, sound, vibration, manual and electromagnetic treatment;

(3) the use, application or recommendation of therapeutic exercises, breathing techniques, meditation and dietary and nutritional counselings; and

(4) the use and recommendation of herbal products and nutritional supplements, according to the acupuncturist's level of training and certification by the NCCAOM or its equivalent.

(j) “Practice of acupuncture” does not include:

- (1) Prescribing, dispensing or administering of any controlled substances as defined in K.S.A. 65-4101 et seq., and amendments thereto, or any prescription-only drugs;
- (2) the practice of medicine and surgery, including obstetrics and the use of lasers or ionizing radiation;
- (3) the practice of osteopathic medicine and surgery or osteopathic manipulative treatment;
- (4) the practice of chiropractic;
- (5) the practice of dentistry; or
- (6) the practice of podiatry.

History: L. 2016, ch. 92, § 7, eff. July 1, 2016.

65-7603

Chapter 65 – PUBLIC HEALTH Article 76 – ACUPUNCTURE

65-7603. License prerequisite to practice acupuncture; representation as acupuncturist; penalties.

(a) On and after July 1, 2017, except as otherwise provided in this act, no person shall practice acupuncture unless such person possesses a current and valid acupuncture license issued under this act.

(b)(1) No person shall depict oneself orally or in writing, expressly or by implication, as a holder of a license who does not hold a current license under this act.

(2) Only persons licensed under this act shall be entitled to use the title “licensed acupuncturist” or the designated letters “L.Ac.”

(3) Nothing in this section shall be construed to prohibit an acupuncturist licensed under this act from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to denote any educational degrees, certifications or credentials which such licensed acupuncturist has earned.

(4) Violation of this section shall constitute a class B misdemeanor.

History: L. 2016, ch. 92, § 8, eff. July 1, 2016.

65-7604

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65-7604. Acupuncture needles; requirements. Needles used in the practice of acupuncture shall only be prepackaged, single-use and sterile. These needles shall only be used on an individual patient in a single treatment session.

History: L. 2016, ch. 92, § 9, eff. July 1, 2016.

65-7605

Chapter 65 – PUBLIC HEALTH Article 76 – ACUPUNCTURE

65-7605. Persons not required to hold acupuncturist license.

(a) The following shall be exempt from the requirements for an acupuncture license pursuant to this act:

(1) Any person licensed in this state to practice medicine and surgery, osteopathy, dentistry or podiatry, a licensed chiropractor or a licensed naturopathic doctor, if the person confines the person's acts or practice to the scope of practice authorized by their health professional licensing laws and does not represent to the public that the person is licensed under this act;

(2) any herbalist or herbal retailer who does not hold oneself out to be a licensed acupuncturist;

(3) any health care provider in the United States armed forces, federal facilities and other military service when acting in the line of duty in this state;

(4) any student, trainee or visiting teacher of acupuncture, oriental medicine or herbology who is designated as a student, trainee or visiting teacher while participating in a course of study or training under the supervision of a licensed acupuncturist licensed under this act in a program that the council has approved. This includes continuing education programs and any acupuncture or herbology programs that are a recognized route by the NCCAOM, or its equivalent, to certification;

(5) any person rendering assistance in the case of an emergency or disaster relief;

(6) any person practicing self-care or any family member providing gratuitous care, so long as such person or family member does not represent or hold oneself out to the public to be an acupuncturist;

(7) any person who massages, so long as such person does not practice acupuncture or hold oneself out to be a licensed acupuncturist;

(8) any person whose professional services are performed pursuant to delegation by and under the supervision of a practitioner licensed under this act;

(9) any team acupuncturist or herbology practitioner, who is traveling with and treating those associated with an out-of-state or national team that is temporarily in the state for training or competition purposes; and

(10) any person licensed as a physical therapist when performing dry needling, trigger point therapy or services specifically authorized in accordance with the provisions of the physical therapy practice act.

(b) This section shall take effect on and after July 1, 2017.

History: L. 2016, ch. 92, § 10, eff. July 1, 2016.

65-7606

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65-7606. License to practice acupuncture by examination; prerequisites. An applicant for licensure as an acupuncturist shall file an application, on forms provided by the board, showing to the satisfaction of the board that the applicant:

(a) Is at least 21 years of age;

(b) has successfully completed secondary schooling or its equivalent;

(c) has satisfactorily completed a course of study involving acupuncture from an accredited school of acupuncture which the board shall determine to have educational standards substantially equivalent to the minimum educational standards for acupuncture colleges as established by the ACAOM or NCCAOM;

(d) has satisfactorily passed a license examination approved by the board;

(e) has the reasonable ability to communicate in English; and

(f) has paid all fees required for licensure pursuant to K.S.A. 65-7611, and amendments thereto.

History: L. 2016, ch. 92, § 11, eff. July 1, 2016.

65-7607

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65-7607. License to practice acupuncture by endorsement; prerequisite.

(a) The board, without examination, may issue a license to a person who has been in the active practice of acupuncture in some other state, territory, the District of Columbia or other country upon certification by the proper licensing authority of that state, territory, District of Columbia or other country certifying that the applicant is duly licensed, that the applicant's license has never been limited, suspended or revoked, that the licensee has never been censured or received other disciplinary actions and that, so far as the records of such authority are concerned, the applicant is entitled to such licensing authority's endorsement. The applicant shall also present proof satisfactory to the board:

(1) That the state, territory, District of Columbia or country in which the applicant last practiced has and maintains standards at least equal to those maintained in Kansas;

(2) that the applicant's original license was based upon an examination at least equal in quality to the examination required in this state and that the passing grade required to obtain such original license was comparable to that required in this state;

(3) the date of the applicant's original license and all endorsed licenses and the date and place from which any license was attained;

(4) the applicant has been actively engaged in practice under such license or licenses since issued. The board may adopt rules and regulations establishing qualitative and quantitative practice activities which qualify as active practice;

(5) that the applicant has a reasonable ability to communicate in English; and

(6) that the applicant has paid all the application fees as prescribed by K.S.A. 65-7611, and amendments thereto.

(b) An applicant for a license by endorsement shall not be licensed unless, as determined by the board, the applicant's individual qualifications are substantially equivalent to the Kansas requirements for licensure under the acupuncture practice act.

History: L. 2016, ch. 92, § 12, eff. July 1, 2016.

65-7608

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Article 76 – ACUPUNCTURE

65-7608. Waiver of certain license prerequisites. The board shall waive the education and examination requirements for an applicant who submits an application on or before January 1, 2018, and who, on or before July 1, 2017:

(a) Is 21 years of age or older;

(b) has successfully completed secondary schooling or its equivalent;

(c)(1)(A) has completed a minimum of 1,350 hours of study, excluding online study in the field of acupuncture; and

(B) has been engaged in the practice of acupuncture with a minimum of 1,500 patient visits during a period of at least three of the five years immediately preceding July 1, 2017, as evidenced by two affidavits from office partners, clinic supervisors or other individuals approved by the board, who have personal knowledge of the years of practice and number of patients visiting the applicant for acupuncture. The board may adopt rules and regulations for further verification of the applicant's practice of acupuncture; or

(2) has satisfactorily passed a license examination approved by the board;

(d) has a reasonable ability to communicate in English; and

(e) has paid all fees required for licensure as prescribed by K.S.A. 65-7611, and amendments thereto.

History: L. 2016, ch. 92, § 13, eff. July 1, 2016.

65-7609

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Article 76 – ACUPUNCTURE

65-7609. Renewal date of license; requirements to maintain license; notice of renewal and cancellation; cancellation of license; reinstatement of license; designation of license.

(a) The license shall be canceled on March 31 of each year unless renewed in the manner prescribed by the board. In each case in which a license is renewed for a period of time of less than 12 months, the board may prorate the amount of the fee established under K.S.A. 65-7611, and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the prescribed fee, which shall be paid not later than the renewal date of the license.

(b) There is hereby created a designation of an active license. The board is authorized to issue an active license to any licensee who makes written application for such license on a form provided by the board and remits the fee established pursuant to K.S.A. 65-7611, and amendments thereto. The board shall require every active licensee to submit evidence of satisfactory completion of a program of continuing education required by the board. The requirements for continuing education for licensed acupuncturists shall be established by rules and regulations adopted by the board.

(c) The board, prior to renewal of a license, shall require an active licensee to submit to the board evidence satisfactory to the board that the licensee is maintaining a policy of professional liability insurance. The board shall fix by rules and regulations the minimum level of coverage for such professional liability insurance.

(d) At least 30 days before the renewal date of a licensee's license, the board shall notify the licensee of the renewal date by mail addressed to the licensee's last known mailing address. If the licensee fails to submit the renewal application and pay the renewal fee by the renewal date of the license, the licensee shall be given notice that the licensee has failed to submit the renewal application and pay the renewal fee by the renewal date of the license, that the license will be deemed canceled if not renewed within 30 days following the renewal date, that upon receipt of the renewal application and renewal fee and an additional late fee established by rules and regulations not to exceed \$500 within the 30-day period, the license will not be canceled and that, if both fees are not received within the 30-day period, the license shall be deemed canceled by operation of law and without further proceedings.

(e) Any license canceled for failure to renew may be reinstated within two years of cancellation upon recommendation of the board and upon payment of the renewal fees then due and upon proof of compliance with the continuing education requirements established by the board by rules and regulations. Any person who has not been in the active practice of acupuncture for which reinstatement is sought or who has not been engaged in a formal educational program during the two years preceding the application for reinstatement may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

(f) There is hereby created a designation of an exempt license. The board is authorized to issue an exempt license to any licensee who makes written application for such license on a form provided by the board and remits the fee established pursuant to K.S.A. 65-7611, and amendments thereto. The board may issue an exempt license to a person who is not regularly engaged in the practice of acupuncture in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder to all privileges attendant to the practice of acupuncture for which such license is issued. Each exempt license may be renewed subject to the provisions of this section. Each exempt licensee shall be subject to all provisions of the acupuncture practice act, except as otherwise provided in this subsection. The holder of an exempt license may be required to submit evidence of satisfactory completion of a program of continuing education required by this section. The requirements for continuing education for exempt licensees shall be established by rules and regulations adopted by the board. Each exempt licensee may apply for an active license to regularly engage in the practice of acupuncture upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-7611, and amendments thereto. For the licensee whose license has been exempt for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for exempt licensees to become licensed to regularly practice acupuncture within Kansas. Any licensee whose license has been exempt for more than two years and who has not been in the active practice of acupuncture since the license has been exempt may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety. Nothing in this subsection shall be construed to prohibit a person holding an exempt license from serving as a paid employee of: (1) A local health department as defined by K.S.A. 65-241, and amendments thereto; or (2) an indigent health care clinic as defined by K.S.A. 75-6102, and amendments thereto.

(g) There is hereby created the designation of inactive license. The board is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the board and remits the fee established pursuant to K.S.A. 65-7611, and amendments thereto. The board may issue an inactive license only to a person who is not regularly engaged in the practice of acupuncture in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An inactive license shall not entitle the holder to practice acupuncture in this state. Each inactive license may be renewed subject to the provisions of this section. Each inactive licensee shall be subject to all provisions of the acupuncture practice act, except as otherwise provided in this subsection. The holder of an inactive license shall not be required to submit evidence of satisfactory completion of a program of continuing education required by subsection (b). Each inactive licensee may apply for an active license upon filing a written application with the board. The request shall be on a form

provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-7611, and amendments thereto. For those licensees whose licenses have been inactive for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for inactive licensees to become licensed to regularly practice acupuncture within Kansas. Any licensee whose license has been inactive for more than two years and who has not been in the active practice of acupuncture or engaged in a formal education program since the license has been inactive may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

(h) This section shall take effect on and after July 1, 2017.

History: L. 2016, ch. 92, § 14, eff. July 1, 2016.

65-7610

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Article 76 – ACUPUNCTURE

65-7610. Reinstatement of revoked license; requirements; procedure. A person whose license has been revoked may apply for reinstatement after the expiration of three years from the effective date of the revocation. Application for reinstatement shall be on a form provided by the board and shall be accompanied by the fee established by the board in accordance with K.S.A. 65-7611, and amendments thereto. The burden of proof by clear and convincing evidence shall be on the applicant to show sufficient rehabilitation to justify reinstatement. If the board determines that a license should not be reinstated, the person shall not be eligible to reapply for reinstatement for three years from the effective date of the denial. All proceedings conducted on an application for reinstatement shall be in accordance with the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act. The board, on its own motion, may stay the effectiveness of an order of revocation of license.

History: L. 2016, ch. 92, § 15, eff. July 1, 2016.

65-7611

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65-7611. Fees; collection by state board of healing arts. The board shall charge and collect in advance nonrefundable fees for acupuncturists as established by the board by rules and regulations, not to exceed:

Initial application for licensure.....	\$700
Annual renewal for active license—paper.....	\$300
Annual renewal for active license—online.....	\$250
Annual renewal for inactive license—paper.....	\$200
Annual renewal for inactive license—online.....	\$150
Annual renewal for exempt license—paper.....	\$200
Annual renewal for exempt license—online.....	\$150
Late renewal fee.....	\$100
Conversion from inactive to active license.....	\$300
Conversion from exempt to active license.....	\$300

Application for reinstatement of revoked license.....	\$1,000
Certified copy of license.....	\$25
Written verification of license.....	\$25

History: L. 2016, ch. 92, § 16, eff. July 1, 2016.

65-7612

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65-7612. Fees, disposition of. The board shall remit all moneys received by or for the board from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Ten percent of such amount shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from the healing arts fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person or persons designated by the president.

History: L. 2016, ch. 92, § 17, eff. July 1, 2016.

65-7613

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65-7613. Acupuncture advisory council; appointments and terms of members; meetings; reimbursement.

(a) There is hereby established the acupuncture advisory council to assist the state board of healing arts in carrying out the provisions of this act. The council shall consist of five members, all citizens and residents of the state of Kansas, appointed as follows:

(1) The board shall appoint one member who is a physician licensed to practice medicine and surgery or osteopathy. The member appointed by the board shall serve at the pleasure of the board. The governor shall appoint three acupuncturists who have at least three years' experience in acupuncture preceding appointment and are actively engaged, in this state, in the practice of acupuncture or the teaching of acupuncture. At least two of the governor's appointments shall be made from a list of four nominees submitted by the Kansas association of oriental medicine. The governor shall appoint one member from the public sector who is not engaged, directly or indirectly, in the provision of health services. Insofar as possible, persons appointed by the governor to the council shall be from different geographic areas.

(2) The members appointed by the governor shall be appointed for terms of four years and until a successor is appointed. If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term.

(b) The council shall meet at least once each year at a time of its choosing at the board's main office and at such other times as may be necessary on the chairperson's call or on the request of a majority of the council's members.

(c) A majority of the council constitutes a quorum. No action may be taken by the council except by affirmative vote of the majority of the members present and voting.

(d) Members of the council attending meetings of the council, or a subcommittee of the council, shall be paid amounts provided in K.S.A. 75-3223(e), and amendments thereto, from the healing arts fee fund.

History: L. 2016, ch. 92, § 18, eff. July 1, 2016.

65-7614

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65-7614. Same; duties. The acupuncture advisory council shall advise the board regarding:

- (a) Examination, licensing and other fees;
- (b) rules and regulations to be adopted to carry out the provisions of this act;
- (c) the number of yearly continuing education hours required to maintain active licensure;
- (d) changes and new requirements taking place in the areas of acupuncture; and
- (e) such other duties and responsibilities as the board may assign.

History: L. 2016, ch. 92, § 19, eff. July 1, 2016.

65-7615

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65-7615. Rules and regulations. The board shall promulgate all necessary rules and regulations which may be necessary to administer the provisions of this act and to supplement the provisions herein.

History: L. 2016, ch. 92, § 20, eff. July 1, 2016.

65-7616

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65-7616. Disciplinary action against licensee; grounds for discipline; procedure; confidentiality of certain investigatory records.

(a) A licensee's license may be revoked, suspended, limited or placed on probation, or the licensee may be publicly censured, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

- (1) The licensee has committed an act of unprofessional conduct as defined by rules and regulations adopted by the board;
- (2) the licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license;
- (3) the licensee has committed an act of professional incompetency as defined by rules and regulations adopted by the board;
- (4) the licensee has been convicted of a felony;
- (5) the licensee has violated any provision of the acupuncture practice act;
- (6) the licensee has violated any lawful order or rule and regulation of the board;

(7) the licensee has been found to be mentally ill, disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect or incompetent to stand trial by a court of competent jurisdiction;

(8) the licensee has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(9) the licensee has surrendered a license or authorization to practice as an acupuncturist in another state or jurisdiction, has agreed to a limitation or restriction of privileges at any medical care facility or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(10) the licensee has failed to report to the board the surrender of the licensee's license or authorization to practice as an acupuncturist in another state or jurisdiction or the surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(11) the licensee has an adverse judgment, award or settlement rendered against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(12) the licensee has failed to report to the board any adverse judgment, settlement or award against the licensee resulting from a medical malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section; or

(13) the licensee's ability to practice with reasonable skill and safety to patients is impaired by reason of physical or mental illness, or use of alcohol, drugs or controlled substances. When reasonable suspicion of impairment exists, the board may take action in accordance with K.S.A. 65-2842, and amendments thereto. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery by or release to any person or entity outside of a board proceeding. This provision regarding confidentiality shall expire on July 1, 2022, unless the legislature reviews and reenacts such provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022.

(b) The denial, refusal to renew, suspension, limitation, probation or revocation of a license or other sanction may be ordered by the board upon a finding of a violation of the acupuncture practice act. All administrative proceedings conducted pursuant to this act shall be in accordance with the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act.

(c) This section shall take effect on and after July 1, 2017.

History: L. 2016, ch. 92, § 21, eff. July 1, 2016.

65-7617
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65-7617. Same; jurisdiction; procedure; stipulations; emergency proceedings.

(a) The board shall have jurisdiction of proceedings to take disciplinary action against any licensee practicing under the acupuncture practice act. Any such action shall be taken in accordance with the Kansas administrative procedure act.

(b) Either before or after formal charges have been filed, the board and the licensee may enter into a stipulation which shall be binding upon the board and the licensee entering into such stipulation, and the board may enter its findings of fact and enforcement order based upon such stipulation without the necessity of filing any formal charges or holding hearings in the case. An enforcement order based upon a stipulation may order any disciplinary action against the licensee entering into such stipulation.

(c) The board may temporarily suspend or temporarily limit the license of any licensee in accordance with the emergency adjudicative proceedings provisions under the Kansas administrative procedure act if the board determines that there is cause to believe that grounds exist for disciplinary action against the licensee and that the licensee's continuation of practice would constitute an imminent danger to public health and safety.

(d) Judicial review and civil enforcement of any agency action under this act shall be in accordance with the Kansas judicial review act.

History: L. 2016, ch. 92, § 22, eff. July 1, 2016.

65-7618
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65-7618. Non-disciplinary resolutions; procedure. The board or a committee of the board may implement non-disciplinary resolutions concerning a licensed acupuncturist consistent with the provisions of K.S.A. 65-2838a, and amendments thereto.

History: L. 2016, ch. 92, § 23, eff. July 1, 2016.

65-7619
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65-7619. Administrative fines. The state board of healing arts, in addition to any other penalty prescribed under the acupuncture practice act, may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for a violation of the acupuncture practice act in an amount not to exceed \$2,000 for a first violation, \$5,000 for a second violation and \$10,000 for a third violation and any subsequent violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4218, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. Fines collected under this section shall be considered administrative fines pursuant to 11 U.S.C. § 523.

History: L. 2016, ch. 92, § 24, eff. July 1, 2016.

65-7620
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65-7620. Confidentiality of complaints and related reports, records or information; exceptions.

(a) 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, except the information may be disclosed:

(1) In any proceeding conducted by the board under the law or in an appeal of an order of the board entered in a proceeding, or to any party to a proceeding or appeal or the party's attorney;

(2) to the person who is the subject of the information or to any person or entity when requested by the person who is the subject of the information, but the board may require disclosure in such a manner that will prevent identification of any other person who is the subject or source of the information; or

(3) to a state or federal licensing, regulatory or enforcement agency with jurisdiction over the subject of the information or to an agency with jurisdiction over acts or conduct similar to acts or conduct which would constitute grounds for action under this act.

(b) Any confidential complaint or report, record or other information disclosed by the board as authorized by this section shall not be re-disclosed by the receiving agency except as otherwise authorized by law.

(c) This section regarding confidentiality shall expire on July 1, 2022, unless the legislature reviews and reenacts such provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022.

History: Laws 2016, ch. 92, § 25, eff. July 1, 2016.

65-7621
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE

65-7621. Reporting alleged incidents of malpractice; civil immunity; when.

(a) No person reporting to the state board of healing arts in good faith any information such person may have relating to alleged incidents of malpractice, or the qualifications, fitness or character of, or disciplinary action taken against a person licensed, registered or certified by the board shall be subject to a civil action for damages as a result of reporting such information.

(b) Any state, regional or local association composed of persons licensed to practice acupuncture and the individual members of any committee thereof, which in good faith investigates or communicates information pertaining to the alleged incidents of malpractice, or the qualifications, fitness or character of, or disciplinary action taken against any licensee, registrant or certificate holder to the state board of healing arts or to any committee or agent thereof, shall be immune from liability in any civil action that is based upon such investigation or transmittal of information if the investigation and communication was made in good faith and did not represent as true any matter not reasonably believed to be true.

History: L. 2016, ch. 92, § 26, eff. July 1, 2016.

65-7622
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE

65-7622. Acupuncturist-patient privilege.

(a) The confidential relations and communications between a licensed acupuncturist and the acupuncturist's patient are placed on the same basis as those established between a physician and a physician's patient in K.S.A. 60-427, and amendments thereto.

(b) This section shall take effect on and after July 1, 2017.

History: L. 2016, ch. 92, § 27, eff. July 1, 2016.

65-7623
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE

65-7623. Injunction against violation of act.

(a) When it appears that any person is violating any provision of this act, the board may bring an action in the name of the state in a court of competent jurisdiction for an injunction against such violation without regard as to whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.

(b) This section shall take effect on and after July 1, 2017.

History: L. 2016, ch. 92, § 28, eff. July 1, 2016.

65-7624
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE

65-7624. Severability of act. If any provision of the acupuncture practice act or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the acupuncture practice act which can be given effect without the invalid provision or application, and to this end the provisions of the acupuncture practice act are declared to be severable.

History: L. 2016, ch. 92, § 29, eff. July 1, 2016.

Article 76. – ACUPUNCTURISTS

- 100-76-1.** **Fees.**
- 100-76-2.** **Licensure by examination.**
- 100-76-3.** **Waiver of examination and education.**
- 100-76-4.** **Exempt license; description of professional activities.**
- 100-76-5.** **Professional liability insurance; active license.**
- 100-76-6.** **Continuing education.**
- 100-76-7.** **Unprofessional conduct; definitions.**
- 100-76-8.** **Professional incompetency; definition.**
- 100-76-9.** **Patient records; adequacy.**
- 100-76-10.** **Release of records.**
- 100-76-11.** **Free offers.**
- 100-76-12.** **Business transactions with patients; unprofessional conduct.**

100-76-1. Fees.

(a) The following fees shall be collected by the board:

- (1) Application for license.....\$165.00
- (2) Annual renewal of active license:
 - (A) Paper renewal.....\$150.00
 - (B) On-line renewal.....\$125.00
- (3) Annual renewal of inactive license:
 - (A) Paper renewal.....\$125.00
 - (B) On-line renewal.....\$100.00
- (4) Annual renewal of exempt license:
 - (A) Paper renewal.....\$125.00
 - (B) On-line renewal.....\$100.00
- (5) Conversion from inactive to active license.....\$75.00
- (6) Conversion from exempt to active license.....\$75.00
- (7) Late renewal:
 - (A) Paper renewal.....\$50.00
 - (B) On-line renewal.....\$25.00
- (8) Application for reinstatement of canceled license.....\$165.00
- (9) Application for reinstatement of revoked license.....\$500.00
- (10) Certified copy of license.....\$20.00
- (11) Written verification of license.....\$20.00

(b) If a licensed acupuncturist's initial licensure period is six months or less before the first annual renewal period, the first annual renewal fee shall be prorated at \$10.00 per month for any full or partial month.

(Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7611; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

100-76-2. Licensure by examination. Each applicant for licensure by examination shall provide the following or the substantial equivalent of the following as determined by the board:

(a) Documentation of successful completion of the certification examination offered by the NCCAOM or an entity with standards equivalent to the standards of NCCAOM at the time the applicant completed the examination as determined by the board. The certification examination shall include the following components:

- (1) Foundations of oriental medicine;
- (2) acupuncture with point location; and
- (3) biomedicine, except that the biomedicine component of the examination shall not be required for any applicant who completed the NCCAOM certification, or its equivalent, before 2005; and

(b) a copy of a clean needle technique (CNT) certificate from the council of colleges of acupuncture and oriental medicine (CCAOM) or NCCAOM.

(Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7606; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018; amended March 8, 2019.)

100-76-3. Waiver of examination and education.

(a) Pursuant to K.S.A. 2017 Supp. 65-7608 and amendments thereto, certain license prerequisites for education and examination shall be waived by the board for each applicant who submits an application on or before January 1, 2018 and provides the following:

(1) Proof that the applicant has completed at least 1,350 hours of curriculum-based study, an approved apprenticeship, or a tutorial program, or a combination of these, excluding on-line study, in the field of acupuncture. Proof of hours may be shown by successful completion of a curriculum-based program, an approved apprenticeship, or a tutorial program, or a combination of these, that meets the standards of the NCCAOM or any entity determined by the board to be the equivalent of the NCCAOM. To demonstrate successful completion of the requirements, the applicant shall submit the following:

(A)(i) Evidence that the apprenticeship preceptor either is licensed as an acupuncturist in the state in which the individual practices acupuncture or is a diplomate of acupuncture; and

(ii) a copy of the notes, records, or other documentation maintained by the preceptor conducting the apprenticeship or tutorial program providing evidence of the educational materials used in the apprenticeship and documenting the number of hours taught and the subjects covered; or

(B) an official school transcript;

(2) evidence of a current clean needle technique (CNT) certificate obtained from the CCAOM, NCCAOM, or any entity determined to be the equivalent by the board; and

(3) proof that the applicant has been engaged in the practice of acupuncture and has had at least 1,500 patient visits in three of the last five years. The applicant shall provide any of the following for the board's review:

(A) Affidavits from at least two people who have practiced acupuncture with the applicant, including office partners, clinic supervisors, and any other individuals approved by the board;

(B) a copy of each continuing education certificate obtained within the last three years;

(C) a copy of the applicant's patient appointment books; or

(D) a copy of the applicant's patient charts.

(b) Each applicant shall provide any additional documentation requested by the board.

(Authorized by K.S.A. 2017 Supp. 65-7608 and 65-7615; implementing K.S.A. 2017 Supp. 65-7608; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

100-76-4. Exempt license; description of professional activities.

(a) Each person applying for an exempt license shall specify on the application all professional activities related to the practice of acupuncture that the person will perform if issued an exempt license.

(b) The professional activities performed by each individual holding an exempt license shall be limited to the following:

(1) Performing administrative functions, including peer review, utilization review, and expert opinions; and

(2) providing direct patient care services gratuitously or providing supervision, direction, or consultation for no compensation. Nothing in this subsection shall prohibit an exempt license holder from receiving payment for subsistence allowances or actual and necessary expenses incurred in providing these services.

(c) Each person holding an exempt license shall, at the time of license renewal, specify on the renewal application all professional activities related to the practice of acupuncture that the person will perform during the renewal period.

(d) Each person who requests modification of the professional activities on that person's application or renewal application for an exempt license shall notify the board of the modification within 30 days. The request for modification shall be submitted on a form provided by the board.

(e) Each licensed acupuncturist who has held an exempt license for less than two years and requests an active license designation shall submit evidence of satisfactory completion of at least 15 contact hours of continuing education within the preceding one-year period, as specified in K.A.R. 100-76-6.

(f) Each violation of subsection (a), (c), or (d) shall constitute prima facie evidence of unprofessional conduct pursuant to K.S.A. 2017 Supp. 65-7616, and amendments thereto. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7609 and 65-7616; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

100-76-5. Professional liability insurance; active license.

(a) Each person applying for an active license in acupuncture shall submit to the board, with the application, evidence that the person has obtained the professional liability insurance coverage required by K.S.A. 2017 Supp. 65-7609, and amendments thereto, for which the limit of the insurer's liability is at least \$200,000 per claim, subject to an annual aggregate of at least \$600,000 for all claims made during the period of coverage.

(b) Each licensed acupuncturist with an active license designation shall submit to the board, with the annual application for license renewal, evidence that the licensee has continuously maintained and currently holds the professional liability insurance coverage specified in subsection (a).

(c) Each licensed acupuncturist who submits an application for change of designation to active license designation shall submit to the board, with the application, evidence that the licensee currently holds the professional liability insurance coverage specified in subsection (a). (Authorized by K.S.A. 2017 Supp. 65-7609 and 65-7615; implementing K.S.A. 2017 Supp. 65-7609; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

100-76-6. Continuing education.

(a) As a condition of renewal, each licensed acupuncturist shall submit evidence of satisfactory completion within the preceding one-year period of at least 15 contact hours of continuing education for a licensed acupuncturist, in addition to the annual application for renewal of licensure, except as specified in subsection (b).

(b) An individual initially licensed less than 12 months before the renewal date shall not be required to submit the evidence of satisfactory completion of continuing education required by subsection (a) for the first renewal period.

(c) Proof of completion of 15 contact hours of approved continuing education related to the practice of acupuncture, as defined in K.S.A. 2017 Supp. 65-7602 and amendments thereto, may be requested by the board.

(d) A contact hour shall consist of 50 minutes of instruction pertaining to the practice of acupuncture. Meals and breaks shall not be included in the calculation of contact hours.

(e) Each licensed acupuncturist shall maintain evidence of satisfactory completion of all continuing education activities for at least five years. Copies of this documentation may be required by the board at any time. This documentation shall consist of the following:

(1) Documented evidence of any attendance at or successful completion of continuing education activities; and

(2) personal verification of any self-instruction from reading professional literature.

(f) All continuing education activities shall be related to the practice of acupuncture and shall pertain to the following:

(1) Acupuncture clinical skills;

(2) acupuncture techniques;

(3) educational principles when providing service to patients, families, health professionals, health professional students, or the community;

(4) health care and the health care delivery system; and

(5) problem solving, critical thinking, medical recordkeeping, and ethics.

(g) Any applicant for renewal who cannot meet the requirements of subsection (a) may request an extension from the board to submit evidence of continuing education. Each request shall include a plan for completing the continuing education requirements within the requested extension period. An extension of not more than six months may be granted by the board for a substantiated medical condition, natural disaster, death of a spouse or an immediate family member, or any other compelling reason that in the judgment of the board renders the licensee incapable of meeting the requirements of subsection (a).

(h) Continuing education shall be acquired from any of the following:

(1) Offerings approved by the national certification commission for acupuncture and oriental medicine (NCCAOM). Any licensed acupuncturist may obtain all contact hours from any continuing education offerings approved by the NCCAOM and its state affiliates, or any other continuing education offerings approved by the board, subject to the limitations specified in paragraphs (h)(2) through (h)(10).

(2) Lecture. "Lecture" shall mean a live discourse for the purpose of instruction given before an audience. One contact hour shall be awarded for each hour of instruction.

(3) Panel. "Panel" shall mean the presentation of multiple views by several professional individuals on a given subject, with none of the views considered a final solution. One contact hour shall be awarded for each hour of panel presentation.

(4) Workshop. “Workshop” shall mean a series of meetings designed for intensive study, work, or discussion in a specific field of interest. One contact hour shall be awarded for each hour of workshop meeting.

(5) Seminar. “Seminar” shall mean directed advanced study or discussion in a specific field of interest. One contact hour shall be awarded for each hour of seminar.

(6) Symposium. “Symposium” shall mean a conference of more than a single session organized for the purpose of discussing a specific subject from various viewpoints and by various speakers. One contact hour shall be awarded for each hour of symposium.

(7) In-service training. “In-service training” shall mean an educational presentation given to employees during the course of employment that pertains solely to the enhancement of acupuncture skills in the evaluation, assessment, or treatment of patients. One contact hour shall be awarded for each hour of in-service training.

(8) Administrative training. “Administrative training” shall mean a presentation that enhances the knowledge of an acupuncturist on the topic of quality assurance, risk management, reimbursement, statutory requirements, or claim procedures. One contact hour shall be awarded for each hour of administrative training.

(9) Self-instruction.

(A) “Self-instruction” shall mean either of the following:

(i) Reading professional literature directly related to the practice of acupuncture. A maximum of two contact hours shall be awarded for reading professional literature; or

(ii) completion of a home study, correspondence, audio, video, or internet course for which a printed verification of successful completion is provided by the person or organization offering the course. One contact hour shall be awarded for each hour of coursework for each completed course. On-line courses labeled as “live course” shall be considered self-instruction.

(B) No more than seven contact hours shall be awarded each year for self-instruction.

(10) Continuing education program presentation. “Continuing education program presentation” shall mean the preparation and presentation of a continuing education program that meets the requirements of this subsection. Three contact hours shall be awarded for each hour spent presenting.

(i) No contact hours shall be awarded for any repeated continuing education activity on the same topic within a 24-month period.

(Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7609; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

100-76-7. Unprofessional conduct; definitions. Each of the following terms, as used in K.S.A. 2017 Supp. 65-7616 and amendments thereto and this article of the board’s regulations, shall have the meaning specified in this regulation:

(a) “Unprofessional conduct” shall mean any of the following:

(1) Soliciting patients through the use of fraudulent or false advertisements or profiting by the acts of those representing themselves to be agents of the licensee;

(2) representing to a patient that a manifestly incurable disease, condition, or injury can be permanently cured;

(3) assisting in the care or treatment of a patient without the consent of the patient or the patient’s legal representative;

- (4) using any letters, words, or terms as an affix on stationery or in advertisements or otherwise indicating that the person is entitled to practice any profession regulated by the board or any other state licensing board or agency for which the person is not licensed;
- (5) willful betrayal of confidential information;
- (6) advertising professional superiority or the performance of professional services in a superior manner;
- (7) advertising to guarantee any professional service or to perform any professional service painlessly;
- (8) engaging in conduct related to the practice of acupuncture that is likely to deceive, defraud, or harm the public;
- (9) making a false or misleading statement regarding the licensee's skill or the efficacy or value of the treatment or remedy prescribed by the licensee or at the licensee's direction, in the treatment of any disease or other condition of the body or mind;
- (10) commission of any act of sexual abuse, misconduct, or other improper sexual contact that exploits the licensee-patient relationship, with a patient or a person responsible for health care decisions concerning the patient;
- (11) using any false, fraudulent, or deceptive statement in any document connected with the practice of acupuncture, including the intentional falsifying or fraudulent altering of a patient record;
- (12) obtaining any fee by fraud, deceit, or misrepresentation;
- (13) failing to transfer a patient's records to another licensee when requested to do so by the patient or by the patient's legally designated representative;
- (14) performing unnecessary tests, examinations, or services that have no legitimate purpose;
- (15) charging an excessive fee for services rendered;
- (16) repeated failure to engage in the practice of acupuncture with that level of care, skill, and treatment that is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances;
- (17) failure to keep written medical records that accurately describe the services rendered to each patient, including patient histories, pertinent findings, examination results, and test results;
- (18) delegating professional responsibilities to a person if the licensee knows or has reason to know that the person is not qualified by training, experience, or licensure to perform those professional responsibilities;
- (19) failing to properly supervise, direct, or delegate acts that constitute the practice of acupuncture to persons who perform professional services pursuant to the licensee's direction, supervision, order, referral, delegation, or practice protocols;
- (20) committing fraud or misrepresentation in applying for or securing an original, renewal, or reinstated license;
- (21) willfully or repeatedly violating the act, any implementing regulations, or any regulations of the secretary of health and environment that govern the practice of acupuncture;
- (22) unlawfully practicing any profession regulated by the board in which the licensed acupuncturist is not licensed to practice;
- (23) failing to report or reveal the knowledge required to be reported or revealed pursuant to K.S.A. 2017 Supp. 65-7621, and amendments thereto;
- (24) failing to furnish the board, or its investigators or representatives, any information legally requested by the board;

(25) incurring any sanction or disciplinary action by a peer review committee, a governmental agency or department, or a professional association or society for conduct that could constitute grounds for disciplinary action under the act or this article of the board's regulations;

(26) failing to maintain a policy of professional liability insurance as required by K.S.A. 2017 Supp. 65-7609, and amendments thereto, and K.A.R. 100-76-5;

(27) knowingly submitting any misleading, deceptive, untrue, or fraudulent representation on a claim form, bill, or statement;

(28) giving a worthless check or stopping payment on a debit or credit card for fees or moneys legally due to the board;

(29) knowingly or negligently abandoning medical records;

(30) engaging in conduct that violates patient trust and exploits the licensee-patient relationship for personal gain; or

(31) obstructing a board investigation, including engaging in one or more of the following acts:

(A) Falsifying or concealing a material fact;

(B) knowingly making or causing to be made any false or misleading statement or writing; or

(C) committing any other acts or engaging in conduct likely to deceive or defraud the board.

(b) "Advertisement" shall mean all representations disseminated in any manner or by any means that are for the purpose of inducing or that are likely to induce, directly or indirectly, the purchase of professional services.

(c) "False advertisement" shall mean any advertisement that is false, misleading, or deceptive in a material respect. In determining whether any advertisement is misleading, the following shall be taken into account:

(1) Representations made or suggested by statement, word, design, device, or sound, or any combination of these; and

(2) the extent to which the advertisement fails to reveal facts material in the light of the representations made.

(Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7616; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

100-76-8. Professional incompetency; definition. As used in K.S.A. 2017 Supp. 65-7616 and amendments thereto and this article of the board's regulations, professional incompetency shall mean any of the following:

(a) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;

(b) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or

(c) a pattern of practice or other evidence of incapacity or incompetence to engage in the practice of acupuncture.

(Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7616; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

100-76-9. Patient records; adequacy.

(a) Each licensed censed acupuncturist shall maintain an adequate record for each patient for whom the licensee performs a professional service.

- (b) Each patient record shall meet the following requirements:
- (1) Be legible;
 - (2) contain only those terms and abbreviations that are or should be comprehensible to similar licensees;
 - (3) contain adequate identification of the patient;
 - (4) indicate the date on which each professional service was provided;
 - (5) contain all clinically pertinent information concerning the patient's condition;
 - (6) document what examinations, vital signs, and tests were obtained, performed, or ordered and the findings and results of each;
 - (7) specify the patient's initial reason for seeking the licensee's services and the initial diagnosis;
 - (8) specify the treatment performed or recommended;
 - (9) document the patient's progress during the course of treatment provided by the licensee;
- and
- (10) include all patient records received from other health care providers, if those records formed the basis for a treatment decision by the licensee.
- (c) Each entry shall be authenticated by the person making the entry, unless the entire patient record is maintained in the licensee's own handwriting.
- (d) Each patient record shall include any writing intended to be a final record, but shall not require the maintenance of rough drafts, notes, other writings, or recordings once this information is converted to final form. The final form shall accurately reflect the care and services rendered to the patient.
- (e) For purposes of the act and this regulation, an electronic patient record shall be deemed to be a written patient record if both of the following conditions are met:
- (1) Each entry in the electronic record is authenticated by the licensee.
 - (2) No entry in the electronic record can be altered after authentication.
- (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7616; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

100-76-10. Release of records.

- (a) Each licensed acupuncturist 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 the patient's legally designated representative, unless withholding records is permitted by law or furnishing records is prohibited by law.
- (b) Any licensee may charge a person or entity for the 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) Each violation of this regulation shall constitute prima facie evidence of unprofessional conduct pursuant to K.S.A. 2017 Supp. 65-7616, and amendments thereto.
- (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7616; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

100-76-11. Free offers. Each licensed acupuncturist who offers to perform a free examination, service, or procedure for a patient shall perform only the examination, service, or procedure specified in the offer. Before any additional examination, service, or procedure is performed, the licensee shall explain the nature and purpose of the examination, service, or procedure and

specifically disclose to the patient, to the greatest extent possible, the cost of the additional examination, service, or procedure.

(Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7616; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

100-76-12. Business transactions with patients; unprofessional conduct.

(a) Non-health-related goods or services. A licensed acupuncturist offering to sell a non-health-related product or service to a patient from a location at which the licensee regularly engages in the practice of acupuncture shall have engaged in unprofessional conduct, unless otherwise allowed by this subsection. A licensed acupuncturist shall not have engaged in unprofessional conduct by offering to sell a non-health-related product or service if all of the following conditions are met:

- (1) The sale is for the benefit of a public service organization.
- (2) The sale does not directly or indirectly result in financial gain to the licensee.
- (3) No patient is unduly influenced to make a purchase.

(b) Business opportunity. A licensed acupuncturist shall have engaged in unprofessional conduct if all of the following conditions are met:

(1) The licensee recruits or solicits a patient either to participate in a business opportunity involving the sale of a product or service or to recruit or solicit others to participate in a business opportunity.

(2) The sale of the product or service directly or indirectly results in financial gain to the licensee.

(3) The licensee recruits or solicits the patient at any time that the patient is present in a location at which the licensee regularly engages in the practice of acupuncture.

(Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7616; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)