

**KANSAS STATE BOARD
OF
HEALING ARTS**



**KANSAS
STATUTES
ANNOTATED**

AND

**KANSAS
ADMINISTRATIVE
REGULATIONS**

Relating to the practice of

Healing Arts

July 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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65-2801
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65-2801. Purpose. Recognizing that the practice of the healing arts is a privilege granted by legislative authority and is not a natural right of individuals, it is deemed necessary as a matter of policy in the interests of public health, safety and welfare, to provide laws and provisions covering the granting of that privilege and its subsequent use, control and regulation to the end that the public shall be properly protected against unprofessional, improper, unauthorized and unqualified practice of the healing arts and from unprofessional conduct by persons licensed to practice under this act.

History: L. 1957, ch. 343, § 1.

65-2802
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65-2802. Definitions. For the purpose of this act the following definitions shall apply:

(a) The healing arts include any system, treatment, operation, diagnosis, prescription or practice for the ascertainment, cure, relief, palliation, adjustment or correction of any human disease, ailment, deformity, injury, alteration or enhancement of a condition or appearance and includes specifically, but not by way of limitation, the practice of medicine and surgery; the practice of osteopathic medicine and surgery; and the practice of chiropractic.

(b) “Board” shall mean the state board of healing arts.

(c) “License,” unless otherwise specified, shall mean a license to practice the healing arts granted under this act.

(d) “Licensed” or “licensee,” unless otherwise specified, shall mean a person licensed under this act to practice medicine and surgery, osteopathic medicine and surgery or chiropractic.

(e) “Healing arts school” shall mean an academic institution which grants a doctor of chiropractic degree, doctor of medicine degree or doctor of osteopathy degree.

(f) Wherever the masculine gender is used, it shall be construed to include the feminine, and the singular number shall include the plural when consistent with the intent of this act.

History: L. 1957, ch. 343, § 2; L. 1976, ch. 273, § 1; L. 2007, ch. 42, § 1, July 1, 2007; L. 2014, ch. 131, § 5, July 1, 2015.

65-2803
Chapter 65 – PUBLIC HEALTH
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65-2803. Prerequisite to practice a profession regulated by the board; exceptions; penalties.

(a) Unless otherwise specified by the board or as provided in K.S.A. 65-28,134, and amendments thereto, it shall be unlawful for any person who does not have a license, registration, permit or certificate to engage in the practice of any profession regulated by the board or whose license, registration, permit or certificate to practice has been revoked or suspended to engage in the practice of any profession regulated by the board.

(b) This section shall not apply to any healthcare provider who in good faith renders

emergency care or assistance at the scene of an emergency or accident as authorized by K.S.A. 65-2891, and amendments thereto.

(c) The commission of any act or practice declared to be a violation of this section may render the violator liable to the state or county for the payment of a civil penalty of up to \$1,000 per day for each day a person engages in the unlawful practice of a profession regulated by the board. In addition to such civil penalty, such violator may be assessed reasonable costs of investigation and prosecution.

(d) Violation of this section is a severity level 10, nonperson felony.

History: L. 1957, ch. 343, § 3; L. 1992, ch. 32, § 1; L. 2014, ch. 131, § 6, July 1, 2015. L. 2019, ch. 52, § 3, eff. March 1, 2020.

65-2804

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65-2804. Attainment of legal age required prior to receiving permanent license. No person shall receive a permanent license under this act until the person has furnished satisfactory evidence to the board that the person has attained legal age.

History: L. 1957, ch. 343, § 4; L. 1969, ch. 299, § 1; L. 1972, ch. 231, § 7; L. 1976, ch. 273, § 2; L. 1983, ch. 213, § 6.

65-2805

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65-2805. Repealed.

History: Repealed by L. 1991, ch. 192 § 7.

65-2806

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65-2806. Form and type of license. Every license to practice a branch of the healing arts shall be in the form of a certificate and of a type prescribed by the board.

History: L. 1957, ch. 343, § 6; L. 1976, ch. 273, § 3.

65-2807

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65-2807. License presumptive evidence of right to practice. Every license issued under this act shall be presumptive evidence of the right of the holder to practice that branch of the healing arts and only such branch as is specified therein. The records of the board shall reflect the type of license issued to each applicant.

History: L. 1957, ch. 343, § 7; L. 1976, ch. 273, § 4.

65-2808
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65-2808. Filing names and records of applicants for examination; index; record of licenses issued; application forms; records open to public inspection. The name, age, place of birth, current address, school, and date of graduation, and date of license, if one be issued, with rating or grades received, of all applicants for examination shall be filed in the office of the board, which office shall be located in the city of Topeka. The names of applicants shall be appropriately indexed, and all other records relating to that application or license granted shall be given the same designation. A suitable record shall also be kept of those granted licenses. Applications shall be upon forms prepared by the board, and completed applications shall be retained as a part of its permanent records. All applications based on licenses granted in other states shall be received upon forms prepared by the board and entered as near as may be in the same form as are those applying for examinations. In addition to the date of license, the length of time of practice in all other states shall be given and entered. All such records shall be open to public inspection under proper regulations adopted by the board.

History: L. 1957, ch. 343, § 8; L. 1975, ch. 325, § 1; L. 1976, ch. 273, § 5.

65-2809
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65-2809. Renewal date of licenses; continuing education requirements; evidence licensee maintaining professional liability insurance; notice of renewal; fees; cancellation of license; reinstatement, when; exempt licensees; inactive license; federally active license; reentry active license.

(a) The license shall be canceled on the date established by rules and regulations of the board which may provide renewal throughout the year on a continuing basis. In each case in which a license is renewed for a period of time of more or less than 12 months, the board may prorate the amount of the fee established under K.S.A. 65-2852, 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 for an active license established pursuant to K.S.A. 65-2852, 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 licensees of each branch of the healing arts 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 as required by K.S.A. 40-3402, and amendments thereto, and has paid the premium surcharges as required by K.S.A. 40-3404, and amendments thereto.

(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 mailing address as noted

upon the office records. 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 fee established by rules and regulations of the board 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 educational requirements established by the board by rules and regulations. Any person who has not been in the active practice of the branch of the healing arts 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 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 for an exempt license established pursuant to K.S.A. 65-2852, and amendments thereto. The board may issue an exempt license to a person who is not regularly engaged in the practice of the healing arts 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 branch of the healing arts 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 healing arts 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 of each branch of the healing arts 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 the appropriate branch of the healing arts 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. 65-2852, 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 the healing arts within Kansas. Any licensee whose license has been exempt for more than two years and who has not been in the active practice of the healing arts or engaged in a formal educational program 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 coroner or 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 healthcare clinic as defined by K.S.A. 75-6102, and amendments thereto.

(g) There is hereby created a 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 for an inactive license established pursuant to K.S.A.

65-2852, and amendments thereto. The board may issue an inactive license only to a person who is not regularly engaged in the practice of the healing arts in Kansas, who does not hold oneself out to the public as being professionally engaged in such practice and who meets the definition of inactive healthcare provider as defined in K.S.A. 40-3401, and amendments thereto. An inactive license shall not entitle the holder to practice the healing arts 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 healing arts 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 K.S.A. 65-2809, and amendments thereto. 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. 65-2852, and amendments thereto. For those licensees whose license has 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 the healing arts within Kansas. Any licensee whose license has been inactive for more than two years and who has not been in the active practice of the healing arts or engaged in a formal education program since the licensee 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)(1) There is hereby created a designation of federally active license. The board is authorized to issue a federally active license to any licensee who makes written application for such license on a form provided by the board and remits the same fee required for a license established under K.S.A. 65-2852, and amendments thereto. The board may issue a federally active license only to a person who meets all the requirements for a license to practice the healing arts in Kansas and who practices that branch of the healing arts solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies. A person issued a federally active license may engage in limited practice outside of the course of federal employment consistent with the scope of practice of exempt licensees under subsection (f), except that the scope of practice of a federally active licensee shall be limited to the following: (A) Performing administrative functions, including peer review, disability determinations, utilization review and expert opinions; (B) providing direct patient care services gratuitously or providing supervision, direction or consultation for no compensation except that nothing in this subparagraph shall prohibit a person licensed to practice the healing arts issued a federally active license from receiving payment for subsistence allowances or actual and necessary expenses incurred in providing such services; and (C) rendering professional services as a charitable healthcare provider as defined in K.S.A. 75-6102, and amendments thereto.

(2) The provisions of subsections (a), (b), (d) and (e) of this section relating to continuing education, cancellation, renewal and reinstatement of a license shall be applicable to a federally active license issued under this subsection.

(3) A person who practices under a federally active license shall not be deemed to be rendering professional service as a healthcare provider in this state for purposes of K.S.A. 40-3402, and amendments thereto.

(i)(1) There is hereby created the designation of reentry active license. The board is authorized to issue a reentry active license to any licensee who makes written application for such license on a form provided by the board and remits the fee for a reentry active license. The board may issue a reentry active license with requirements as the board may deem necessary to

establish the licensee's present ability to practice with reasonable skill and safety to a person who has not regularly engaged in the practice of the healing arts for at least two years, but who meets all the qualifications for licensure. The requirements for issuance, maintenance and scope of practice for a reentry active license shall be established by rules and regulations adopted by the board.

(2) The provisions of subsections (a), (b) and (d) of this section relating to continuing education, cancellation and renewal of a license shall be applicable to a reentry active license issued under this subsection.

(j) A charitable healthcare provider in Kansas who has signed an agreement to provide gratuitous services pursuant to K.S.A. 75-6102 and 75-6120, and amendments thereto, may fulfill one hour of continuing education credit by the performance of two hours of gratuitous services to medically indigent persons up to a maximum of 20 continuing education credits per licensure period.

(k) The board shall provide a measurement report annually, starting on January 15, 2017, to the senate committee on public health and welfare and the house committee on health and human services detailing by profession the number of gratuitous continuing education units used, compared to the number of continuous education units required.

History: L. 1957, ch. 343, § 9; L. 1966, Budg. Sess., ch. 35, § 1; L. 1969, ch. 299, § 2; L. 1976, ch. 273, § 6; L. 1976, ch. 274, § 3; L. 1978, ch. 249, § 5; L. 1986, ch. 229, § 34; L. 1986, ch. 239, § 1; L. 1987, ch. 242, § 2; L. 1988, ch. 250, § 1; L. 1991, ch. 192, § 1; L. 1992, ch. 253, § 2; L. 1993, ch. 29, § 1; L. 1995, ch. 82, § 1; L. 2000, ch. 141, § 1; L. 2005, ch. 97, § 1; L. 2014, ch. 131, § 7, July 1, 2015; L. 2015, ch. 46, § 3, July 1, 2015; L. 2016, ch. 92, § 2, July 1, 2016.

65-2810

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65-2810. Repealed.

History: Repealed. by L. 1969, ch. 299, § 21.

65-2811

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2811. Issuance of temporary permits; postgraduate permits.

(a) The board may issue a temporary permit to practice the appropriate branch of the healing arts to any person who has made proper application for a license by endorsement, has the required qualifications for such license and has paid the prescribed fees, and such permit, when issued, shall authorize the person receiving the permit to practice within the limits of the permit until the license is issued or denied by the board, but no more than one such temporary permit shall be issued to any one person without the approval of $\frac{2}{3}$ of the members of the board.

(b) The board may issue a postgraduate permit to practice the appropriate branch of the healing arts to any person who is engaged in a full time, approved postgraduate training program; has made proper application for such postgraduate permit upon forms approved by the board; meets all qualifications of licensure, except the examinations required under K.S.A. 65-2873 and amendments thereto and postgraduate training, as required by this act; has paid the prescribed

fees established by the board for such postgraduate permit; has passed such examinations in the basic and clinical sciences approved under rules and regulations adopted by the board; and, if the person is a graduate of a foreign medical school, has passed an examination given by the educational commission for foreign medical graduates.

(c) The postgraduate permit issued under subsection (b) shall authorize the person receiving the permit to practice the appropriate branch of the healing arts in the postgraduate training program while continuously so engaged but shall not authorize the person receiving the permit to engage in the private practice of the healing arts.

(d) A postgraduate permit issued under subsection (b) shall be canceled if:

(1) The holder thereof ceases to be engaged in the postgraduate training program; or

(2) the holder thereof has engaged in the practice of the healing arts outside of the postgraduate training program.

History: L. 1957, ch. 343, § 11; L. 1969, ch. 299, § 3; L. 1970, ch. 260, § 1; L. 1976, ch. 273, § 7; L. 1984, ch. 235, § 1; L. 1985, ch. 216, § 1; L. 1987, ch. 240, § 3; L. 1988, ch. 251, § 1; L. 1989, ch. 196, § 4; L. 1995, ch. 82, § 2; L. 2000, ch. 141, § 2.

65-2811a

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2811a. Special permits; issuance; conditions and qualifications; limitations on practice; expiration of permit.

(a) The state board of healing arts may issue a special permit to practice medicine and surgery, under the supervision of a person licensed to practice medicine and surgery, to any person who has completed undergraduate training at the university of Kansas school of medicine and who has not engaged in a full-time approved postgraduate training program.

(b) Such special permit shall be issued only to a person who:

(1) Has made proper application for such special permit upon forms approved by the state board of healing arts;

(2) meets all qualifications of licensure except examinations and postgraduate training, as required by the Kansas healing arts act;

(3) has not yet commenced a full-time, approved postgraduate training program in Kansas;

(4) has obtained the sponsorship of a person licensed to practice medicine and surgery which sponsor practices in an area of Kansas which is determined under K.S.A. 76-375, and amendments thereto, to be medically underserved; and

(5) has paid the prescribed fees as established by the state board of healing arts for the application for and granting of such special permit.

(c) The special permit, when issued, shall authorize the person to whom the special permit is issued to practice medicine and surgery under the supervision of the person licensed to practice medicine and surgery who has agreed to sponsor and accept responsibility for the services rendered by such special permit holder. A special permit holder may prescribe drugs, but may not prescribe controlled substances. The special permit shall not authorize the person holding the special permit to engage in the private practice of medicine and surgery. The holder of a special permit under this section shall not charge patients a fee for services rendered but may be compensated directly by the person under whose supervision and sponsorship the permit holder is practicing. A special permit holder shall clearly identify oneself to patients as a physician in

training and may use the term “doctor” or “Dr.” The special permit shall expire on the day the person holding the special permit becomes engaged in a full-time, approved postgraduate training program or one year from its date of issuance, whichever occurs first. In no event may a special permit be renewed more than once.

(d) For the purposes of this section, “supervision” means that the supervising licensee is physically present within the healthcare facility or other site of patient care and is immediately available to the special permit holder.

(e) A person who practices under a special permit issued herein shall not be deemed to be rendering professional service as a health care provider in this state for purposes of K.S.A. 40-3402, and amendments thereto.

(f) A person who practices under a special permit issued herein shall be subject to all provisions of the healing arts act, except as otherwise provided in this section.

(g) The board may adopt all necessary rules and regulations, not inconsistent herewith, for carrying out the provisions of this section.

(h) This section shall be part of and supplemental to the Kansas healing arts act.

History: L. 1978, ch. 249, § 4; L. 1987, ch. 239, § 2; L. 1987, ch. 240, § 4; L. 2002, ch. 103, § 5; L. 2015, ch. 46, § 4, July 1, 2015.

65-2812

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2812. State board of healing arts; membership; appointment. For the purpose of administering the provisions of this act, the governor shall appoint a state board of healing arts consisting of 15 members. At least 30 days before the expiration of any term, other than that of the member appointed from the general public, the professional society or association shall submit to the governor a list of three or more names of persons of recognized ability who have the qualifications prescribed for board members for each member of the board who will be appointed from its branch of the healing arts. The governor shall consider the list of persons in making the appointment to the board. In case of a vacancy on the board, other than that of the member appointed from the general public and the licensed podiatrist member of the board, prior to the expiration of a term of office, the governor shall appoint a qualified successor to fill the unexpired term, and in making the appointment the governor shall give consideration to the list of persons last submitted to the governor.

History: L. 1957, ch. 343, § 12; L. 1969, ch. 299, § 4; L. 1975, ch. 325, § 2; L. 1976, ch. 273, § 8; L. 1978, ch. 308, § 51; L. 1982, ch. 347, § 25; L. 1986, ch. 229, § 35; L. 1988, ch. 246, § 16; L. 1992, ch. 116, § 30; L. 2014, ch. 131, § 8, July 1, 2015.

65-2813

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2813. State board of healing arts; qualifications of members. Five members of the board shall hold a degree of doctor of medicine from an accredited medical school and shall be residents of and have been actively engaged in the practice of medicine and surgery in the state of Kansas under license issued in this state, for a period of at least six consecutive years

immediately preceding their appointment; three members shall hold a degree of doctor of osteopathy from an accredited school of osteopathic medicine and surgery and shall be residents of and have been actively engaged in the practice of osteopathic medicine and surgery in the state of Kansas under license issued in this state, for a period of at least six consecutive years immediately preceding their appointment; three members shall hold a degree of doctor of chiropractic from an accredited school of chiropractic and shall be residents of and have been actively engaged in the practice of chiropractic in the state of Kansas under license issued in this state, for a period of at least six consecutive years immediately preceding their appointment; one member shall be a licensed podiatrist and shall be a resident of and have been actively engaged in the practice of podiatry in the state of Kansas under license issued in this state for a period of at least six consecutive years immediately preceding appointment; and three members shall be appointed to represent the general public of this state. Subject to the provisions of K.S.A. 75-4315c, no two of the members representing the general public shall be from the same United States congressional district. No member representing the general public shall be the spouse of a licensee of the healing arts or a person or the spouse of a person who has a financial interest in any person's practice of the healing arts.

History: L. 1957, ch. 343, § 13; L. 1969, ch. 299, § 5; L. 1975, ch. 325, § 3; L. 1976, ch. 273, § 9; L.1986, ch. 229, § 36; L. 1988, ch. 246, § 17; L. 1992, ch. 262, § 5.

65-2814

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2814. Same; terms of members; vacancies. Whenever a vacancy occurs in the membership of the board, the governor shall appoint a successor of like qualifications. All appointments made shall be for a term of four years, but no member shall be appointed for more than three successive four-year terms. Each member shall serve until a successor is appointed and qualified. Whenever a vacancy occurs in the membership of the board for any reason other than the expiration of a member's term of office, the governor shall appoint a successor of like qualifications to fill the unexpired term.

History: L. 1957, ch. 343, § 14; L. 1969, ch. 299, § 6; L. 1970, ch. 260, § 2; L. 1975, ch. 325, § 4; L.1976, ch. 273, § 10; L. 1986, ch. 229, § 37; L. 1987, ch. 240, § 5.

65-2815, 65-2816

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2815, 65-2816. Repealed.

History: Repealed by L. 1969, ch. 299, § 21.

65-2817

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2817. Same; removal from office by governor, when. The governor shall have the power to remove from office at any time any member of the board for continued neglect of duty, for incompetency, or for unprofessional conduct as that term is defined in this act.

History: L. 1957, ch. 343, § 17.

65-2818

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2818. Same; annual election of officers; powers and duties; position of secretary of board abolished.

(a) The board shall organize annually at its first meeting subsequent to July 1 and shall select a president and vice-president from its own membership. The president and vice-president shall have the power to administer oaths pertaining to the business of the board.

(b) The position of secretary of the state board of healing arts is hereby abolished. Whenever the secretary of the state board of healing arts, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the president of the board.

History: L. 1957, ch. 343, § 18; L. 1987, ch. 240, § 6.

65-2819

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2819. Same; seal; rules; oath; meetings. The board shall have a common seal and shall formulate rules to govern its actions. Each member of the board shall take and subscribe the oaths prescribed by law for state officers. The board shall hold an annual meeting and such additional meetings as the board may designate.

History: L. 1957, ch. 343, § 19.

65-2820

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2820. Repealed.

History: Repealed by L. 1967, ch. 434, § 69

65-2821

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2821. Same; filing oaths. The oaths provided for herein shall be filed in the office of the secretary of state.

History: L. 1957, ch. 343, § 21; L. 1967, ch. 434, § 18.

65-2822

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-2822. Same; quorum. Eight members shall constitute a quorum for the transaction of business.

History: L. 1957, ch. 343, § 22; L. 1986, ch. 229, § 38.

65-2823

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-2823. Same; compensation and expenses of members. Members of the board attending meetings of such board, or attending a subcommittee meeting thereof authorized by the board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

History: L. 1957, ch. 343, § 23; L. 1969, ch. 299, § 7; L. 1974, ch. 348, § 27; L. 1987, ch. 240, § 7.

65-2824

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-2824. Application for examination, contests; fees; documents and affidavits. Any person desiring to take the examination for a license hereunder shall make application to the board on a form provided by the board and sworn to by the applicant. Such application shall specify that branch of the healing arts in which the applicant desires to be examined and shall be accompanied by the prescribed examination fee and such documents and affidavits as are necessary to show the eligibility of the candidate to take such examination. All applications shall be filed in the form, within the time, and in accordance with the rules of the board.

History: L. 1957, ch. 343, § 24.

65-2825

**Chapter 65 – PUBLIC HEALTH
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65-2825. Accredited schools; list. The board shall prepare and keep up to date a list of accredited healing arts schools, but no school shall be accredited without the formal action of the board. Any such school whose graduates or students desire to take the examination in this state shall supply the board with the necessary data to allow it to determine whether such school should be accredited.

History: L. 1957, ch. 343, § 25.

65-2826

**Chapter 65 – PUBLIC HEALTH
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65-2826. Where and when examinations held. The sessions for the purpose of giving examinations shall be held at such times and places as the board may fix and not to exceed four in any one year.

History: L. 1957, ch. 343, § 26.

65-2827

**Chapter 65 – PUBLIC HEALTH
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65-2827. List of eligible applicants prior to examinations. Prior to each examination the board shall prepare a list of applicants who are eligible to take the examination.

History: L. 1957, ch. 343, § 27.

65-2828

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-2828. Rules and regulations designating examinations and passing grade; reexamination.

(a) The board shall adopt rules and regulations designating the examinations required under K.S.A. 65-2873 and amendments thereto and the passing grade on each examination.

(b) Any applicant who fails any examination required under K.S.A. 65-2873 and amendments thereto may have a reexamination in accordance with criteria established by rules and regulations of the board, which criteria may limit the number of times an applicant may retake the examination until the applicant has submitted evidence acceptable to the board of further professional study.

History: L. 1957, ch. 343, § 28; L. 1978, ch. 249, § 1; L. 1995, ch. 82, § 3.

65-2829

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-2829. Repealed.

History: Repealed by L. 1995, ch. 82, § 8.

65-2830

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-2830. Repealed.

History: Repealed by L. 1989, ch. 196, § 5.

65-2831

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-2831. Issuance of license; record. After each examination the board shall issue a proper license to successful candidates, and make the required entry.

History: L. 1957, ch. 343, § 31.

65-2832

Chapter 65 – PUBLIC HEALTH

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65-2832. Preservation of examination results; availability. The results of any examination for a license shall be preserved for two (2) years. During this time the results of an examination shall be available to the applicant or the duly authorized representative of the applicant under regulations prescribed by the board.

History: L. 1957, ch. 343, § 32; L. 1976, ch. 273, § 12; L. 1978, ch. 249, § 2.

65-2833

Chapter 65 – PUBLIC HEALTH

ARTICLE 28 – HEALING ARTS

65-2833. Endorsement licenses; requirements; rules and regulations. The board, without examination, may issue a license to a person who has been in the active practice of a branch of the healing arts in some other state, territory, the District of Columbia or other country upon certificate of 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 had other disciplinary action taken and that, so far as the records of such authority are concerned, the applicant is entitled to its endorsement. The applicant shall also present proof satisfactory to the board:

(a) 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 by Kansas.

(b) 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.

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

(d) That 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.

(e) That the applicant has a reasonable ability to communicate in English.

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 legal requirements.

In lieu of any other requirement prescribed by law for satisfactory passage of any examination in any branch of the healing arts the board may accept evidence satisfactory to it that the applicant or licensee has satisfactorily passed an equivalent examination given by a national board of examiners in chiropractic, osteopathic medicine and surgery or medicine and surgery as now required by Kansas statutes for endorsement from other states.

History: L. 1957, ch. 343, § 33; L. 1965, ch. 382, § 9; L. 1969, ch. 299, § 9; L. 1976, ch. 273, § 13; L. 1979, ch. 198, § 1; Laws 1986, ch. 229, § 40; L. 2014, ch. 131, § 9, July 1, 2015.

65-2834

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-2834. Repealed.

History: Repealed by L. 1979, ch. 198, § 11.

65-2835

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-2835. Certificate of standing; application; fee. Any licensee shall receive, upon application to the board and the payment of the required fee, a certified statement that the licensee is a duly licensed practitioner in the branch of the healing arts for which he or she is licensed in this state.

History: L. 1957, ch. 343, § 35; L. 1979, ch. 198, § 2.

65-2836

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-2836. Revocation, suspension, limitation or denial of licenses; censure of licensee; grounds; consent to submit to mental or physical examination or drug screen, or any combination thereof, implied. A licensee's license may be revoked, suspended or limited, or the licensee may be publicly censured or placed under probationary conditions, 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:

(a) The licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license.

(b) The licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency, except that the board may take appropriate disciplinary action or enter into a non-disciplinary resolution when a licensee has engaged in any conduct or professional practice on a single occasion that, if continued, would reasonably be expected to constitute an inability to practice the healing arts with reasonable skill and safety to patients or unprofessional conduct as defined in K.S.A. 65-2837, and amendments thereto.

(c) The licensee has been convicted of a felony or class A misdemeanor, or substantially similar offense in another jurisdiction, whether or not related to the practice of the healing arts, or the licensee has been convicted in a special or general court-martial, whether or not related to the practice of the healing arts. The board shall revoke a licensee's license following conviction of a felony or substantially similar offense in another jurisdiction, or following conviction in a general court-martial occurring after July 1, 2000, unless a ²/₃ majority of the board members present and voting determine by clear and convincing evidence that such licensee will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust. In the case of a person who has been convicted of a felony

or convicted in a general court-martial and who applies for an original license or to reinstate a canceled license, the application for a license shall be denied unless a $\frac{2}{3}$ majority of the board members present and voting on such application determine by clear and convincing evidence that such person will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust.

(d) The licensee has used fraudulent or false advertisements.

(e) The licensee is addicted to or has distributed intoxicating liquors or drugs for any other than lawful purposes.

(f) The licensee has willfully or repeatedly violated this act, the pharmacy act of the state of Kansas or the uniform controlled substances act, or any rules and regulations adopted pursuant thereto, or any rules and regulations of the secretary of health and environment that are relevant to the practice of the healing arts.

(g) The licensee has unlawfully invaded the field of practice of any branch of the healing arts in which the licensee is not licensed to practice.

(h) The licensee has engaged in the practice of the healing arts under a false or assumed name, or the impersonation of another practitioner. The provisions of this subsection relating to an assumed name shall not apply to licensees practicing under a professional corporation, under a business entity that holds a certificate of authorization pursuant to K.S.A. 65-28,134, and amendments thereto, or under any other legal entity duly authorized to provide such professional services in the state of Kansas.

(i) The licensee's ability to practice the healing arts with reasonable skill and safety to patients is impaired by reason of physical or mental illness, or condition or use of alcohol, drugs or controlled substances. 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.

(j) The licensee has had a license to practice the healing arts revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state, territory, District of Columbia, or other country.

(k) The licensee has violated any lawful rule and regulation promulgated by the board or violated any lawful order or directive of the board previously entered by the board.

(l) The licensee has failed to report or reveal the knowledge required to be reported or revealed under K.S.A. 65-28,122, and amendments thereto.

(m) The licensee, if licensed to practice medicine and surgery, has failed to inform in writing a patient suffering from any form of abnormality of the breast tissue for which surgery is a recommended form of treatment, of alternative methods of treatment recognized by licensees of the same profession in the same or similar communities as being acceptable under like conditions and circumstances.

(n) The licensee has cheated on or attempted to subvert the validity of the examination for a license.

(o) 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.

(p) The licensee has prescribed, sold, administered, distributed or given a controlled substance to any person for other than medically accepted or lawful purposes.

(q) The licensee has violated a federal law or regulation relating to controlled substances.

(r) The licensee has failed to furnish the board, or its investigators or representatives, any information legally requested by the board.

(s) Sanctions or disciplinary actions have been taken against the licensee by a peer review committee, healthcare facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action under this section.

(t) 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 healthcare facility, a professional association or society, a governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action under this section.

(u) The licensee has surrendered a license or authorization to practice the healing arts in another state or jurisdiction, has surrendered the authority to utilize controlled substances issued by any state or federal agency, has agreed to a limitation to 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 that would constitute grounds for disciplinary action under this section.

(v) The licensee has failed to report to the board surrender of the licensee's license or authorization to practice the healing arts in another state or jurisdiction or 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 that would constitute grounds for disciplinary action under this section.

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

(x) 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 that would constitute grounds for disciplinary action under this section.

(y) The licensee has failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a, and amendments thereto.

(z) The licensee has failed to pay the premium surcharges as required by K.S.A. 40-3404, and amendments thereto.

(aa) The licensee has knowingly submitted any misleading, deceptive, untrue or fraudulent representation on a claim form, bill or statement.

(bb) The licensee as the supervising physician for a physician assistant has failed to adequately direct and supervise the physician assistant in accordance with the physician assistant licensure act or rules and regulations adopted under such act.

(cc) The licensee has assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 21-5407, and amendments thereto, as established by any of the following:

(1) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 21-5407, and amendments thereto.

(2) A copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 60-4404, and amendments thereto.

(3) A copy of the record of a judgment assessing damages under K.S.A. 60-4405, and amendments thereto.

(dd) The licensee has given a worthless check or stopped payment on a debit or credit card for fees or moneys legally due to the board.

(ee) The licensee has knowingly or negligently abandoned medical records.

History: L. 1957, ch. 343, § 36; L. 1969, ch. 299, § 10; L. 1972, ch. 231, § 8; L. 1976, ch. 273, §

14; L. 1976, ch. 275, § 1; L. 1979, ch. 198, § 3; L. 1983, ch. 214, § 1; L. 1983, ch. 213, § 7; L. 1984, ch. 236, § 1; L. 1986, ch. 234, § 5; L. 1986, ch. 229, § 41; L. 1986, ch. 239, § 2; L. 1987, ch. 176, § 5; Laws 1987, ch. 239, § 3; L. 1987, ch. 242, § 3; L. 1989, ch. 196, § 1; L. 1991, ch. 192, § 2; L. 1995, ch. 251, § 36; L. 1998, ch. 142, § 12; L. 2000, ch. 141, § 5; L. 2001, ch. 31, § 2; L. 2008, ch. 154, § 6, eff. July 1, 2008; L. 2011, ch. 30, § 241, eff. July 1, 2011; L. 2014, ch. 131, § 10, eff. July 1, 2015; L. 2015, ch. 46, § 5, eff. July 1, 2015; L. 2019, ch. 52, § 4, eff. March 1, 2020.

65-2836a

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2836a. Repealed.

History: Repealed by L. 2001, ch. 31, § 5

65-2837

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2837. Definitions. As used in K.S.A. 65-2836, and amendments thereto, and in this section:

(a) “Professional incompetency” means:

(1) 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.

(2) Repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board.

(3) A pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice the healing arts.

(b) “Unprofessional conduct” means:

(1) Solicitation of professional patronage 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, the attending physician or the patient's legal representatives.

(4) The use of any letters, words or terms as an affix, on stationery, in advertisements or otherwise indicating that such person is entitled to practice a branch of the healing arts for which such person is not licensed.

(5) Performing, procuring or aiding and abetting in the performance or procurement of a criminal abortion.

(6) Willful betrayal of confidential information.

(7) Advertising professional superiority or the performance of professional services in a superior manner.

- (8) Advertising to guarantee any professional service or to perform any operation painlessly.
- (9) Participating in any action as a staff member of a medical care facility that is designed to exclude or that results in the exclusion of any person licensed to practice medicine and surgery from the medical staff of a nonprofit medical care facility licensed in this state because of the branch of the healing arts practiced by such person or without just cause.
- (10) Failure to effectuate the declaration of a qualified patient as provided in K.S.A. 65-28,107(a), and amendments thereto.
- (11) Prescribing, ordering, dispensing, administering, selling, supplying or giving any amphetamines or sympathomimetic amines, except as authorized by K.S.A. 65-2837a, and amendments thereto.
- (12) Conduct likely to deceive, defraud or harm the public.
- (13) Making a false or misleading statement regarding the licensee's skill or the efficacy or value of the drug, 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.
- (14) Aiding or abetting the practice of the healing arts by an unlicensed, incompetent or impaired person.
- (15) Allowing another person or organization to use the licensee's license to practice the healing arts.
- (16) 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 such patient.
- (17) The use of any false, fraudulent or deceptive statement in any document connected with the practice of the healing arts including the intentional falsifying or fraudulent altering of a patient or medical care facility record.
- (18) Obtaining any fee by fraud, deceit or misrepresentation.
- (19) Directly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services not actually and personally rendered, other than through the legal functioning of lawful professional partnerships, corporations, limited liability companies or associations.
- (20) Failure to transfer patient records to another licensee when requested to do so by the subject patient or by such patient's legally designated representative.
- (21) Performing unnecessary tests, examinations or services that have no legitimate medical purpose.
- (22) Charging an excessive fee for services rendered.
- (23) Prescribing, dispensing, administering or distributing a prescription drug or substance, including a controlled substance, in an improper or inappropriate manner, or for other than a valid medical purpose, or not in the course of the licensee's professional practice.
- (24) Repeated failure to practice healing arts 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.
- (25) Failure to keep written medical records that accurately describe the services rendered to the patient, including patient histories, pertinent findings, examination results and test results.
- (26) Delegating professional responsibilities to a person when the licensee knows or has reason to know that such person is not qualified by training, experience or licensure to perform them.

(27) Using experimental forms of therapy without proper informed patient consent, without conforming to generally accepted criteria or standard protocols, without keeping detailed legible records or without having periodic analysis of the study and results reviewed by a committee or peers.

(28) Prescribing, dispensing, administering or distributing an anabolic steroid or human growth hormone for other than a valid medical purpose. Bodybuilding, muscle enhancement or increasing muscle bulk or strength through the use of an anabolic steroid or human growth hormone by a person who is in good health is not a valid medical purpose.

(29) Referring a patient to a health care entity for services if the licensee has a significant investment interest in the health care entity, unless the licensee informs the patient in writing of such significant investment interest and that the patient may obtain such services elsewhere.

(30) Failing to properly supervise, direct or delegate acts that constitute the healing arts to persons who perform professional services pursuant to such licensee's direction, supervision, order, referral, delegation or practice protocols.

(31) Violating K.S.A. 65-6703, and amendments thereto.

(32) Charging, billing or otherwise soliciting payment from any patient, patient's representative or insurer for anatomic pathology services, if such services are not personally rendered by the licensee or under such licensee's direct supervision. As used in this subsection, "anatomic pathology services" means the gross or microscopic examination of histologic processing of human organ tissue or the examination of human cells from fluids, aspirates, washings, brushings or smears, including blood banking services, and subcellular or molecular pathology services, performed by or under the supervision of a person licensed to practice medicine and surgery or a clinical laboratory. Nothing in this subsection shall be construed to prohibit billing for anatomic pathology services by:

(A) A hospital;

(B) a clinical laboratory when samples are transferred between clinical laboratories for the provision of anatomic pathology services; or

(C) a physician providing services to a patient pursuant to a medical retainer agreement in compliance with K.S.A. 65-4978, and amendments thereto, when the bill to the patient for such services:

(i) Identifies the laboratory or physician that performed the services;

(ii) discloses in writing to the patient the actual amount charged by the physician or laboratory that performed the service; and

(iii) is consistent with rules and regulations adopted by the board for appropriate billing standards applicable to such services when furnished under these agreements.

(33) Engaging in conduct that violates patient trust and exploits the licensee-patient relationship for personal gain.

(34) Obstructing a board investigation including, but not limited to, 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) other acts or conduct likely to deceive or defraud the board.

(c) "False advertisement" means any advertisement that is false, misleading or deceptive in a material respect. In determining whether any advertisement is misleading, there shall be taken into account not only representations made or suggested by statement, word, design, device,

sound or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations made.

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

(e) “Licensee” for purposes of this section and K.S.A. 65-2836, and amendments thereto, means all persons issued a license, permit or special permit pursuant to article 28 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

(f) “License” for purposes of this section and K.S.A. 65-2836, and amendments thereto, means any license, permit or special permit granted under article 28 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

(g) “Health care entity” means any corporation, firm, partnership or other business entity that provides services for diagnosis or treatment of human health conditions and that is owned separately from a referring licensee's principle practice.

(h) “Significant investment interest” means ownership of at least 10% of the value of the firm, partnership or other business entity that owns or leases the health care entity, or ownership of at least 10% of the shares of stock of the corporation that owns or leases the health care entity. **History:** L. 1957, ch. 343, § 37; L. 1976, ch. 273, § 15; L. 1979, ch. 198, § 4; L. 1979, ch. 200, § 1; L. 1983, ch. 214, § 2; L. 1984, ch. 237, § 2; L. 1986, ch. 229, § 42; L. 1987, ch. 176, § 6; L. 1989, ch. 196, § 2; L. 1991, ch. 192, § 3; L. 1993, ch. 205, § 1; L. 1998, ch. 170, § 2; L. 2000, ch. 141, § 6; L. 2006, ch. 110, § 5; L. 2007, ch. 66, § 1, July 1, 2007; L. 2008, ch. 154, § 7, July 1, 2008; L. 2014, ch. 131, § 11, July 1, 2015; L. 2017, ch. 33, § 1, July 1, 2017.

65-2837a

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2837a. Restrictions on prescribing, ordering, dispensing, administering, selling, supplying or giving certain amphetamine or sympathomimetic amine controlled substances; unprofessional conduct.

(a) It shall be unlawful for any person licensed to practice medicine and surgery to prescribe, order, dispense, administer, sell, supply or give or for a mid-level practitioner as defined in K.S.A. 65-1626, and amendments thereto, to prescribe, administer, supply or give any amphetamine or sympathomimetic amine designated in schedule II, III or IV under the uniform controlled substances act, except as provided in this section. Failure to comply with this section by a licensee shall constitute unprofessional conduct under K.S.A. 65-2837, and amendments thereto.

(b) When any licensee prescribes, orders, dispenses, administers, sells, supplies or gives or when any mid-level practitioner as defined in K.S.A. 65-1626, and amendments thereto, prescribes, administers, sells, supplies or gives any amphetamine or sympathomimetic amine designated in schedule II, III or IV under the uniform controlled substances act, the patient's medical record shall adequately document the purpose for which the drug is being given. Such purpose shall be restricted to one or more of the following:

- (1) The treatment of narcolepsy.
- (2) The treatment of drug-induced brain dysfunction.
- (3) The treatment of attention-deficit/hyperactivity disorder.

(4) The differential diagnostic psychiatric evaluation of depression.

(5) The treatment of depression shown by adequate medical records and documentation to be unresponsive to other forms of treatment.

(6) The clinical investigation of the effects of such drugs or compounds, in which case, before the investigation is begun, the licensee shall, in addition to other requirements of applicable laws, apply for and obtain approval of the investigation from the state board of healing arts.

(7) The treatment of obesity with controlled substances, as may be defined by rules and regulations adopted by the board of healing arts.

(8) The treatment of binge eating disorder.

(9) The treatment of any other disorder or disease for which such drugs or compounds have been found to be safe and effective by competent scientific research that has been generally accepted by the scientific community, in which case, the licensee before prescribing, ordering, dispensing, administering, selling, supplying or giving the drug or compound for a particular condition, or the licensee before authorizing a mid-level practitioner to prescribe the drug or compound for a particular condition, shall obtain a determination from the board of healing arts that the drug or compound can be used for that particular condition.

History: L. 1984, ch. 237, § 1; L. 1997, ch. 57, § 1; L. 1999, ch. 115, § 12; L. 2007, ch. 18, § 1, March 29, 2007; L. 2016, ch. 95, § 1, May 26, 2016; L. 2017, ch. 34, § 21, April 20, 2017.

65-2837b

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2837b. Repealed.

History: Repealed by L. 2000, ch. 141, § 7.

65-2838

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2838. Disciplinary action against licensee, registrant, permit holder or certificate holder; procedure; stipulations; temporary suspension or limitation; emergency proceedings; guidelines for use of controlled substances for treatment of pain; written advisory opinions.

(a) The board shall have jurisdiction of proceedings to take disciplinary action authorized by the applicable practice act. Unless otherwise specified, any such action shall be taken in accordance with the provisions of the Kansas administrative procedure act.

(b) Either before or after formal charges have been filed, the board and the licensee, registrant, permit holder or certificate holder may enter into a stipulation which shall be binding upon the board and the person 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 authorized by the applicable practice act against the person entering into such stipulation.

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

(d) The board shall adopt guidelines for the use of controlled substances for the treatment of pain.

(e) Upon request of another regulatory or enforcement agency, or a licensee, the board may render a written advisory opinion indicating whether the licensee has prescribed, dispensed, administered or distributed controlled substances in accordance with the treatment of pain guidelines adopted by the board.

History: L. 1957, ch. 343, § 38; L. 1976, ch. 273, § 16; L. 1978, ch. 250, § 1; L. 1979, ch. 198, § 5; L. 1984, ch. 238, § 12; L. 1984, ch. 313, § 118; L. 1986, ch. 229, § 43; L. 2006, ch. 110, § 6; L. 2014, ch. 131, § 12, July 1, 2015.

65-2838a

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2838a. Non-disciplinary resolution; procedure.

(a) The board or a committee of the board, as a non-disciplinary resolution, may enter into a written agreement with a licensee, registrant, permit holder or certificate holder for a professional development plan, make written recommendations to the person or issue a written letter of concern to the person if the board or committee of the board determines that the person:

(1) Seeks to establish continued competency for renewal other than through continued education requirements established pursuant to the applicable practice act;

(2) has been absent from clinical practice for an extended period of time and seeks to resume clinical practice;

(3) has failed to adhere to the applicable standard of care but not to a degree constituting professional incompetence, as defined by the applicable practice act; or

(4) has engaged in an act or practice that, if continued, would reasonably be expected to result in future violations of the applicable practice act.

(b) Notwithstanding any other provision of law, a meeting of the board or a committee of the board, for the purpose of discussing or adopting a non-disciplinary resolution authorized by this section shall not be subject to the Kansas administrative procedures act, K.S.A. 77-501 et seq., and amendments thereto, and shall not be subject to the Kansas open meetings act as provided in K.S.A. 75-4317 et seq., and amendments thereto. A non-disciplinary resolution authorized by this section shall not be deemed disciplinary action or other order or adjudication. No failure to adhere to the applicable standard of care or violation of the Kansas healing arts act may be implied by the adoption of a non-disciplinary resolution.

(c) A non-disciplinary resolution authorized by this section shall be confidential in the manner provided by K.S.A. 65-2898a, and amendments thereto, and shall not be admissible in any civil, criminal or administrative action, except that such resolution shall be admissible in any disciplinary proceeding by the board.

(d) This section shall be part of and supplemental to the Kansas healing arts act.

History: L. 2008, ch. 154, § 1, July 1, 2008; L. 2014, ch. 131, § 13, July 1, 2015.

65-2839
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2839. Repealed.

History: Repealed by L. 1984, ch. 313, § 157; L. 1984, ch. 313, § 157.

65-2839a
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2839a. Investigations and proceedings conducted by board; access to evidence; subpoenas; access to criminal history; confidentiality of information.

(a) In connection with any investigation by the board, the board or its duly authorized agents or employees shall at all reasonable times have access to, for the purpose of examination, and the right to copy any document, report, record or other physical evidence of any person being investigated, or any document, report, record or other evidence maintained by and in possession of any clinic, office of a practitioner of any profession regulated by the board, laboratory, pharmacy, medical care facility or other public or private agency if such document, report, record or evidence relates to professional competence, unprofessional conduct or the mental or physical ability of a person to safely practice any profession regulated by the board.

(b) For the purpose of all investigations and proceedings conducted by the board:

(1) The board may issue subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents or any other physical evidence if such evidence relates to medical competence, unprofessional conduct or the mental or physical ability of a licensee, registrant, permit holder or certificate holder to safely practice. Within five days after the service of the subpoena on any person requiring the production of any evidence in the person's possession or under the person's control, such person may petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the physical evidence which is required to be produced. Any member of the board, or any agent designated by the board, may administer oaths or affirmations, examine witnesses and receive such evidence. The board shall have the authority to compel the production of evidence upon noncompliance with an investigative subpoena, if in the opinion of the board or the board's designee, the evidence demanded relates to a practice which may be grounds for disciplinary action, is relevant to the charge which is the subject matter of the investigation and describes with sufficient particularity the physical evidence required to be produced.

(2) Any person appearing before the board shall have the right to be represented by counsel.

(3) The district court, upon application by the board or after exhaustion of available administrative remedies by the person subpoenaed, shall have jurisdiction to issue an order:

(A) Requiring such person to appear before the board or the board's duly authorized agent to produce evidence relating to the matter under investigation; or

(B) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence which is required to be produced.

(c) The board may receive from the Kansas bureau of investigation or other criminal justice agencies such criminal history record information, including arrest and nonconviction data, criminal intelligence information and information relating to criminal and background investigations as necessary for the purpose of determining initial and continuing qualifications of licensees, permit holders, registrants and certificate holders of, and applicants for, licensure and registration by the board. Disclosure or use of any such information received by the board or of any record containing such information, for any purpose other than that provided by this subsection is a class A misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any license, permit, registration or certificate issued under this act. Unless otherwise specified, nothing in this subsection shall be construed to make unlawful the disclosure of any such information by the board in a hearing held pursuant to the practice act of any profession regulated by the board.

(d) Patient records, including clinical records, medical reports, laboratory statements and reports, files, films, other reports or oral statements relating to diagnostic findings or treatment of patients, information from which a patient or a patient's family might be identified, peer review or risk management records or information received and records kept by the board as a result of the investigation procedure outlined in this section shall be confidential and shall not be disclosed.

(e) Nothing in this section or any other provision of law making communications between a licensee, registrant, permit holder or certificate holder and the patient a privileged communication shall apply to investigations or proceedings conducted pursuant to this section. The board and its employees, agents and representatives shall keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this section.

History: L. 1986, ch. 229, § 39; L. 1992, ch. 253, § 3; L. 2014, ch. 131, § 14, July 1, 2015.

65-2840

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2840. Repealed.

History: Repealed by L. 1984, ch. 238, § 17.

65-2840a

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2840a. Disciplinary counsel; appointment; qualifications; duties; application for subpoenas; staff; rules and regulations. The state board of healing arts shall appoint a disciplinary counsel, who shall not otherwise be an attorney for the board, with the duties set out

in this act. The disciplinary counsel shall be an attorney admitted to practice law in the state of Kansas. The disciplinary counsel shall have the power and the duty to investigate or cause to be investigated all matters involving professional incompetency, unprofessional conduct or any other matter which may result in disciplinary action against a licensee, registrant, permit holder or certificate holder pursuant to the applicable practice act. In the performance of these duties, the disciplinary counsel may apply to any court having power to issue subpoenas for an order to require by subpoena the attendance of any person or by subpoena duces tecum the production of any records for the purpose of the production of any information pertinent to an investigation. Subject to approval by the state board of healing arts, the disciplinary counsel shall employ clerical and other staff necessary to carry out the duties of the disciplinary counsel. The state board of healing arts may adopt rules and regulations necessary to allow the disciplinary counsel to properly perform the functions of such position under this act.

History: L. 1984, ch. 238, § 8; L. 1986, ch. 229, § 44; L. 2014, ch. 131, § 15, July 1, 2015.

65-2840b

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2840b. Repealed.

History: Repealed by L. 1985, ch. 88, § 7.

65-2840c

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2840c. Review committees; establishment; composition; expenses. Review committees shall be established and appointed by the state board of healing arts for each branch of the healing arts as necessary to advise the board in carrying out the provisions of this act. Each review committee shall be composed of three members and designated alternates. Each of the members and their designated alternates shall serve for a period of two years, all of whom shall be licensed by the board to practice the branch of the healing arts for which the review committee is established. Members of the state board of healing arts shall not be eligible to act as members of the review committee. Members may be selected from names submitted by the state professional association for the branch of healing arts involved. The members of such review committees attending meetings of any review committees shall be paid compensation, subsistence allowances, mileage and expenses as provided by K.S.A. 75-3223 and amendments thereto.

History: L. 1984, ch. 238, § 10; L. 1997, ch. 94, § 7.

65-2840d

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2840d. Repealed.

History: Repealed by L. 1985, ch. 88, § 7.

65-2841
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2841. Repealed.

History: Repealed by L. 1984, ch. 313, § 157.

65-2842
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2842. Mental or physical examination or drug screen, or any combination thereof, of licensee, registrant, permit holder or certificate holder; requirement by board; confidentiality of records; computation of time limit for hearing.

(a) Upon reasonable suspicion that a person's ability to practice such person's profession with reasonable skill and safety to patients is impaired by reason of physical or mental illness, or condition or use of alcohol, drugs or controlled substances, the board shall have authority to compel the person to submit to a mental or physical examination, substance abuse evaluation or drug screen or any combination thereof, by such persons as the board may designate either in the course of an investigation or a disciplinary proceeding.

(b) To determine whether reasonable suspicion of impaired ability exists, the investigative information shall be presented to the board as a whole, or to a committee consisting of the officers of the board elected pursuant to K.S.A. 65-2818, and amendments thereto, and the executive director appointed pursuant to K.S.A. 65-2878, and amendments thereto, or to a presiding officer authorized pursuant to K.S.A. 77-514, and amendments thereto. The determination shall be made by a majority vote of the entity which reviewed the investigative information. Information submitted to the board as a whole or a committee of the officers and executive director of the board or presiding officer and all reports, findings and other records shall be confidential and not subject to discovery by or release to any person or entity.

(c) The person shall submit to the board a release of information authorizing the board to obtain a report of such examination or drug screen, or both. Any person affected by this section shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice of such person's profession with reasonable skill and safety to patients. For the purposes of this section, every person who accepts the privilege to practice any profession regulated by the board in this state by practicing or by the making and filing of a renewal application in this state shall be deemed to have consented to submit to a mental or physical examination, substance abuse evaluation or a drug screen, or any combination thereof, when directed in writing by the board. Further, such person shall be deemed to have waived all objections to the admissibility of the testimony, drug screen or examination report of the person conducting such examination or drug screen, or both, at any proceeding or hearing before the board on the ground that such testimony or examination or drug screen report constitutes a privileged communication.

(d) In any proceeding by the board pursuant to the provisions of this section, the records of any board proceedings involving the mental and physical examination, substance abuse evaluation or drug screen, or any combination thereof, shall be considered confidential and shall

not be used in any civil, criminal or administrative action, other than an administrative or disciplinary proceeding by the board.

(e) Whenever the board directs, that a licensee, registrant, permit holder or certificate holder submit to a mental or physical examination, substance abuse evaluation or drug screen, or any combination thereof, the time from the date of the board's directive until the submission to the board of the report of the examination or drug screen, or both, shall not be included in the computation of the time limit for hearing prescribed by the Kansas administrative procedure act.

History: L. 1957, ch. 343, § 42; L. 1979, ch. 198, § 6; L. 1983, ch. 214, § 3; L. 1984, ch. 238, § 14; L. 1984, ch. 313, § 119; L. 1991, ch. 192, § 4; L. 2014, ch. 131, § 16, July 1, 2015.

65-2843

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2843. Repealed.

History: Repealed by L.1984, ch. 313, § 157.

65-2844

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2844. Reinstatement of license, registration, permit or certificate; application; burden of proof; reapplication for reinstatement, when; proceedings. A person whose license, registration, permit or certificate 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 a reinstatement of a revoked license, registration, permit or certificate fee established by the board under the applicable practice act. 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 a license, registration, permit or certificate 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 provisions of 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, registration, permit or certificate.

History: L. 1957, ch. 343, § 44; L. 1976, ch. 273, § 20; L. 1984, ch. 313, § 120; L. 1987, ch. 240, § 8; L. 1991, ch. 193, § 1; L. 2010, ch. 17, § 139, July 1, 2010; L. 2014, ch. 131, § 17, July 1, 2015.

65-2845

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2845. Repealed.

History: Repealed by L. 1984, ch. 313, § 157.

65-2846
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2846. Costs of proceedings; assessment of costs incurred.

(a) For all professions regulated by the board, if the board's order is adverse to the licensee, registrant, permit holder, certificate holder or applicant for reinstatement of license, costs incurred by the board in conducting any investigation or proceeding under the Kansas administrative procedure act may be assessed against the parties to the proceeding in such proportion as the board may determine upon consideration of all relevant circumstances including the nature of the proceeding and the level of participation by the parties. Costs assessed by the board pursuant to K.S.A. 65-2846, and amendments thereto, shall be considered costs in an administrative matter pursuant to 11 U.S.C. § 523. If the board is the unsuccessful party, the costs shall be paid from the healing arts fee fund.

(b) For purposes of this section, costs incurred shall include, but are not limited to: The presiding officer fees and expenses, costs of making any transcripts, reasonable investigative costs, witness fees and expenses, mileage, travel allowances and subsistence expenses of board employees and fees and expenses of agents of the board who provide services pursuant to K.S.A. 65-2878a, and amendments thereto. Costs incurred shall not include presiding officer fees and expenses unless the board has designated or retained the services of independent contractors to perform such functions.

(c) The board shall make any assessment of costs incurred as part of the final order rendered in the proceeding. Such order shall include findings and conclusions in support of the assessment of costs.

History: L. 1957, ch. 343, § 46; L. 1965, ch. 382, § 10; L. 1973, ch. 309, § 22; L. 1991, ch. 193, § 2; L. 2014, ch. 131, § 18, July 1, 2015.

65-2847
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2847. Same; costs due state; uncollectible, paid by board. All costs accrued at the instance of the state, when it is the successful party, and which the attorney general certifies cannot be collected from the defendant, shall be paid out of any available funds in the state treasury to the credit of the board.

History: L. 1957, ch. 343, § 47.

65-2848
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2848. Repealed.

History: Repealed by L. 1984, ch. 313, § 157.

65-2849
Chapter 65 – PUBLIC HEALTH

ARTICLE 28 – HEALING ARTS

65-2849. Hearing of cause in district court; precedence. The cause shall be heard by the court at a time fixed by it, and shall take precedence over all other cases upon the court docket except workmen's compensation and criminal cases.

History: L. 1957, ch. 343, § 49.

65-2850

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2850. Same; appeal bond of licensee. In the event the board appeals, no bond shall be required. If the licensee appeals, the only bond required shall be one running to the state, in an amount to be fixed by the court for the payment of the costs both before the board and in the district court, and the bond shall be approved by the judge of the district court. The bond shall be cash or professional surety.

History: L. 1957, ch. 343, § 50; L. 1976, ch. 273, § 23; L. 1984, ch. 313, § 121; L. 1992, ch. 314, § 16; L. 2014, ch. 131, § 19, July 1, 2015.

65-2851

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2851. Repealed.

History: Repealed by L. 1984, ch. 313, § 157.

65-2851a

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2851a. Administrative proceedings; procedure, review and civil enforcement.

(a) Unless otherwise specified, all administrative proceedings provided for by the practice act of each profession regulated by the board and affecting any licensee, registrant, permit holder or certificate holder shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(b) Judicial review and civil enforcement of any agency action under article 28 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, shall be in accordance with the Kansas judicial review act.

History: L. 1984, ch. 313, § 124; L. 2010, ch. 17, § 140, July 1, 2010; L. 2014, ch. 131, § 20, July 1, 2015.

65-2852

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2852. Fees; collection by board. The following fees shall be established by the board by rules and regulations and collected by the board:

- (a) For a license, issued upon the basis of an examination, in a sum of not more than \$300;
- (b) for a license, issued without examination and by endorsement, in a sum of not more than \$300;
- (c) for a license, issued upon a certificate from the national boards, in a sum of not more than \$300;
- (d) for the renewal of a license, the sum of not more than \$500;
- (e) for a temporary permit, in a sum of not more than \$60;
- (f) for an institutional license, in a sum of not more than \$300;
- (g) for a visiting professor temporary license, in a sum of not more than \$50;
- (h) for a certified statement from the board that a licensee is licensed in this state, the sum of not more than \$30;
- (i) for any copy of any license issued by the board, the sum of not more than \$30;
- (j) for any examination given by the board, a sum in an amount equal to the cost to the board of the examination;
- (k) for application for and issuance of a special permit under K.S.A. 65-2811a, and amendments thereto, the sum of not more than \$60;
- (l) for an exempt or inactive license or renewal of an exempt or inactive license, the sum of not more than \$150;
- (m) for conversion of an exempt or inactive license to a license to practice the healing arts, the sum of not more than \$300;
- (n) for reinstatement of a revoked license, in a sum of not more than \$1,000;
- (o) for reinstatement of a canceled license, in a sum of not more than \$500;
- (p) for a visiting clinical professor license, or renewal of a visiting clinical professor license, in a sum of not more than \$300;
- (q) for a postgraduate permit in a sum of not more than \$60;
- (r) for a limited permit or renewal of a limited permit, the sum of not more than \$60;
- (s) for a written verification of any license or permit, the sum of not more than \$25;
- (t) for a reentry active license or renewal of a reentry active license, the sum of not more than \$500; and
- (u) for a resident active license, the sum of not more than \$500.

History: L. 1957, ch. 343, § 52; L. 1966, Budg. Sess., ch. 35, § 2; L. 1969, ch. 299, § 11; L. 1974, ch. 255, § 1; L. 1978, ch. 249, § 3; L. 1985, ch. 217, § 1; L. 1985, ch. 216, § 5; L. 1987, ch. 239, § 4; L. 1987, ch. 242, § 4; L. 1988, ch. 251, § 2; L. 1991, ch. 193, § 3; L. 1992, ch. 156, § 3; L. 1995, ch. 82, § 4; L. 1997, ch. 94, § 2; L. 2000, ch. 141, § 3; L. 2014, ch. 131, § 21, July 1, 2015; L. 2015, ch. 46, § 6, July 1, 2015.

65-2853

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2853. Repealed.

History: Repealed by L. 1991, ch. 192, § 7.

65-2854

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-2854. Repealed.

History: Repealed by L. 1973, ch. 309, § 46.

65-2855

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-2855. Fees; disposition of; healing arts fee fund. 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. 1957, ch. 343, § 55; L. 1963, ch. 398, § 15; L. 1965, ch. 382, § 11; L. 1966, Budg. Sess., ch. 35, § 3; L. 1969, ch. 299, § 12; L. 1973, ch. 309, § 23; L. 1987, ch. 240, § 9; L. 2001, ch. 5, § 238; L. 2011, ch. 53, § 32, July 1, 2011.

65-2856

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-2856. Repealed.

History: Repealed by L. 1973, ch. 309, § 46

65-2857

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-2857. Injunction and quo warranto for unlawful practice of the healing arts. An action in injunction or quo warranto may be brought and maintained in the name of the state of Kansas to enjoin or oust from the unlawful practice of any profession regulated by the board or any profession defined by the practice acts administered by the board a person practicing such profession without being duly licensed therefor.

History: L. 1957, ch. 343, § 57; L. 1976, ch. 273, § 24; L. 2014, ch. 131, § 22, July 1, 2015; L. 2015, ch. 46, § 12, July 1, 2015.

65-2858

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-2858. Same; authority conferred by 65-2857 additional to authority to prosecute criminally. The authority conferred by the preceding section shall be in addition to, and not in lieu of, authority to prosecute criminally any person unlawfully engaged in practice. The granting and enforcing of an injunction or quo warranto to prevent unlawful practice is a preventive measure, not a punitive measure, and the fact that a person has been charged with or convicted of criminally having so practiced shall not prevent the issuance of a writ of injunction or quo warranto to prevent such person's further practice; nor shall the fact that a writ of injunction or quo warranto has been granted to prevent further practice preclude the institution of criminal prosecution and punishment.

History: L. 1957, ch. 343, § 58; L. 2014, ch. 131, § 23, July 1, 2015.

65-2859

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2859. Filing false documents with board; forgery; penalty. Any person who shall file or attempt to file with the board any false or forged diploma, certificate, affidavit or identification or qualification, or any other written or printed instrument, shall be guilty of forgery as defined in K.S.A. 21-5823, and amendments thereto.

History: L. 1957, ch. 343, § 59; L. 1976, ch. 273, § 25; L. 1993, ch. 291, § 231; L. 2011, ch. 30, § 242, July 1, 2011.

65-2860

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2860. False impersonation; fraud; penalty. Any person who presents to the board a diploma or certificate of which such person is not the rightful owner for the purpose of procuring a license, or who falsely impersonates anyone to whom a license, registration, permit or certificate has been issued by the board is guilty of an unclassified nonperson felony. In addition, violation of this section may render the violator liable for a civil penalty, as well as reasonable costs of investigation and prosecution, unless otherwise specified.

History: L. 1957, ch. 343, § 60; L. 1976, ch. 273, § 26; L. 2014, ch. 131, § 24, eff. July 1, 2015; L.2015, ch. 46, § 13, July 1, 2015.

65-2861

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2861. False swearing; penalty. Any person who swears falsely in any affidavit or oral testimony made or given by virtue of the provisions of this act or the rules and regulations of the board shall be deemed guilty of a severity level 9, nonperson felony.

History: L. 1957, ch. 343, § 61; L.1976, ch. 273, § 27; L. 1993, ch. 291, § 232.

65-2862

Chapter 65 – PUBLIC HEALTH

ARTICLE 28 – HEALING ARTS

65-2862. Penalties for violations of act; second conviction. Any person violating any of the provisions of this act, except as specific penalties are herein otherwise imposed, shall be deemed guilty of a misdemeanor and upon conviction thereof shall pay a fine of not less than fifty dollars (\$50) nor more than two hundred dollars (\$200) for each separate offense, and a person for a second violation of any of the provisions of this act, wherein another specific penalty is not expressly imposed, shall be deemed guilty of a misdemeanor and upon conviction thereof shall pay a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each separate offense.

History: L. 1957, ch. 343, § 62.

65-2863

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2863. Repealed.

History: Repealed by L. 1976, ch. 273, § 40.

65-2863a

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2863a. Administrative fines.

(a) The state board of healing arts, in addition to any other penalty prescribed under the Kansas healing arts act, may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for a violation of the Kansas healing arts act in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and for each 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. 75-4215, 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. For the purposes of this section, fines shall be considered administrative fines pursuant to 11 U.S.C. § 523.

(b) This section shall be part of and supplemental to the Kansas healing arts act.

History: L. 1986, ch. 229, § 20; L. 2001, ch. 5, § 239; L. 2014, ch. 131, § 25, July 1, 2015.

65-2864

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2864. Enforcement of act; investigations; evidence. The board shall enforce the provisions of all practice acts administered by the board and for that purpose shall make all necessary investigations relative thereto. Every licensee, registrant, permit holder or certificate holder in this state, including members of the board, shall furnish the board such evidence as such person may have relative to any alleged violation which is being investigated. Such person

shall also report to the board the name of every person without a license that such person has reason to believe is engaged in practicing any profession regulated by the board.

History: L. 1957, ch. 343, § 64; L. 2014, ch. 131, § 26, July 1, 2015.

65-2865

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2865. Rules and regulations; filing. The board shall promulgate all necessary rules and regulations, not inconsistent herewith, for carrying out the provisions of any practice act administered by the board, which rules and regulations shall include standards for the dispensing of drugs by persons licensed to practice medicine and surgery. It may also adopt rules and regulations supplementing any of the provisions herein contained but not inconsistent with any practice act administered by the board. All rules and regulations promulgated and adopted by the board shall be filed with the secretary of state as required by law.

History: L. 1957, ch. 343, § 65; L. 1979, ch. 198, § 8; L. 1988, ch. 366, § 19; L. 2014, ch. 131, § 27, July 1, 2015.

65-2866

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2866. Attorney general, county or district attorney to prosecute violations; recovery of expenses; disposition of recovered penalties.

(a) Upon the request of the board, the attorney general or county or district attorney of the proper county shall institute in the name of the state or board the proper proceedings against any person regarding whom a complaint has been made charging such person with the violation of any of the provisions of this act, and the attorney general, and such county or district attorney, at the request of the attorney general or of the board shall appear and prosecute any and all such actions.

(b) In pursuing an action under the Kansas healing arts act solely in the name of the state or county, the attorney general and the county or district attorney are authorized to sue for and collect reasonable expenses and investigation fees as determined by the court. Civil penalties or contempt penalties sued for and recovered by the attorney general shall be paid into the state general fund. Civil penalties and contempt penalties sued for and recovered by the county or district attorney shall be paid into the general fund of the county where the proceedings were instituted.

History: L. 1957, ch. 343, § 66; L. 1976, ch. 273, § 28; L. 2014, ch. 131, § 28, July 1, 2015.

65-2867

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2867. Certain acts prohibited; exceptions; penalties.

(a) It shall be unlawful for any person who is not licensed under the Kansas healing arts act or whose license has been revoked or suspended to open or maintain an office for the practice of

the healing arts as defined in this act or to announce or hold out to the public the intention, authority or skill to practice the healing arts as defined in the Kansas healing arts act by the use of any professional degree or designation, sign, card, circular, device, advertisement or representation.

(b) This section shall not apply to any health care provider who in good faith renders emergency care or assistance at the scene of an emergency or accident as authorized by K.S.A. 65-2891, and amendments thereto.

(c) It shall not be considered a violation of the Kansas healing arts act if an unlicensed person appends to such person's name the word "doctor" or the letters "M.D.," "D.O." or "D.C.," if such person has earned such professional degree from an accredited healing arts school or college, and if the use of such word or initials is not misleading the public, patients or other health care providers that such person: (1) Is engaged in the practice of the healing arts within this state; or (2) is licensed to practice the healing arts in this state. The provisions of this subsection shall apply to any proceeding pending before the board that has not reached a final order or disposition by the board prior to the effective date of this act and to any proceeding commenced before the board on or after the effective date of this act.

(d) Violation of this section is a severity level 10, nonperson felony. In addition, violation of this section may subject a person to civil fines and assessment of reasonable costs of investigation and prosecution.

History: L. 1957, ch. 343, § 67; L. 1992, ch. 32, § 2; L. 2010, ch. 69, § 1, eff. July 1, 2010; L. 2014, ch. 131, § 29, July 1, 2015.

65-2868

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2868. Repealed.

History: Repealed by L. 1992, ch. 32, § 3.

65-2869

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2869. Persons deemed engaged in practice of medicine and surgery. For the purpose of this act the following persons shall be deemed to be engaged in the practice of medicine and surgery:

(a) Persons who publicly profess to be physicians or surgeons, or publicly profess to assume the duties incident to the practice of medicine or surgery or any of their branches.

(b) Persons who prescribe, recommend or furnish medicine or drugs, or perform any surgical operation of whatever nature by the use of any surgical instrument, procedure, equipment or mechanical device for the diagnosis, cure or relief of any wounds, fractures, bodily injury, infirmity, disease, physical or mental illness or psychological disorder, of human beings.

(c) Persons who attach to their name the title M.D., surgeon, physician, physician and surgeon, or any other word or abbreviation indicating that they are engaged in the treatment or diagnosis of ailments, diseases or injuries of human beings.

History: L. 1957, ch. 343, § 69; L. 1969, ch. 299, § 14; L. 1976, ch. 273, § 30; L. 1988, ch. 251, § 5.

65-2870

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2870. Persons deemed engaged in practice of osteopathy. For the purpose of this act the following persons shall be deemed to be engaged in the practice of osteopathy or to be osteopathic physicians and surgeons:

(a) Persons who publicly profess to be osteopathic physicians, or publicly profess to assume the duties incident to the practice of osteopathy, as heretofore interpreted by the supreme court of this state, shall be deemed to be engaged in the practice of osteopathy.

(b) Osteopathic physicians and surgeons shall mean and include those persons who receive a license to practice medicine and surgery pursuant to the provisions of this act.

History: L. 1957, ch. 343, § 70; L. 1969, ch. 299, § 15; L. 1976, ch. 273, § 31.

65-2871

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2871. Persons deemed engaged in practice of chiropractic. For the purpose of this act the following persons shall be deemed to be engaged in the practice of chiropractic: (a) Persons who examine, analyze and diagnose the human living body, and its diseases by the use of any physical, thermal or manual method and use the X-ray diagnosis and analysis taught in any accredited chiropractic school or college and (b) persons who adjust any misplaced tissue of any kind or nature, manipulate or treat the human body by manual, mechanical, electrical or natural methods or by the use of physical means, physiotherapy (including light, heat, water or exercise), or by the use of foods, food concentrates, or food extract, or who apply first aid and hygiene, but chiropractors are expressly prohibited from prescribing or administering to any person medicine or drugs in materia medica, or from performing any surgery, as hereinabove stated, or from practicing obstetrics.

History: L. 1957, ch. 343, § 71; L. 1976, ch. 273, § 32.

65-2872

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2872. Persons not engaged in the practice of the healing arts. The practice of the healing arts shall not be construed to include the following persons:

(a) Persons rendering gratuitous services in the case of an emergency.

(b) Persons gratuitously administering ordinary household remedies.

(c) The members of any church practicing their religious tenets provided they shall not be exempt from complying with all public health regulations of the state.

(d) Students while in actual classroom attendance in an accredited healing arts school who after completing one year's study treat diseases under the supervision of a licensed instructor.

(e) Students upon the completion of at least three years study in an accredited healing arts school and who, as a part of their academic requirements for a degree, serve a preceptorship not to exceed 180 days under the supervision of a licensed practitioner.

(f) Persons who massage for the purpose of relaxation, muscle conditioning, or figure improvement, provided no drugs are used and such persons do not hold themselves out to be physicians or healers.

(g) Persons whose professional services are performed under the supervision or by order of or referral from a practitioner who is licensed under this act.

(h) Persons in the general fields of psychology, education and social work, dealing with the social, psychological and moral well-being of individuals or groups, or both, provided they do not use drugs and do not hold themselves out to be the physicians, surgeons, osteopathic physicians or chiropractors.

(i) Practitioners of the healing arts in the United States army, navy, air force, public health service, and coast guard or other military service when acting in the line of duty in this state.

(j) Practitioners of the healing arts licensed in another state when and while incidentally called into this state in consultation with practitioners licensed in this state.

(k) Dentists practicing their professions, when licensed and practicing in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(l) Optometrists practicing their professions, when licensed and practicing under and in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(m) Nurses practicing their profession when licensed and practicing under and in accordance with the provisions of article 11 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(n) Podiatrists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(o) Every act or practice falling in the field of the healing arts, not specifically excepted herein, shall constitute the practice thereof.

(p) Pharmacists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 16 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(q) A dentist licensed in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, who administers general and local anesthetics to facilitate medical procedures conducted by a person licensed to practice medicine and surgery if such dentist is certified by the board of healing arts under K.S.A. 65-2899, and amendments thereto, to administer such general and local anesthetics.

(r) Practitioners of the healing arts duly licensed under the laws of another state who do not open an office or maintain or appoint a place to regularly meet patients or to receive calls within this state, but who order services which are performed in this state in accordance with rules and regulations of the board. The board shall adopt rules and regulations identifying circumstances in which professional services may be performed in this state based upon an order by a practitioner of the healing arts licensed under the laws of another state.

(s) Acupuncturists, when licensed and practicing in accordance with K.S.A. 65-7601 through 65-7624, and amendments thereto, rules and regulations adopted [pursuant] thereto, and interpretations thereof by the supreme court of this state.

(t) Persons licensed by the state board of cosmetology practicing their professions, when licensed and practicing under and in accordance with the provisions of article 19 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

History: L. 1957, ch. 343, § 72; L. 1976, ch. 273, § 33; L. 1976, ch. 276, § 2; L. 2005, ch. 117, § 1; L. 2007, ch. 42, § 2, July 1, 2007; L. 2014, ch. 131, § 30, July 1, 2015; L. 2016, ch. 92, § 30, July 1, 2016.

65-2872a

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2872a. Repealed.

History: Repealed by L. 2002, ch. 203, § 39.

65-2872b

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2872b. Same; administration of epinephrine; limitation of liability.

(a) The practice of the healing arts shall not be construed to include any person administering epinephrine in emergency situations to a student or a member of a school staff if: (1) The person administering the epinephrine reasonably believes that the student or staff member is exhibiting the signs and symptoms of an anaphylactic reaction; (2) a physician has authorized, in writing, the school to maintain a stock supply of epinephrine; and (3) the epinephrine is administered at school, on school property or at a school-sponsored event.

(b) Any person who gratuitously and in good faith renders emergency care or treatment through the administration of epinephrine to a student or a member of a school staff at school, on school property or at a school-sponsored event shall not be held liable for any civil damages as a result of such care or administration or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.

History: L. 2009, ch. 102, § 1, July 1, 2009.

65-2873

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2873. License to practice healing arts by examination; prerequisites; postgraduate study; use of title and degree.

(a) Each applicant for a license by examination to practice any branch of the healing arts in this state shall:

(1) Present to the board evidence of proficiency in the basic sciences issued by the national board of medical examiners, the board of examiners of osteopathic physicians and surgeons or the national board of chiropractic examiners or such other examining body as may be approved by the board or in lieu thereof pass such examination as the board may require in the basic science subjects;

(2) present proof that the applicant is a graduate of an accredited healing arts school or college; and

(3) pass an examination prescribed and conducted by the board covering the subjects incident to the practice of the branch of healing arts for which the applicant applies.

(b) Any person seeking a license to practice medicine and surgery shall present proof that such person has completed acceptable postgraduate study as may be required by the board by regulations.

(c) The board may authorize an applicant who does not meet the requirements of paragraph (2) of subsection (a) to take the examination for licensure if the applicant:

(1) Has completed three years of postgraduate training as approved by the board;

(2) is a graduate of a school in which the graduates have been licensed in another state or states which has standards similar to Kansas; and

(3) meets all other requirements for taking the examination for licensure of the Kansas healing arts act.

(d) In addition to the examination required under paragraph (3) of subsection (a), if the applicant is a foreign medical graduate the applicant shall pass an examination given by the educational commission for foreign medical graduates.

(e) No person licensed to practice and actively engaged in the practice of the healing arts shall attach to such person's name any title, or any word or abbreviation indicating that such person is a doctor of any branch of the healing arts other than the branch of the healing arts in which such person holds a license but shall attach to such person's name the degree or degrees to which such person is entitled by reason of such person's diploma.

History: L. 1957, ch. 343, § 73; L. 1969, ch. 299, § 16; L. 1976, ch. 273, § 34; L. 1985, ch. 216, § 2; L. 2014, ch. 131, § 31, July 1, 2015.

65-2873a

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2873a. Board authorized to grant license in particular circumstances; exceptions; requirements. Notwithstanding the provisions of K.S.A. 65-2873, the state board of healing arts may grant a license to practice medicine and surgery and renew the same annually as provided in K.S.A. 65-2809 to any person who meets all of the requirements of K.S.A. 65-2873, except the requirements of clause (2) of subsection (a) of such section, if such person is a citizen of the United States, a resident of Kansas, has a fellowship license, has been employed as a physician or by the state of Kansas for twenty (20) years or more, has been the head of a state hospital for five (5) years or more and has successfully completed the licensing examinations given by the state board of healing arts.

History: L. 1978, ch. 248, § 1.

65-2873b

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-2873b. Resident active license; requirements.

(a) There is hereby created a resident active license, which may be issued by the board to a person who:

(1) Makes written application for such license on a form provided by the board and remits the fee for a resident active license established by the board by rules and regulations;

(2) has successfully completed at least one year of approved postgraduate training;

(3) is engaged in a full-time, approved postgraduate training program; and

(4) has passed the examinations for licensure required under K.S.A. 65-2873, and amendments thereto.

(b) The requirements for issuance, maintenance and renewal of a resident active license shall be established by rules and regulations adopted by the board. A resident active license shall entitle the holder to all privileges attendant to the branch of the healing arts for which such license is used.

(c) This section shall be part of and supplemental to the Kansas healing arts act.

History: L. 2015, ch. 46, § 16, July 1, 2015.

65-2874

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-2874. Accredited school of medicine defined; rules and regulations establishing criteria; questionnaire developed by board; authority to contract for assistance in obtaining information about schools.

(a) An accredited school of medicine for the purpose of this act shall be a school or college which requires the study of medicine and surgery in all of its branches, which the board shall determine to have educational standards substantially equivalent to the minimum educational standards for medical colleges as established by the liaison committee on medical education or any successor organization that is the official accrediting body of educational programs leading to the degree of doctor of medicine and recognized for such purpose by the federal department of education and the council on postsecondary education. All such schools shall be approved by the board.

(b) The board shall adopt rules and regulations establishing the criteria which a school shall satisfy in meeting the standard established under subsection (a). The criteria shall establish the minimum standards in the following areas:

(1) Admission requirements;

(2) basic science coursework;

(3) clinical coursework;

(4) qualification of faculty;

(5) ratio of faculty to students;

(6) library;

(7) clinical facilities;

(8) equipment;

(9) financial qualifications;

- (10) graduation requirements; and
- (11) accreditation by independent agency.

(c) The board may send a questionnaire developed by the board to any school for which the board does not have sufficient information to determine whether the school meets the requirements of this statute or rules and regulations adopted pursuant to this statute. The questionnaire providing the necessary information shall be completed and returned to the board in order for the school to be considered for approval.

(d) The board is authorized to contract with investigative agencies, commissions or consultants to assist the board in obtaining information about schools. In entering such contracts the authority to approve schools shall remain solely with the board.

History: L. 1957, ch. 343, § 74; L. 1985, ch. 216, § 3; L. 2014, ch. 131, § 32, July 1, 2015.

65-2875

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2875. Accredited schools of osteopathic medicine defined. An accredited school of osteopathic medicine for the purpose of this act shall be a school or college which requires the study of osteopathic medicine and surgery in all of its branches which the board shall determine to have educational standards substantially equivalent to the minimum educational standards for osteopathic colleges as established by the American osteopathic association or any successor organization that is the official accrediting body of educational programs leading to the degree of doctor of osteopathy. All such schools shall be approved by the board.

History: L. 1957, ch. 343, § 75; L. 1976, ch. 273, § 35; L. 2014, ch. 131, § 33, July 1, 2015.

65-2876

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2876. Accredited school or college of chiropractic, defined. An accredited school or college of chiropractic for the purpose of this act shall be a school or college teaching chiropractic which the board shall determine to have a standard of education not below that required for a recognized or accredited status with the council on chiropractic education. All such schools shall be approved by the board.

History: L. 1957, ch. 343, § 76; L. 1976, ch. 273, § 36; L. 1978, ch. 251, § 1.

65-2877

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2877. Repealed.

History: Repealed by L. 2014, ch. 131, § 65, eff. July 1, 2015.

65-2877a

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2877a. Prohibition on practice by corporation inapplicable to certain schools. No provision of law prohibiting practice of the healing arts by a general corporation shall apply to a healing arts school approved by the board if the healing arts school is a non-profit entity under section 501(c)(3) of the internal revenue code of 1986, is approved by the state board of regents, and as part of its academic requirements provides clinical training to its students under the supervision of persons who are licensed to practice a branch of the healing arts in this state. **History:** L. 2007, ch. 42, § 3, July 1, 2007. L. 2019, ch. 52, § 5, eff. March 1, 2020.

65-2878

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2878. Executive director; appointment; confirmation by senate; employment of administrative assistant and other employees; representation of board by attorney appointed by attorney general; authority to contract with healing arts licensees.

(a) The board shall appoint an executive director, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as executive director shall exercise any power, duty or function as executive director until confirmed by the senate. The executive director shall be in the unclassified service under the Kansas civil service act and shall receive a salary fixed by the board and approved by the governor. The executive director shall not be a member of the board. Under the supervision of the board, the executive director shall be the chief administrative officer of the board and shall perform such duties as may be specified by the board and as may be required by law. The executive director shall be the custodian of the common seal of the board, the books and records of the board and shall keep minutes of all board proceedings.

(b) The board may employ an administrative assistant. The administrative assistant shall be in the unclassified service under the Kansas civil service act and shall receive a salary fixed by the board and approved by the governor. Under the supervision of the executive director, the administrative assistant shall assist the executive director in the performance of the duties of the executive director.

(c) The board may employ such clerical and other employees, who shall be in the classified service under the Kansas civil service act, as it considers necessary in order to administer and execute, under the supervision of the executive director, the provisions of this act or other statutes delegating duties and responsibilities to the board, except that any attorney employed by the board shall be in the unclassified service under the Kansas civil service act and shall receive a salary fixed by the board and approved by the governor.

(d) As necessary, the board shall be represented by an attorney appointed by the attorney general as provided by law, whose compensation shall be determined and paid by the board with the approval of the governor.

(e) The board may contract with one or more persons who are licensed to practice the healing arts in this state and who are not members of the board to provide such advice and assistance as necessary on: Licensure matters including review, investigation and disposition of complaints; clinical and patient care matters; and the ethical conduct and professional practice of licensees; or to perform other duties as assigned by the executive director or the board. For the purposes of

contracting with such persons, the board shall be exempt from the provisions of K.S.A. 75-3739, and amendments thereto.

History: L. 1957, ch. 343, § 78; L. 1969, ch. 299, § 17; L.1976, ch. 273, § 37; L. 1983, ch. 213, § 8; L. 1987, ch. 240, § 10; L. 2008, ch. 121, § 8, July 1, 2008; L. 2009, ch. 143, § 25, July 1, 2009; L. 2012, ch. 116, § 2, May 24, 2012.

65-2878a

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2878a. Employment of agents to assist board in disciplinary actions; limitation on liability of such agents. The state board of healing arts is hereby authorized to employ, appoint, designate and utilize individuals who shall be agents of the board to evaluate and review investigative materials, conduct interviews and render opinions, reports and testimony on matters which may result in disciplinary action against any individual who has received a license, permit, registration or certification from the board or who has applied for any license, permit, registration or certificate. No individual who provides such services shall be liable in a civil action for damages or other relief arising from testimony provided or recommendation or opinion made by such individual acting without malice and in good faith within the scope of such individual's capacity as an agent of the board.

History: L. 1989, ch. 222, § 1.

65-2878b

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2878b. Repealed.

History: Repealed by L. 2009, ch. 143, § 37, eff. July 1, 2009.

65-2879

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2879. Repealed.

History: Repealed by L. 1973, ch. 309, § 46.

65-2880

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2880. Pending actions; vested rights saved. This act shall in no manner affect pending actions, either civil or criminal, founded on or growing out of any statute hereby repealed. This act shall in no manner affect rights, or causes of action, either civil or criminal, not in suit and that may have already accrued or grown out of any statute hereby repealed.

History: L. 1957, ch. 343, § 80.

65-2881
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2881. Current licenses continued; renewal. All licenses duly issued prior to the taking effect of this act shall be and continue in full force and effect and be renewed under the provisions hereof.

History: L. 1957, ch. 343, § 81.

65-2881 to 65-2884
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2882 to 65-2884. Repealed.

History: Repealed by L. 1976, ch. 273, § 40.

65-2885
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2885. Use of title by licensee. No person licensed hereunder shall use a title in connection with such person's name which in any way represents such person as engaged in the practice of any branch of the healing arts for which such person holds no license. Every licensee, when using the letters or term “Dr.” or “Doctor,” shall use the appropriate words or letters to identify such licensee with the particular branch of the healing arts in which the licensee holds a license.

History: L. 1957, ch. 343, § 85; L. 2014, ch. 131, § 34, July 1, 2015.

65-2886
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2886. Licensee to comply with public health laws and regulations. Every licensee hereunder shall be subject to all state and municipal regulations relating to the control of contagious and infectious diseases; sign death certificates and any and all matters pertaining to public health, and shall report all matters pertaining to public health as required by law.

History: L. 1957, ch. 343, § 86.

65-2886a
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2886a. Reporting of administration of vaccines by physicians and other authorized individuals; exceptions.

(a) On and after July 1, 2020, physicians and other persons authorized by law in this state to administer vaccines shall report the administration of a vaccine to a person in this state to the state registry maintained for such purpose by the secretary of health and environment in a

manner and form as may be required by the secretary, except that if the person vaccinated or, if the person is a minor, the parent or guardian of the minor, objects to the report, the report shall not be made.

(b) As used in this section, “physician” means a person licensed to practice medicine and surgery.

History: L. 2017, ch. 32, § 2, July 1, 2017.

65-2887

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2887. Assisting unlicensed persons to practice optometry not authorized; exceptions.

(a) Nothing in this act shall be construed to authorize any person licensed under this act to knowingly perform any act which in any way assists an unlicensed person, except as provided under subsections (b) and (c), firm, association or corporation (1) to make an examination of the eyes for the prescription of glasses, or (2) to perform any of the practice acts for which optometrists are licensed.

(b) A person who is licensed to practice medicine and surgery may delegate to assistants the performance of screening procedures for visual acuities, color vision, visual fields, and intraocular pressure.

(c) A person who is licensed to practice medicine and surgery and who has completed an approved postgraduate training program in ophthalmology or who is practicing as a fulltime ophthalmologist on the effective date of this act may utilize not more than three (3) assistants to perform examination procedures which may be performed by a person licensed to practice optometry. The examination procedures performed by assistants to ophthalmologists shall be limited to data gathering at the direct request of the ophthalmologist and to those examination procedures which do not require professional interpretation or professional judgment. These examination procedures may be performed by assistants only under the immediate and personal supervision and within the office of an ophthalmologist. Delegation to such assistants of the external and internal evaluation of the eye, biomicroscopic evaluation, subjective refraction, gonioscopic evaluation, final contact lens fit evaluation, orthoptic and strabismus evaluations, visual training evaluations, analysis of findings and the prescribing of ophthalmic lenses are prohibited.

History: L. 1957, ch. 343, § 87; L. 1978, ch. 252, § 1.

65-2888

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2888. Invalidity of part. If any division, section, subsection, sentence, clause, phrase or requirement of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions thereof. The legislature hereby declares that it would have passed this act, and each division, section, subsection, sentence, clause, phrase or requirement thereof irrespective of the fact that any one or more divisions, sections, subsections, sentences, clauses, phrases, or requirements be declared unconstitutional.

History: L. 1957, ch. 343, § 88.

65-2889
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2889. Repealed.

History: Repealed by L. 1965, ch. 382, § 14.

65-2890
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2890. Name of act; citation. This act shall be known and cited as “the Kansas healing arts act.”

History: L. 1957, ch. 343, § 90.

65-2890a
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2890a. Provisions of act applicable to any regulated profession.

(a) Unless otherwise specified, the administration and procedural provisions of the Kansas healing arts act shall apply to any profession regulated by the board.

(b) This section shall be part of and supplemental to the Kansas healing arts act.

(c) This section shall take effect on and after July 1, 2015.

History: L. 2014, ch. 131, § 55, May 22, 2014.

65-2891
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2891. Emergency care by health care providers; liability; standards of care applicable.

(a) Any health care provider who in good faith renders emergency care or assistance at the scene of an emergency or accident including treatment of a minor without first obtaining the consent of the parent or guardian of such minor shall not be liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(b) Any health care provider may render in good faith emergency care or assistance, without compensation, to any minor requiring such care or assistance as a result of having engaged in competitive sports, without first obtaining the consent of the parent or guardian of such minor. Such health care provider shall not be liable for any civil damages other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(c) Any health care provider may in good faith render emergency care or assistance during an emergency that occurs within a hospital or elsewhere, with or without compensation, until such time as the physician employed by the patient or by the patient's family or by guardian assumes

responsibility for such patient's professional care. The health care provider rendering such emergency care shall not be held liable for any civil damages other than damages occasioned by negligence.

(d) Any provision herein contained notwithstanding, the ordinary standards of care and rules of negligence shall apply in those cases wherein emergency care and assistance is rendered in any physician's or dentist's office, clinic, emergency room or hospital with or without compensation.

(e) As used in this section the term "health care provider" means any person licensed to practice any branch of the healing arts, licensed dentist, licensed optometrist, licensed professional nurse, licensed practical nurse, licensed podiatrist, licensed pharmacist, licensed physical therapist, and any physician assistant who has successfully completed an American medical association approved training program and has successfully completed the national board examination for physician assistants of the American board of medical examiners, any licensed athletic trainer, any licensed occupational therapist, any licensed respiratory therapist, any person who holds a valid emergency medical service provider's certificate under K.S.A. 65-6129, and amendments thereto, any person who holds a valid certificate for the successful completion of a course in first aid offered or approved by the American red cross, by the American heart association, by the mining enforcement and safety administration of the bureau of mines of the department of interior, by the national safety council or by any instructor-coordinator, as defined in K.S.A. 65-6112, and amendments thereto, and any person engaged in a postgraduate training program approved by the state board of healing arts.

History: L. 1965, ch. 385, § 1; L. 1969, ch. 300, § 1; L. 1971, ch. 214, § 1; L. 1973, ch. 252, § 1; L. 1975, ch. 326, § 1; L. 1976, ch. 277, § 1; L. 1977, ch. 220, § 1; L. 1986, ch. 231, § 32; L. 1988, ch. 252, § 1; L. 1988, ch. 246, § 18; L. 1988, ch. 253, § 1; L. 1993, ch. 146, § 1; L. 2000, ch. 93, § 1; L. 2002, ch. 203, § 17; L. 2003, ch. 128, § 24; L. 2004, ch. 117, § 5; L. 2004, ch. 180, § 9; L. 2019, ch. 64, § 14, June 6, 2019.

65-2891a

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2891a. Repealed.

History: Repealed by L. 1988, ch. 252, § 2.

65-2891b

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2891b. Emergency care by non-health care providers; liability, standards of care applicable. Any person who is not a health care provider pursuant to K.S.A. 65-2891, and amendments thereto, who in good faith without compensation renders emergency care or assistance to a person, including a minor without first obtaining the consent of the parent or guardian of such minor, at the scene of an emergency or accident shall not be held liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

History: L. 2012, ch. 116, § 1, May 24, 2012.

65-2892
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2892. Examination and treatment of persons under 18 for venereal disease; liability. Any physician, upon consultation by any person under eighteen (18) years of age as a patient, may, with the consent of such person who is hereby granted the right of giving such consent, make a diagnostic examination for venereal disease and prescribe for and treat such person for venereal disease including prophylactic treatment for exposure to venereal disease whenever such person is suspected of having a venereal disease or contact with anyone having a venereal disease. All such examinations and treatment may be performed without the consent of, or notification to, the parent, parents, guardian or any other person having custody of such person. Any physician examining or treating such person for venereal disease may, but shall not be obligated to, in accord with his opinion of what will be most beneficial for such person, inform the spouse, parent, custodian, guardian or fiance of such person as to the treatment given or needed without the consent of such person. Such informing shall not constitute libel or slander or a violation of the right of privacy or privilege or otherwise subject the physician to any liability whatsoever. In any such case, the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions. The physician shall incur no civil or criminal liability by reason of any adverse reaction to medication administered, provided reasonable care has been taken to elicit from such person under eighteen (18) years of age any history of sensitivity or previous adverse reaction to the medication.

History: L. 1969, ch. 222, § 1; L. 1972, ch. 161, § 17.

65-2892a
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2892a. Examination and treatment of minors for drug abuse, misuse or addiction; liability. Any physician licensed to practice the healing arts in Kansas, upon consultation with any minor as a patient, may examine and treat such minor for drug abuse, misuse or addiction if such physician has secured the prior consent of such minor to the examination and treatment. All such examinations and treatment may be performed without the consent of any parent, guardian or other person having custody of such minor, and all minors are hereby granted the right to give consent to such examination and treatment. In any such case, the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions. The physician shall incur no civil or criminal liability by reason of any adverse reaction to medication administered, if reasonable care has been taken.

History: L. 1971, ch. 212, § 1.

65-2893
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2893. Autopsies; performance of; authorization. In any case of death wherein notification of the coroner is not required by K.S.A. 22a-231, and amendments thereto, or any case in which the coroner does not elect to perform an autopsy, an autopsy may be performed upon the body of a deceased person by a physician or surgeon when so authorized, in writing by the decedent during his lifetime. Additionally, unless the physician or surgeon has knowledge that contrary directions have been given by the decedent, the following persons in the order of priority stated, may consent to the performance of an autopsy:

(a) The spouse, if one survives and if not incapacitated. If no spouse survives or if the spouse is incapacitated;

(b) an adult child;

(c) either parent;

(d) an adult brother or sister;

(e) the guardian of the decedent at the time of his death;

(f) any other person or agency authorized or under obligation to dispose of the body.

If there is no surviving spouse and an adult child is not immediately available at the time of death, the autopsy may be authorized by either parent; if a parent is not immediately available, it may be authorized by any adult brother or sister. Such autopsy shall not be performed under a consent given as required by a member of the class listed in subsection (b), (c) or (d), if, before such autopsy is performed, any member of the class shall object to the performance of such autopsy in writing to the physician or surgeon by whom the autopsy is to be performed.

History: L. 1969, ch. 144, § 1; L. 2014, ch. 131, § 35, July 1, 2015.

65-2894

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2894. Repealed.

History: Repealed by L. 1976, ch. 273, § 40.

65-2895

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2895. Institutional license; qualifications; rights and restrictions; term of license.

(a) There is hereby created an institutional license that may be issued by the board to a person who:

(1) Is a graduate of an accredited school of medicine or osteopathic medicine or a school which the graduates have been licensed in another state or states that have standards similar to Kansas;

(2) has completed at least two years in a postgraduate training program in the United States approved by the board; and

(3) who is employed as provided in this section.

(b) Subject to the restrictions of this section, the institutional license shall confer upon the holder the right and privilege to practice medicine and surgery and shall obligate the holder to comply with all requirements of such license.

(c) The practice privileges of institutional license holders are restricted and shall be valid only during the period in which:

(1) The holder is employed by any institution within the Kansas department for aging and disability services, employed by any institution within the department of corrections or employed pursuant to a contract entered into by the Kansas department for aging and disability services or the department of corrections with a third party, and only within the institution to which the holder is assigned; and

(2) the holder has been employed for at least three years as described in subsection (c)(1) and is employed to provide mental health services in Kansas in the employ of a Kansas licensed community mental health center, or one of its contracted affiliates, or a federal, state, county or municipal agency, or other political subdivision, or a contractor of a federal, state, county or municipal agency, or other political subdivision, or a duly chartered educational institution, or a medical care facility licensed under K.S.A. 65-425 et seq., and amendments thereto, in a psychiatric hospital licensed under K.S.A. 39-2001 et seq., and amendments thereto, or a contractor of such educational institution, medical care facility or psychiatric hospital, and whose practice, in any such employment, is limited to providing mental health services, is a part of the duties of such licensee's paid position and is performed solely on behalf of the employer; or

(3) the holder was issued an institutional license prior to May 9, 1997, and is providing mental health services pursuant to a written protocol with a person who holds a Kansas license to practice medicine and surgery other than an institutional license.

(d) An institutional license shall be canceled on the date established by rules and regulations of the board that may provide for renewal throughout the year on a continuing basis. In each case in which an institutional license is renewed for a period of time of more or less than 12 months, the board may prorate the amount of the fee established under K.S.A. 65-2852, and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the prescribed fee that shall be paid not later than the renewal date of the license. An institutional license may be renewed for an additional one-year period if the applicant for renewal meets the requirements under subsection (c), has submitted an application for renewal on a form provided by the board, has paid the renewal fee established by rules and regulations of the board of not to exceed \$500 and has submitted evidence of satisfactory completion of a program of continuing education required by the board. In addition, an applicant for renewal who is employed as described in subsection (c)(1) shall submit with the application for renewal a recommendation that the institutional license be renewed signed by the superintendent of the institution to which the institutional license holder is assigned.

(e) Nothing in this section shall prohibit any person who was issued an institutional license prior to the effective date of this section from having the institutional license reinstated by the board if the person meets the requirements for an institutional license described in subsection (a).

(f) This section shall be a part of and supplemental to the Kansas healing arts act.

History: L. 1969, ch. 299, § 20; L. 1976, ch. 273, § 38; L. 1985, ch. 216, § 4; L. 1987, ch. 239, § 5; L. 1987, ch. 240, § 11; L. 1988, ch. 254, § 1; L. 1989, ch. 196, § 3; L. 1997, ch. 142, § 10; L. 2000, ch. 141, § 4; L. 2004, ch. 55, § 1; L. 2014, ch. 131, § 36, July 1, 2015; L. 2015, ch. 46, § 7, July 1, 2015; L. 2017, ch. 33, § 2, July 1, 2017.

65-2895a

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2895a. Repealed.

History: Repealed by L. 2016, ch. 68, § 2, eff. July 1, 2016.

65-2896 to 65-2896h
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2896 to 65-2896h. Repealed.

History: Repealed by L. 2000, ch. 162, § 27.

65-2897
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2897. Repealed.

History: Repealed by L. 1978, ch. 254, § 11.

65-2897a, 65-2897b
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2897a, 65-2897b. Repealed.

History: Repealed by L. 2000, ch. 162, § 27.

65-2898
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-2898. Immunity from liability in civil actions for reporting, communicating and investigating certain information concerning alleged malpractice incidents and other information; conditions.

(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, and such person reporting shall be immune from any civil liability that might otherwise be incurred in an action resulting from reporting such information. In any civil action resulting from reporting such information in which a court determines that a person reporting under this section reported in good faith, the court shall allow the person reporting a reasonable amount for attorney fees and expenses incurred in defending the civil action.

(b) Any state, regional or local association composed of persons licensed to practice a profession regulated by the board and the individual members of any committee thereof that 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. 1976, ch. 261, § 1; L. 1979, ch. 201, § 1; L. 1983, ch. 213, § 9; L. 2014, ch. 131, § 37, July 1, 2015; L. 2017, ch. 33, § 3, July 1, 2017.

65-2898a

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2898a. Confidentiality of complaints and reports relating thereto; disclosure, when.

(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 a hospital committee which is authorized to grant, limit or deny hospital privileges, if any disciplinary action authorized by K.S.A. 65-2836 and amendments thereto has at any time been taken against the licensee or if the board has at any time denied a license to the person;

(3) 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

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

(b) This section shall be part of and supplemental to the Kansas healing arts act.

History: L. 1979, ch. 198, § 9; L. 1986, ch. 229, § 45; L. 1992, ch. 253, § 4.

65-2899

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-2899. Certification of licensed dentists to administer anesthetics to facilitate medical procedures; suspension or revocation of certificate; procedure. A dentist licensed in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated shall be certified by the board of healing arts to administer general and local anesthetics to facilitate medical procedures conducted by a person licensed to practice medicine and surgery if such dentist has completed a course of study and residency program in anesthesia from the university of Kansas school of medicine and if such dentist has received a certificate attesting to the successful completion of such course of study and residency program. The board of healing arts may limit, suspend or revoke such certification if a person so certified is found to have

committed any of the acts enumerated in K.S.A. 65-2836, and amendments thereto, where applicable. The procedure for limitation, suspension or revocation of such certification shall be in accordance with the provisions of the Kansas administrative procedure act.

History: L.1976, ch. 276, § 1; L. 1984, ch. 313, § 123.

65-28,100

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-28,100. Temporary license for visiting professor; designation; qualifications; application; rights conferred; validity of license; section supplemental.

(a) There is hereby created a designation of visiting professor temporary license which may be issued by the board to a person who holds a degree from an accredited school of medicine or an accredited school of osteopathy; is licensed to practice medicine and surgery in another state, territory, the District of Columbia or another country; and is employed by the university of Kansas school of medicine or by a licensed medical care facility which is engaged in the education of medical students, nurses, physicians' assistants or other paramedical personnel, is offering an approved postgraduate program or is engaged in the continuing education of its medical personnel. The chief administrative officer of the university of Kansas school of medicine or of the licensed medical care facility shall apply to the board on behalf of the visiting professor a visiting professor temporary license. The application for a visiting professor temporary license shall be submitted by the chief administrative officer upon forms approved by the board. Such application shall state that the visiting professor is licensed to practice medicine and surgery in another state, territory, the District of Columbia or another country, that the professor is known to be professionally qualified and that no fee will be charged for services of the visiting professor. The visiting professor temporary license shall confer upon the holder the right and privilege to practice medicine and surgery and shall obligate the holder to comply with all requirements of such license. The visiting professor temporary license shall be valid only during the period in which the holder is employed by the university of Kansas school of medicine or by a licensed medical care facility described above, and such license shall be valid only for the practice of medicine and surgery which is required to perform the professorship.

(b) This section shall be a part of and supplemental to the Kansas healing arts act.

History: L. 1976, ch. 273, § 39; L. 1987, ch. 240, § 14.

65-28,101

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-28,101. Withholding or withdrawal of life-sustaining procedures; legislative finding and declaration. The legislature finds that adult persons have the fundamental right to control the decisions relating to the rendering of their own medical care, including the decision to have life-sustaining procedures withheld or withdrawn in instances of a terminal condition. In order that the rights of patients may be respected even after they are no longer able to participate actively in decisions about themselves, the legislature hereby declares that the laws of this state shall recognize the right of an adult person to make a written declaration instructing his

or her physician to withhold or withdraw life-sustaining procedures in the event of a terminal condition.

History: L. 1979, ch. 199, § 1.

65-28,102
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-28,102. Same; definitions. As used in this act:

(a) “Attending physician” means the physician selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.

(b) “Declaration” means a witnessed document in writing, voluntarily executed by the declarant in accordance with the requirements of K.S.A. 65-28,103.

(c) “Life-sustaining procedure” means any medical procedure or intervention which, when applied to a qualified patient, would serve only to prolong the dying process and where, in the judgment of the attending physician, death will occur whether or not such procedure or intervention is utilized. “Life-sustaining procedure” shall not include the administration of medication or the performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain.

(d) “Physician” means a person licensed to practice medicine and surgery by the state board of healing arts.

(e) “Qualified patient” means a patient who has executed a declaration in accordance with this act and who has been diagnosed and certified in writing to be afflicted with a terminal condition by two physicians who have personally examined the patient, one of whom shall be the attending physician.

History: L. 1979, ch. 199, § 2.

65-28,103
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-28,103. Same; declaration authorizing; effect during pregnancy of qualified patient; duty to notify attending physician; form of declaration; severability of directions.

(a) Any adult person may execute a declaration directing the withholding or withdrawal of life-sustaining procedures in a terminal condition. The declaration made pursuant to this act shall be: (1) In writing; (2) signed by the person making the declaration, or by another person in the declarant's presence and by the declarant's expressed direction; (3) dated; and (4)(A) signed in the presence of two or more witnesses at least 18 years of age neither of whom shall be the person who signed the declaration on behalf of and at the direction of the person making the declaration, related to the declarant by blood or marriage, entitled to any portion of the estate of the declarant according to the laws of intestate succession of this state or under any will of the declarant or codicil thereto, or directly financially responsible for declarant's medical care; or (B) acknowledged before a notary public. The declaration of a qualified patient diagnosed as pregnant by the attending physician shall have no effect during the course of the qualified patient's pregnancy.

(b) It shall be the responsibility of declarant to provide for notification to the declarant's attending physician of the existence of the declaration. An attending physician who is so notified shall make the declaration, or a copy of the declaration, a part of the declarant's medical records.

(c) The declaration shall be substantially in the following form, but in addition may include other specific directions. Should any of the other specific directions be held to be invalid, such invalidity shall not affect other directions of the declaration which can be given effect without the invalid direction, and to this end the directions in the declaration are severable.

DECLARATION

Declaration made this ___ day of ___ (month, year). I, _____, being of sound mind, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, do hereby declare:

If at any time I should have an incurable injury, disease, or illness certified to be a terminal condition by two physicians who have personally examined me, one of whom shall be my attending physician, and the physicians have determined that my death will occur whether or not life-sustaining procedures are utilized and where the application of life-sustaining procedures would serve only to artificially prolong the dying process, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care.

In the absence of my ability to give directions regarding the use of such life-sustaining procedures, it is my intention that this declaration shall be honored by my family and physician(s) as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences from such refusal.

I understand the full import of this declaration and I am emotionally and mentally competent to make this declaration.

Signed _____

City, County and State of Residence _____

The declarant has been personally known to me and I believe the declarant to be of sound mind. I did not sign the declarant's signature above for or at the direction of the declarant. I am not related to the declarant by blood or marriage, entitled to any portion of the estate of the declarant according to the laws of intestate succession or under any will of declarant or codicil thereto, or directly financially responsible for declarant's medical care.

Witness _____

Witness _____

(OR)

STATE OF _____)

_____ ss.

COUNTY OF _____)

This instrument was acknowledged before me on _____ (date) by _____ (name of person)

(Signature of notary public)

(Seal, if any)

My appointment expires: _____

Copies

History: L. 1979, ch. 199, § 3; L. 1994, ch. 224, § 2.

65-28,104

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-28,104. Same; revocation of declaration.

(a) A declaration may be revoked at any time by the declarant by any of the following methods:

(1) By being obliterated, burnt, torn, or otherwise destroyed or defaced in a manner indicating intention to cancel;

(2) by a written revocation of the declaration signed and dated by the declarant or person acting at the direction of the declarant; or

(3) by a verbal expression of the intent to revoke the declaration, in the presence of a witness eighteen (18) years of age or older who signs and dates a writing confirming that such expression of intent was made. Any verbal revocation shall become effective upon receipt by the attending physician of the above mentioned writing. The attending physician shall record in the patient's medical record the time, date and place of when he or she received notification of the revocation.

(b) There shall be no criminal or civil liability on the part of any person for failure to act upon a revocation made pursuant to this section unless that person has actual knowledge of the revocation.

History: L. 1979, ch. 199, § 4.

65-28,105

Chapter 65 – PUBLIC HEALTH

ARTICLE 28 – HEALING ARTS

65-28,105. Same; written certification and confirmation of declarant's terminal condition; effect of failure to comply. An attending physician who has been notified of the existence of a declaration executed under this act, without delay after the diagnosis of a terminal condition of the declarant, shall take the necessary steps to provide for written certification and confirmation of the declarant's terminal condition, so that declarant may be deemed to be a qualified patient under this act.

An attending physician who fails to comply with this section shall be deemed to have refused to comply with the declaration and shall be subject to subsection (a) of K.S.A. 65-28,107.

History: L. 1979, ch. 199, § 5.

65-28,106

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-28,106. Same; desires of qualified patient supersede declaration; presumptions relating to declaration; immunity from civil or criminal liability for persons acting pursuant to declaration. The desires of a qualified patient shall at all times supersede the effect of the declaration.

If the qualified patient is incompetent at the time of the decision to withhold or withdraw life-sustaining procedures, a declaration executed in accordance with K.S.A. 65-28,103 is presumed to be valid. For the purpose of this act, a physician or medical care facility may presume in the absence of actual notice to the contrary that an individual who executed a declaration was of sound mind when it was executed. The fact of an individual's having executed a declaration shall not be considered as an indication of a declarant's mental incompetency. Age of itself shall not be a bar to a determination of competency.

No physician, licensed health care professional, medical care facility or employee thereof who in good faith and pursuant to reasonable medical standards causes or participates in the withholding or withdrawing of life-sustaining procedures from a qualified patient pursuant to a declaration made in accordance with this act shall, as a result thereof, be subject to criminal or civil liability, or be found to have committed an act of unprofessional conduct.

History: L. 1979, ch. 199, § 6.

65-28,107

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-28,107. Same; attending physician's refusal to comply with declaration of qualified patient; transfer of patient; unprofessional conduct; unlawful acts.

(a) An attending physician who refuses to comply with the declaration of a qualified patient pursuant to this act shall effect the transfer of the qualified patient to another physician. Failure of an attending physician to comply with the declaration of a qualified patient and to effect the transfer of the qualified patient shall constitute unprofessional conduct as defined in K.S.A. 65-2837, and amendments thereto.

(b) Any person who willfully conceals, cancels, defaces, obliterates or damages the declaration of another without such declarant's consent or who falsifies or forges a revocation of the declaration of another shall be guilty of a class A person misdemeanor.

(c) Any person who falsifies or forges the declaration of another, or willfully conceals or withholds personal knowledge of the revocation of a declaration, with the intent to cause a withholding or withdrawal of life-sustaining procedures contrary to the wishes of the declarant, and thereby, because of such act, directly causes life-sustaining procedures to be withheld or withdrawn and death to be hastened, shall be guilty of a severity level 7 person felony.

History: L. 1979, ch. 199, § 7; L. 2007, ch. 198, § 10, May 24, 2007.

65-28,108

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-28,108. Same; construction and effect of act.

(a) The withholding or withdrawal of life-sustaining procedures from a qualified patient in accordance with the provisions of this act shall not, for any purpose, constitute a suicide and shall not constitute the crime of assisting suicide as defined in K.S.A. 21-5407, and amendments thereto.

(b) The making of a declaration pursuant to K.S.A. 65-28,103, and amendments thereto, shall not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated in any manner by the withholding or withdrawal of life-sustaining procedures from an insured qualified patient, notwithstanding any term of the policy to the contrary.

(c) No physician, medical care facility, or other health care provider, and no health care service plan, health maintenance organization, insurer issuing disability insurance, self-insured employee welfare benefit plan or nonprofit medical and hospital service corporation shall require any person to execute a declaration as a condition for being insured for, or receiving, health care services.

(d) Nothing in this act shall impair or supersede any legal right or legal responsibility which any person may have to effect the withholding or withdrawal of life-sustaining procedures in any lawful manner. In such respect the provisions of this act are cumulative.

(e) This act shall create no presumption concerning the intention of an individual who has not executed a declaration to consent to the use or withholding of life-sustaining procedures in the event of a terminal condition.

History: L. 1979, ch. 199, § 8; L. 1997, ch. 8, § 13; L. 2011, ch. 30, § 243, July 1, 2011.

65-28,109

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-28,109. Same; act not to be construed to condone or approve mercy killing or to permit other than natural process of dying. Nothing in this act shall be construed to condone, authorize or approve mercy killing or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying as provided in this act.

History: L. 1979, ch. 199, § 9.

65-28,110 to 65-28,120
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-28,110 to 65-28,120. Reserved

65-28,121
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-28,121. Reports by hospitals and others; administrative fines for failure to report.

(a) Subject to the provisions of subsection (c) of K.S.A. 65-4923, and amendments thereto, a medical care facility licensed under K.S.A. 65-425 *et seq.*, and amendments thereto, shall, and any person may, report under oath to the state board of healing arts any information such facility or person has which appears to show that a person licensed to practice the healing arts has committed an act which may be a ground for disciplinary action pursuant to K.S.A. 65-2836, and amendments thereto.

(b) A medical care facility shall inform the state board of healing arts whenever the practice privileges of any person licensed to practice the healing arts are terminated, suspended or restricted or whenever such privileges are voluntarily surrendered or limited for reasons relating to such person's professional competence.

(c) Any medical care facility which fails to report within 30 days after the receipt of information required to be reported by this section shall be reported by the state board of healing arts to the secretary of health and environment and shall be subject, after proper notice and an opportunity to be heard, to a civil fine assessed by the secretary of health and environment in an amount not exceeding \$1,000 per day for each day thereafter that the incident is not reported. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, 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.

History: L. 1983, ch. 213, § 2; L. 1986, ch. 229, § 46; L. 1988, ch. 255, § 1; L. 2001, ch. 5, § 240.

65-28,122
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS

65-28,122. Person licensed, registered or certified to practice a profession regulated by the board required to report knowledge of violation of 65-2836 to state board of healing arts; exceptions.

(a) Subject to the provisions of subsection (c) of K.S.A. 65-4923, and amendments thereto, any person licensed, registered or certified to practice any profession regulated by the board who possesses knowledge not subject to the physician-patient privilege that another person so licensed, registered or certified has committed any act enumerated under any practice act

administered by the board which may be a ground for disciplinary action shall immediately report such knowledge, under oath, to the state board of healing arts. A person licensed, registered or certified to practice any profession regulated by the board who possesses such knowledge shall reveal fully such knowledge upon official request of the state board of healing arts.

(b) As used in subsection (a), “knowledge” means familiarity because of direct involvement or observation of the incident.

(c) The provisions of subsection (a) shall not apply to any person licensed, registered or certified to practice any profession regulated by the board who is acting solely as a consultant or providing a review at the request of any person or party.

(d) This section shall be part of and supplemental to the Kansas healing arts act.

History: L. 1983, ch. 213, § 4; L. 1986, ch. 229, § 47; L. 2014, ch. 131, § 38, July 1, 2015.

65-28,123

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-28,123. Temporary education license; issuance; qualifications; conditions; fee.

(a) There is hereby created a designation of temporary education license. This license may be issued by the board to any person who: (1) Holds a degree from an accredited school of medicine or an accredited school of osteopathy; (2) is licensed to practice medicine and surgery in another state, territory, the District of Columbia or another country; and (3) is enrolled in a continuing medical education program conducted by the University of Kansas school of medicine or other continuing medical education program offered by a medical care facility affiliated with the university of Kansas school of medicine or offered by a medical care facility which is an accredited osteopathic hospital.

(b) The chief administrative officer of the university of Kansas school of medicine or of the medical care facility shall apply to the state board of healing arts on behalf of the person seeking a temporary education license upon forms approved by the board.

(c) The temporary education license shall confer upon the holder the right and privilege to practice medicine and surgery and shall obligate the holder to comply with all requirements of such license but no fee may be charged for the services of the holder. A person who holds a temporary education license under this section shall be subject to the provisions of the health care provider insurance availability act.

(d) The temporary education license shall be valid only during the period in which the holder is enrolled in a continuing medical education program offered by the university of Kansas school of medicine or other continuing medical education program offered by a medical care facility affiliated with the university of Kansas school of medicine or offered by a medical care facility which is an accredited osteopathic hospital, and such license shall be valid only for the practice of medicine and surgery required to fulfill the requirements of the continuing medical education program.

(e) The fee for a temporary education license shall be \$25.

(f) This section shall be part of and supplemental to the Kansas healing arts act.

History: L. 1989, ch. 183, § 1.

65-28,124

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-28,124. Visiting clinical professor license; issuance; qualifications; practice limitations; renewal; continuing education.

(a) There is hereby created a designation of visiting clinical professor license which may be issued by the board to a person who is qualified for a license for the practice of medicine and surgery on an active basis under the Kansas healing arts act. The application for a visiting clinical professor license shall be made to the board upon forms approved by the board and shall be accompanied with a statement from the chief administrative officer of the university of Kansas school of medicine at the university of Kansas medical center stating that the person is under contract with the university of Kansas medical center or one of the affiliated private practice foundations of the university of Kansas medical center to provide patient care and clinical teaching at the university of Kansas medical center or at one of the affiliated private practice foundations at the university of Kansas medical center and that the information on the application has been verified to be correct. Application for a visiting clinical professor license and for any renewal or reinstatement thereof shall be also accompanied by proof that the person has the professional liability insurance that would be required if the person were defined as a health care provider by subsection (f) of K.S.A. 40-3401 and amendments thereto in an amount of not less than the basic coverage specified under subsection (a) of K.S.A. 40-3402 and amendments thereto plus an amount of not less than the amount specified under OPTION 3 of subsection (l) of K.S.A. 40-3403 and amendments thereto, and by an affidavit that the person will maintain this professional liability insurance during the time that the visiting clinical professor license is valid. A visiting clinical professor license shall be valid only for the practice of medicine and surgery at the university of Kansas medical center or at one of the affiliated private practice foundations at the university of Kansas medical center. Physicians who are defined as full time physician faculty employed by the university of Kansas medical center under subsection (s) of K.S.A. 40-3401 and amendments thereto are not eligible for a visiting clinical professor license.

(b) The provisions of subsections (a), (d) and (e) of K.S.A. 65-2809 and amendments thereto relating to expiration and renewal of a license and the provisions of subsection (b) of K.S.A. 65-2809 and amendments thereto relating to continuing education requirements shall be applicable to a visiting clinical professor license issued under this section.

(c) This section shall be a part of and supplemental to the Kansas healing arts act.

History: L. 1992, ch. 156, § 1.

**65-28,125
Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-28,125. Limited permit to practice a branch of the healing arts; issuance; qualifications; practice limitations; renewal.

(a) There is hereby created a designation of limited permit to practice a branch of the healing arts which may be issued by the board to a person who holds a degree from a healing arts school; is duly licensed and in good standing to practice the same branch of the healing arts in another state, territory, or the District of Columbia; has made proper application upon forms provided by

the board; has paid the prescribed fee established under K.S.A. 65-2852 and amendments thereto; has not previously been licensed in this state; and will provide professional services in this state only as a charitable health care provider as defined under K.S.A. 75-6102 and amendments thereto.

(b) The limited permit issued under subsection (a), when issued, shall authorize the person receiving the permit to practice the appropriate branch of the healing arts as a charitable health care provider but shall not authorize the person receiving the permit to otherwise engage in the practice of the healing arts in this state.

(c) The provisions of subsections (a), (d) and (e) of K.S.A. 65-2809 and amendments thereto relating to expiration, renewal and reinstatement of a license shall be applicable to a limited permit issued under this section.

(d) This section shall be a part of and supplemental to the Kansas healing arts act.

History: L. 1995, ch. 82, § 5.

65-28,126

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-28,126. Changes in licensee's mailing and practice addresses; notice to board; penalties. (a) It shall be the duty of each licensee to notify the state board of healing arts in writing within 30 days of any changes in the licensee's mailing and practice addresses.

(b) A penalty in the amount not to exceed \$100 for the first violation of subsection (a) and \$150 for each subsequent violation of subsection (a) may be assessed by the state board of healing arts under the provisions of K.S.A. 65-2863a, and amendments thereto.

(c) This section shall be part of and supplemental to the Kansas healing arts act.

History: L. 1995, ch. 82, § 6; L. 2014, ch. 131, § 39, July 1, 2015.

65-28,127

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-28,127. Licensees who direct, supervise, order, refer, accept responsibility for, enter into practice protocols with or delegate acts which constitute practice of healing arts to others; requirements and limitations; construction of section.

(a) Every supervising or responsible licensee who directs, supervises, orders, refers, accepts responsibility for, enters into written agreements or practice protocols with, or who delegates acts which constitute the practice of the healing arts to other persons shall:

(1) Be actively engaged in the practice of the healing arts in Kansas;

(2) review and keep current any required written agreements or practice protocols between the supervising or responsible licensee and such persons, as may be determined by the board;

(3) direct, supervise, order, refer, enter into a written agreement or practice protocol with, or delegate to such persons only those acts and functions which the supervising or responsible licensee knows or has reason to believe can be competently performed by such person and is not in violation of any other statute or regulation;

(4) direct, supervise, order, refer, enter into a written agreement or practice protocol with, or delegate to other persons only those acts and functions which are within the normal and customary specialty, competence and lawful practice of the supervising or responsible licensee;

(5) provide for a qualified, substitute licensee who accepts responsibility for the direction, supervision, delegation and written agreements or practice protocols with such persons when the supervising or responsible licensee is temporarily absent; and

(6) comply with all rules and regulations of the board establishing limits and conditions on the delegation and supervision of services constituting the practice of medicine and surgery.

(b) “Responsible licensee” means a person licensed by the state board of healing arts to practice medicine and surgery or chiropractic who has accepted responsibility for the actions of persons who perform acts pursuant to written agreements or practice protocols with, or at the order of, or referral, direction, supervision or delegation from such responsible licensee.

(c) Except as otherwise provided by rules and regulations of the board implementing this section, the physician assistant licensure act shall govern the direction and supervision of physician assistants by persons licensed by the state board of healing arts to practice medicine and surgery.

(d) Nothing in subsection (a)(4) shall be construed to prohibit a person licensed to practice medicine and surgery from ordering, authorizing or directing anesthesia care by a registered nurse anesthetist pursuant to K.S.A. 65-1158, and amendments thereto.

(e) Nothing in this section shall be construed to prohibit a person licensed to practice medicine and surgery from ordering, authorizing or directing physical therapy services pursuant to K.S.A. 65-2901 et seq., and amendments thereto.

(f) Nothing in this section shall be construed to prohibit a person licensed to practice medicine and surgery from entering into a co-management relationship with an optometrist pursuant to K.S.A. 65-1501 et seq., and amendments thereto.

(g) The board may adopt rules and regulations establishing limits and conditions on the delegation and supervision of services constituting the practice of medicine and surgery.

(h) As used in this section, “supervising physician” shall have the meaning ascribed thereto in K.S.A. 65-28a02, and amendments thereto.

(i) This section shall be part of and supplemental to the Kansas healing arts act.

History: L. 1998, ch. 170, § 1; L. 2000, ch. 162, § 20; L. 2004, ch. 117, § 6; L. 2009, ch. 133, § 2, July 1, 2009; L. 2014, ch. 131, § 40, July 1, 2015; L. 2015, ch. 46, § 8, July 1, 2015.

65-28,128

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-28,128. Abandonment of health care records; court jurisdiction; procedure; appointment of custodian of records, authority and duties, liability, physician-patient privilege; access to records.

(a) As used in this section:

(1) “Health care provider” means a person licensed to practice any branch of the healing arts by the state board of healing arts, a podiatrist licensed by the state board of healing arts, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a Kansas limited liability company organized for the

purpose of rendering professional services by its members who are health care providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is organized, a partnership of persons who are health care providers under this subsection, a Kansas not-for-profit corporation organized for the purpose of rendering professional services by persons who are health care providers as defined by this subsection.

(2) "Board" means the state board of healing arts.

(b) The board shall immediately petition the court for appointment of a custodian of a health care provider's health care records if the board is notified or has independent knowledge that a health care provider: (1) Has abandoned health care records, abandoned the health care provider's practice, had the health care provider's license suspended or revoked, had a license canceled or dissolved a business entity and the health care provider is unable or refuses to allow patients access to their health care records as authorized by law or (2) has died and the health care provider's patients are unable to access their health care records as authorized by law. The petition shall nominate a person or business entity who is capable and willing to serve as the custodian of health care records. The district court shall expedite an action brought by the board. The court's findings may be made solely on a review of the documentation or affidavits attached to the petition and without hearing any testimonial evidence. The district court's review may be made ex parte without delay or notice of any kind. An appellate court shall expedite review of a district court's findings as provided in this section.

(c) Notice of hearing on the petition shall be served on the health care provider at the last known address and if the health care provider is a business entity, on the registered agent of such business entity. If the health care provider has died and an administrator of the estate has been appointed, notice shall be served on such administrator. Notice shall be served as in civil cases.

(d) At the hearing, if the court finds the health care records have been abandoned, the court shall appoint a person or business entity as the custodian of the health care records and responsible for the safekeeping thereof, and shall order the delivery and possession of the health care records to the appointed custodian of health care records. The court may make all additional orders necessary to protect the health care provider's property interests in the records.

(e) The record's custodian:

(1) Shall be a fiduciary and act in the place of the health care provider to furnish to the patient or the patient's authorized representative copies of health care records, pursuant to K.S.A. 65-4970 through 65-4973, and amendments thereto, and shall be authorized to collect any fee for disclosure authorized by K.S.A. 65-4971, and amendments thereto;

(2) shall have exclusive possession of the health care records until further order of the court;

(3) may destroy the records in the ordinary course of business when the health care provider's duty to maintain such records has ceased;

(4) shall act in the place of the health care provider to maintain confidentiality of records and shall be liable if the custodian maliciously breeches the confidentiality;

(5) shall not guarantee or be liable for the accuracy or completeness of the health care records;

(6) shall not be liable in a civil action for damages or other relief arising from the performance of the responsibilities set forth in this section except upon clear and convincing evidence that the custodian of records maliciously altered or destroyed health care records; and

(7) shall act as the health care provider for the purposes of physician-patient privilege, pursuant to K.S.A. 60-427, and amendments thereto, and shall assert any privilege acting as the physician.

(f) At any time after the appointment of a custodian, the health care provider, administrator of the health care provider's estate or board may petition the court to amend, modify or dissolve the order concerning the custodian of health care records. The court shall amend the order when it reasonably appears the health care provider or administrator of the health care provider's estate is prepared to assume the duties of the health care provider relating to the records.

(g) Nothing in this act shall prohibit the health care provider or the health care provider's authorized representative from gaining access and copying a record created by the health care provider.

(h) This section shall be part of and supplemental to the Kansas healing arts act.

History: L. 2004, ch. 117, § 1; L. 2009, ch. 133, § 3, July 1, 2009.

65-28,129

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-28,129. State board of healing arts; fingerprinting and criminal history.

(a) As part of an original application for or reinstatement of any license, registration, permit or certificate or in connection with any investigation of any holder of a license, registration, permit or certificate, the state board of healing arts may require a person to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdiction. The state board of healing arts is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The state board of healing arts may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license, registration, permit or certificate.

(b) Local and state law enforcement officers and agencies shall assist the state board of healing arts in taking and processing of fingerprints of applicants for and holders of any license, registration, permit or certificate and shall release all records of adult convictions and nonconvictions and adult convictions or adjudications of another state or country to the state board of healing arts.

(c) The state board of healing arts may fix and collect a fee as may be required by the board in an amount necessary to reimburse the board for the cost of fingerprinting and the criminal history record check. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the healing arts fee fund.

(d) This section shall be part of and supplemental to the Kansas healing arts act.

History: L. 2008, ch. 154, § 2, July 1, 2008.

65-28,130

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-28,130. Same; graduated sanctions; reference guide.

(a) The board shall adopt a formal list of graduated sanctions for violations of the Kansas healing arts act which may be used by the board as a reference guide for the imposition of each level of sanction.

(b) This section shall be part of and supplemental to the Kansas healing arts act.

History: L. 2008, ch. 154, § 3, July 1, 2008.

65-28,131

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-28,131. Same; website; licensee information.

(a) The board shall make available, unless otherwise prohibited by law, on a searchable website which shall be accessible by the public, the following information, which has been reported to the board, regarding licensees:

(1) The licensee's full name, business address, telephone number, license number, type, status and expiration date;

(2) the licensee's practice specialty, if any, and board certifications, if any;

(3) any public disciplinary action taken against the licensee by the board or by the licensing agency of any state or other country in which the licensee is currently licensed or has been licensed in the past;

(4) any involuntary limitation, denial, revocation or suspension of the licensee's staff membership or clinical privileges at any hospital or other health care facility, and the name of the hospital or facility, the date the action was taken, a description of the action, including any terms and conditions of the action and whether the licensee has fulfilled the conditions of the action;

(5) any involuntary surrender of the licensee's drug enforcement administration registration; and

(6) any final criminal conviction resulting from the commission of a felony in any state or country.

(b) Any person applying for an active license, including a renewal or reinstatement license, shall provide the information required in subsection (a) on forms or in a manner determined by the board by rule and regulation.

(c) At the time of licensure or renewal, a licensee may add a statement to such licensee's profile as it appears on the website created herein. Such statement may provide further explanation of any disciplinary information contained in such licensee's profile.

(d) This section shall be part of and supplemental to the healing arts act.

History: L. 2008, ch. 154, § 4, July 1, 2008; L. 2014, ch. 131, § 59, July 1, 2015.

65-28,132

**Chapter 65 – PUBLIC HEALTH
ARTICLE 28 – HEALING ARTS**

65-28,132. Medical records maintenance trust fund; authorized uses of moneys credited to fund; rules and regulations.

(a) For the purpose of paying for storage, maintenance and transfer of medical records by the board of healing arts, there is hereby established the medical record maintenance trust fund. All

payments and disbursements from the medical records maintenance trust fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive director of the board or by any person designated by the board.

(b) The board may certify to the director of accounts and reports that a specific amount, but not more than \$10, of each fee for the issuance or renewal of a license be credited to the medical records maintenance trust fund until such time the balance exceeds \$100,000. At any time the balance in the medical records trust fund falls below \$100,000, the board shall certify again to the director of accounts and reports that a specific amount, but not to exceed \$10, of each fee for the issuance or renewal of a license be deposited in the state treasury and credited to the medical records maintenance trust fund. The board may order a licensee to reimburse the amount of expenses incurred by the board in a case when such licensee failed to designate a custodian or provide for the storage, maintenance, transfer and access to such licensee's medical records upon becoming inactive. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the medical records maintenance trust fund. All funds deposited and credited to the medical records maintenance fund shall be expended for the purposes set forth in this section.

(c) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the medical records maintenance trust fund interest earnings based on: (1) The average daily balance of moneys in the medical records maintenance trust fund for the preceding month; and (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) The board of healing arts shall adopt rules and regulations establishing the procedures and standards necessary to implement the provisions of this section within one year of the effective date of this section.

(e) This section shall be part of and supplemental to the Kansas healing arts act.

History: L. 2009, ch. 133, § 1, July 1, 2009; L. 2014, ch. 131, § 41, July 1, 2015.

65-28,133

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-28,133. Interstate medical licensure compact. This act shall be known and may be cited as the interstate medical licensure compact.

INTERSTATE MEDICAL LICENSURE COMPACT

SECTION 1

PURPOSE

In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the interstate medical licensure compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards, provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The compact creates another pathway for licensure and does not otherwise change a state's existing medical practice act. The compact also adopts

the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the compact.

SECTION 2

DEFINITIONS

In this compact:

(a) “Bylaws” means those bylaws established by the interstate commission pursuant to section 11 for its governance, or for directing and controlling its actions and conduct.

(b) “Commissioner” means the voting representative appointed by each member board pursuant to section 11.

(c) “Conviction” means a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board.

(d) “Expedited license” means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the compact.

(e) “Interstate commission” means the interstate commission created pursuant to section 11.

(f) “License” means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization.

(g) “Medical practice act” means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state.

(h) “Member board” means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation and education of physicians as directed by the state government.

(i) “Member state” means a state that has enacted the compact.

(j) “Practice of medicine” means the clinical prevention, diagnosis or treatment of human disease, injury or condition requiring a physician to obtain and maintain a license in compliance with the medical practice act of a member state.

(k) “Physician” means any person who:

(1) Is a graduate of a medical school accredited by the liaison committee on medical education, the commission on osteopathic college accreditation or a medical school listed in the international medical education directory or its equivalent;

(2) passed each component of the United States medical licensing examination (USMLE) or the comprehensive osteopathic medical licensing examination (COMLEX-USA) within three attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;

(3) successfully completed graduate medical education approved by the accreditation council for graduate medical education or the American osteopathic association;

(4) holds specialty certification or a time-unlimited specialty certificate recognized by the American board of medical specialties or the American osteopathic association's bureau of osteopathic specialists;

(5) possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;

(6) has never been convicted, received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction;

(7) has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to non-payment of fees related to a license;

(8) has never had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration; and

(9) is not under active investigation by a licensing agency or law enforcement authority in any state, federal or foreign jurisdiction.

(l) "Offense" means a felony, gross misdemeanor or crime of moral turpitude.

(m) "Rule" means a written statement by the interstate commission promulgated pursuant to section 12 of the compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural or practice requirement of the interstate commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal or suspension of an existing rule.

(n) "State" means any state, commonwealth, district or territory of the United States.

(o) "State of principal license" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the compact.

SECTION 3

ELIGIBILITY

(a) A physician must meet the eligibility requirements as defined in section 2(k) to receive an expedited license under the terms and provisions of the compact.

(b) A physician who does not meet the requirements of section 2(k) may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the compact, relating to the issuance of a license to practice medicine in that state.

SECTION 4

DESIGNATION OF STATE OF PRINCIPAL LICENSE

(a) A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:

(1) The state of primary residence for the physician;

(2) the state where at least 25% of the practice of medicine occurs;

(3) the location of the physician's employer; or

(4) if no state qualifies under subsection (a)(1), subsection (a)(2) or subsection (a)(3), the state designated as state of residence for purpose of federal income tax.

(b) A physician may redesignate a member state as state of principal license at any time, as long as the state meets the requirements in subsection (a).

(c) The interstate commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

SECTION 5

APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE

(a) A physician seeking licensure through the compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

(b) Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the interstate commission.

(1) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination and other qualifications as determined by the interstate commission through rule, shall not be subject to additional primary source verification where already primary source verified by the state of principal license.

(2) The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the federal bureau of investigation, with the exception of federal employees who have suitability determination in accordance with 5 C.F.R. § 731.202.

(3) Appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the law of that state.

(c) Upon verification in subsection (b), physicians eligible for an expedited license shall complete the registration process established by the interstate commission to receive a license in a member state selected pursuant to subsection (a), including the payment of any applicable fees.

(d) After receiving verification of eligibility under subsection (b) and any fees under subsection (c), a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the medical practice act and all applicable laws and regulations of the issuing member board and member state.

(e) An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

(f) An expedited license obtained through the compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a non-disciplinary reason, without redesignation of a new state of principal licensure.

(g) The interstate commission is authorized to develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

SECTION 6

FEES FOR EXPEDITED LICENSURE

(a) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the compact.

(b) The interstate commission is authorized to develop rules regarding fees for expedited licenses.

SECTION 7

RENEWAL AND CONTINUED PARTICIPATION

(a) A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the interstate commission if the physician:

- (1) Maintains a full and unrestricted license in a state of principal license;
- (2) has not been convicted, received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction;
- (3) has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to non-payment of fees related to a license; and
- (4) has not had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration.

(b) Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

(c) The interstate commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.

(d) Upon receipt of any renewal fees collected in subsection (c), a member board shall renew the physician's license.

(e) Physician information collected by the interstate commission during the renewal process will be distributed to all member boards.

(f) The interstate commission is authorized to develop rules to address renewal of licenses obtained through the compact.

SECTION 8

COORDINATED INFORMATION SYSTEM

(a) The interstate commission shall establish a database of all physicians licensed, or who have applied for licensure, under section 5.

(b) Notwithstanding any other provision of law, member boards shall report to the interstate commission any public action or complaints against a licensed physician who has applied or received an expedited license through the compact.

(c) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the interstate commission.

(d) Member boards may report any non-public complaint, disciplinary or investigatory information not required by subsection (c) to the interstate commission.

(e) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.

(f) All information provided to the interstate commission or distributed by member boards shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.

(g) The interstate commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

SECTION 9

JOINT INVESTIGATIONS

- (a) Licensure and disciplinary records of physicians are deemed investigative.
- (b) In addition to the authority granted to a member board by its respective medical practice act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.
- (c) A subpoena issued by a member state shall be enforceable in other member states.
- (d) Member boards may share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the compact.
- (e) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

SECTION 10

DISCIPLINARY ACTIONS

- (a) Any disciplinary action taken by any member board against a physician licensed through the compact shall be deemed unprofessional conduct, which may be subject to discipline by other member boards, in addition to any violation of the medical practice act or regulations in that state.
- (b) If a license granted to a physician by the member board in the state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the medical practice act of that state.
- (c) If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and:
 - (1) Impose the same or lesser sanctions against the physician so long as such sanctions are consistent with the medical practice act of that state; or
 - (2) pursue separate disciplinary action against the physician under its respective medical practice act, regardless of the action taken in other member states.
- (d) If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended, then any license issued to the physician by any other member board shall be suspended, automatically and immediately without further action necessary by the other member boards, for 90 days upon entry of the order by the disciplining board, to permit the member boards to investigate the basis for the action under the medical practice act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the 90-day suspension period in a manner consistent with the medical practice act of that state.

SECTION 11

INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION

- (a) The member states hereby create the interstate medical licensure compact commission.

(b) The purpose of the interstate commission is the administration of the interstate medical licensure compact, which is a discretionary state function.

(c) The interstate commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth in the compact, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the compact.

(d) The interstate commission shall consist of two voting representatives appointed by each member state who shall serve as commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one representative from each member board. A commissioner shall be:

- (1) An allopathic or osteopathic physician appointed to a member board;
- (2) an executive director, executive secretary or similar executive of a member board; or
- (3) a member of the public appointed to a member board.

(e) The interstate commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

(f) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication.

(g) Each commissioner participating at a meeting of the interstate commission is entitled to one vote. A majority of commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission. A commissioner shall not delegate a vote to another commissioner. In the absence of its commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of subsection (d).

(h) The interstate commission shall provide public notice of all meetings and all meetings shall be open to the public. The interstate commission may close a meeting, in full or in portion, where it determines by a two-thirds vote of the commissioners present that an open meeting would be likely to:

- (1) Relate solely to the internal personnel practices and procedures of the interstate commission;
- (2) discuss matters specifically exempted from disclosure by federal statute;
- (3) discuss trade secrets, commercial or financial information that is privileged or confidential;
- (4) involve accusing a person of a crime, or formally censuring a person;
- (5) discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- (6) discuss investigative records compiled for law enforcement purposes; or
- (7) specifically relate to the participation in a civil action or other legal proceeding.

(i) The interstate commission shall keep minutes which shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.

(j) The interstate commission shall make its information and official records, to the extent not otherwise designated in the compact or by its rules, available to the public for inspection.

(k) The interstate commission shall establish an executive committee, which shall include officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. When acting on behalf of the interstate commission, the executive committee shall oversee the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as necessary.

(l) The interstate commission may establish other committees for governance and administration of the compact.

SECTION 12

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the duty and power to:

- (a) Oversee and maintain the administration of the compact;
- (b) promulgate rules which shall be binding to the extent and in the manner provided for in the compact;
- (c) issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the compact, its bylaws, rules and actions;
- (d) enforce compliance with compact provisions, the rules promulgated by the interstate commission and the bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process;
- (e) establish and appoint committees including, but not limited to, an executive committee as required by section 11, which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties;
- (f) pay, or provide for the payment of the expenses related to the establishment, organization and ongoing activities of the interstate commission;
- (g) establish and maintain one or more offices;
- (h) borrow, accept, hire or contract for services of personnel;
- (i) purchase and maintain insurance and bonds;
- (j) employ an executive director who shall have such powers to employ, select or appoint employees, agents or consultants, and to determine their qualifications, define their duties and fix their compensation;
- (k) establish personnel policies and programs relating to conflicts of interest, rates of compensation and qualifications of personnel;
- (l) accept donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of it in a manner consistent with the conflict of interest policies established by the interstate commission;
- (m) lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed;
- (n) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;
- (o) establish a budget and make expenditures;
- (p) adopt a seal and bylaws governing the management and operation of the interstate commission;

(q) report annually to the legislatures and governors of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the interstate commission;

(r) coordinate education, training and public awareness regarding the compact, its implementation and its operation;

(s) maintain records in accordance with the bylaws;

(t) seek and obtain trademarks, copyrights and patents; and

(u) perform such functions as may be necessary or appropriate to achieve the purposes of the compact.

SECTION 13

FINANCE POWERS

(a) The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

(b) The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same.

(c) The interstate commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.

(d) The interstate commission shall be subject to a yearly financial audit conducted by a certified or licensed public accountant and the report of the audit shall be included in the annual report of the interstate commission.

SECTION 14

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(a) The interstate commission shall, by a majority of commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact within 12 months of the first interstate commission meeting.

(b) The interstate commission shall elect or appoint annually from among its commissioners a chairperson, a vice-chairperson and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission.

(c) Officers selected in subsection (b) shall serve without remuneration from the interstate commission.

(d) The officers and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties or responsibilities; provided that such person shall not be protected from suit or liability for

damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of such person.

(1) The liability of the executive director and employees of the interstate commission or representatives of the interstate commission, acting within the scope of such person's employment or duties for acts, errors or omissions occurring within such person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of such person.

(2) The interstate commission shall defend the executive director, its employees, and subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(3) To the extent not covered by the state involved, member state or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against such persons arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

SECTION 15

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(a) The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the interstate commission shall be invalid and have no force or effect.

(b) Rules deemed appropriate for the operations of the interstate commission shall be made pursuant to a rulemaking process that substantially conforms to the "model state administrative procedure act" of 2010, and subsequent amendments thereto.

(c) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States district court for the District of Columbia or the federal district where the interstate commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not

find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the interstate commission.

SECTION 16

OVERSIGHT OF INTERSTATE COMPACT

(a) The executive, legislative and judicial branches of state government in each member state shall enforce the compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of the compact and the rules promulgated hereunder shall have standing as statutory law, but shall not override existing state authority to regulate the practice of medicine.

(b) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the compact, which may affect the powers, responsibilities or actions of the interstate commission.

(c) The interstate commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, the compact or promulgated rules.

SECTION 17

ENFORCEMENT OF INTERSTATE COMPACT

(a) The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact.

(b) The interstate commission may, by majority vote of the commissioners, initiate legal action in the United States district court for the District of Columbia, or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

(c) The remedies herein shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

SECTION 18

DEFAULT PROCEDURES

(a) The grounds for default include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the compact, or the rules and bylaws of the interstate commission promulgated under the compact.

(b) If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the compact, or the bylaws or promulgated rules, the interstate commission shall:

(1) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the interstate commission. The

interstate commission shall specify the conditions by which the defaulting state must cure its default; and

(2) provide remedial training and specific technical assistance regarding the default.

(c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the commissioners and all rights, privileges and benefits conferred by the compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(d) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(e) The interstate commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state, or the withdrawal of a member state.

(f) The member state, which has been terminated is responsible for all dues, obligations, and liabilities incurred through the effective date of termination including obligations, the performance of which extends beyond the effective date of termination.

(g) The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

(h) The defaulting state may appeal the action of the interstate commission by petitioning the United States district court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

SECTION 19

DISPUTE RESOLUTION

(a) The interstate commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states or member boards.

(b) The interstate commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

SECTION 20

MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

(a) Any state is eligible to become a member state of the compact.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than seven states.¹ Thereafter, it shall become effective and binding on a state upon enactment of the compact into law by that state.

(c) The governors of non-member states, or their designees, shall be invited to participate in the activities of the interstate commission on a non-voting basis prior to adoption of the compact by all states.

(d) The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

SECTION 21

WITHDRAWAL

(a) Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(b) Withdrawal from the compact shall be by the enactment of a statute repealing the same, but shall not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

(c) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing the compact in the withdrawing state.

(d) The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt of notice provided under subsection (c).

(e) The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

(f) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

(g) The interstate commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

SECTION 22

DISSOLUTION

(a) The compact shall dissolve effective upon the date of the withdrawal or default of the member state, which reduces the membership in the compact to one member state.

(b) Upon the dissolution of the compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

SECTION 23

SEVERABILITY AND CONSTRUCTION

(a) The provisions of the compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of the compact shall be liberally construed to effectuate its purposes.

(c) Nothing in the compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

SECTION 24

BINDING EFFECT OF COMPACT AND OTHER LAWS

(a) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

(b) All laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(c) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(d) All agreements between the interstate commission and the member states are binding in accordance with their terms.

(e) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

History: L. 2016, ch. 92, § 87, eff. July 1, 2016.

65-28,134

Chapter 65 – PUBLIC HEALTH ARTICLE 28 – HEALING ARTS

65-28,134. Authorization for certain business entities to hire licensees of the board; information required; renewal; fees; responsibility for conduct or acts of agents or employees; definitions.

<Text of section effective March 1, 2020>

(a) Notwithstanding any other provision of law, a business entity issued a certificate of authorization by the board may employ or contract with one or more licensees of the board for the purpose of providing professional services for which such licensees hold a valid license issued by the board. Nothing in the Kansas healing arts act shall be construed to prohibit a licensee from being employed by or under contract to provide professional services for a business entity granted a certificate of authorization pursuant to this section. Medical care facilities, as defined by K.S.A. 65-425, and amendments thereto, that are in compliance with department of health and environment licensure requirements are exempt from the provisions of this section. Nothing contained herein shall be construed to allow a corporation to practice optometry or dentistry, except as otherwise provided in K.S.A. 17-2706, and amendments thereto.

(b)(1) A business entity may apply to the state board of healing arts for a certificate of authorization, on a form and in a manner prescribed by the state board of healing arts, and shall include the following information:

(A) The name of the business entity;

(B) a list of the names of the owners and officers of the business entity;

(C) a description of the apportionment of liability of all partners or owners, if the business entity is organized as a limited partnership or a limited liability company;

(D) a list of each responsible official if the business entity is organized as a governmental unit; and

(E) a list of all licensed physicians and chiropractors to be hired by the business entity.

(2) As a condition of certification, a business entity shall be required to provide the state board of healing arts evidence of the following:

(A) The address of the business entity;

(B) a city or county occupational license; and

(C) licensure of all physicians and chiropractors to be employed by the business entity.

(3) A business entity applying for certification shall remit a fee set by the state board of healing arts through rules and regulations, not to exceed \$1,000.

(c)(1) If the state board of healing arts finds that such business entity is in compliance with all of the requirements of this section, the state board of healing arts shall issue a certificate of authorization to such business entity designating the business entity as authorized to employ individuals licensed to practice medicine and surgery or chiropractic, as applicable.

(2) A certificate of authorization shall be renewed annually and accompanied by a fee to be fixed by the state board of healing arts. The renewal fee shall be accompanied by a form prescribed by the state board of healing arts.

(d) Except as provided in K.S.A. 40-3403, and amendments thereto, no business entity issued a certificate of authorization under this section shall be relieved of responsibility for the conduct or acts of its agents or employees by reason of its compliance with the provisions of this section, nor shall any individual licensed to practice the healing arts be relieved of responsibility and liability for services performed by reason of employment or relationship with such business entity. Nothing in this section shall exempt any business entity from the provisions of any other law applicable to the business entity.

(e) A business entity issued a certificate of authorization under this section shall not:

(1) In any manner, directly or indirectly, interfere with, diminish, restrict, substitute its judgment for or otherwise exercise control over the independent professional judgment and decisions of its employed licensees as it relates to the care of patients; or

(2) prohibit or restrict any employed licensee from discussing with or disclosing to any patient or other individual any medically appropriate healthcare information that such licensee deems appropriate regarding the nature of treatment options, the risks or alternatives thereto, the process used or the decision made by the business entity to approve or deny healthcare services, the availability of alternate therapies, consultations or tests, or from advocating on behalf of the patient.

(f) As used in this section:

(1)(A) "Business entity" means an employer located in Kansas that utilizes electronic medical records and offers medicine and surgery or chiropractic services solely for its employees and the dependents of such employees at the employer's work site; an organization that is licensed to sell accident and sickness insurance in the state that is also a mutual or non-profit health carrier that utilizes electronic medical records, or a wholly owned subsidiary of such organization that provides medical services solely for the organization's enrollees and dependents of such enrollees; or an information technology company that designs, utilizes and provides electronic medical records for businesses and worksite medical clinics for employers located in Kansas and offers medicine and surgery or chiropractic services solely to its employees and the dependents of such employees at the employer's work sites in Kansas.

(B) “Business entity” does not include medical care facilities under K.S.A. 65-425, and amendments thereto, corporations licensed under K.S.A. 40-3214, and amendments thereto, and professional corporations organized pursuant to the professional corporation law of Kansas.

(2) “Physician” means a person licensed by the state board of healing arts to practice medicine and surgery.

(3) “Licensee” means a person licensed by the state board of healing arts to practice medicine and surgery or chiropractic and whose license is in a full active status and has not been revoked, suspended, limited or placed under probationary conditions.

(g) A business entity's certificate of authorization may be revoked, suspended or limited, may be publicly censured or placed under probationary conditions, or an application for a certificate or for reinstatement of a certificate may be denied upon a finding of the existence of any of the following grounds:

(1) The business entity has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated certificate.

(2) The business entity has willfully or repeatedly violated this act, the pharmacy act of the state of Kansas or the uniform controlled substances act or any rules and regulations adopted pursuant thereto, or any rules and regulations of the secretary of health and environment that are relevant to the practice of the healing arts.

(3) The business entity has had a certificate, or equivalent authorization, to employ licensees to practice the healing arts revoked, suspended or limited, has been censured or has had other disciplinary action taken or has had an application for a certificate or license denied, by the proper licensing authority of another state.

(4) The business entity has violated any lawful rule and regulation promulgated by the board.

(5) The business entity has failed to report or reveal the knowledge required to be reported or revealed under K.S.A. 65-28,122, and amendments thereto.

(6) The business entity has failed to report to the board any adverse action taken against the business entity by another state or licensing jurisdiction, a governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action under this section.

(7) The business entity has engaged in conduct likely to deceive, defraud or harm the public.

(8) The business entity has engaged in conduct that violates patient trust and exploits the licensee-patient relationship for corporate gain.

(9) The business entity has used any false, fraudulent or deceptive statement in any document connected with the practice of the healing arts, including the intentional falsifying or fraudulent altering of a patient healthcare record.

(10) The business entity has failed to furnish to the board, or its investigators or representatives, any information legally requested by the board.

(11) The business entity has had, or failed to report to the board, any adverse judgment, award or settlement against the business entity resulting from a medical liability claim related to acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action under this section.

(12) The business entity has been convicted of a felony or class A misdemeanor, or substantially similar offense in another jurisdiction, related to the practice of the healing arts.

(h) The state board of healing arts shall adopt all rules and regulations as necessary to implement and administer the provisions of this section.

(i) For the purposes of determining the impact on the healthcare stabilization fund of requiring business entities to comply with the provisions of the healthcare provider insurance availability act, the healthcare stabilization fund is hereby directed to conduct such actuarial and operational studies as are necessary to determine such impact, and to report the findings to the legislature on or before January 1, 2020.

(j) This section shall be a part of and supplemental to the Kansas healing arts act.

(k) The provisions of this section shall take effect on and after March 1, 2020.

History: L. 2019, ch. 52, § 2, eff. July 1, 2019.

ARTICLES 1 through 28. – HEALING ARTS

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- [100-1-1.](#) Seals.
- [100-1-2.](#) Revoked.
- [100-1-3.](#) Not in active use.

Article 2. – OFFICERS

- [100-2-1.](#) Revoked.
- [100-2-2.](#) Term.
- [100-2-3.](#) President; duties.
- [100-2-4.](#) Vice-president; duties.
- [100-2-5.](#) Revoked.
- [100-2-6.](#) Revoked.

Article 3. – COMMITTEES

- [100-3-1.](#) Appointment.

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- [100-4-1.](#) Causes.
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- [100-7-1.](#) Designated examinations for medicine and surgery and osteopathic medicine and surgery; passing grade.
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- [100-8-1.](#) Issuance; requirement.
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- [100-9-1.](#) Visiting professor license.
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- [100-10-1.](#) Revoked.

Article 10a. – EXEMPT LICENSE

- [100-10a-1.](#) Applications
- [100-10a-2.](#) Request for changes.
- [100-10a-3.](#) Renewal applications.
- [100-10a-4.](#) Criteria.
- [100-10a-5.](#) Conversion.
- [100-10a-6.](#) Activities not divulged.

Article 11. – FEES

- [100-11-1.](#) Amount.
- [100-11-2.](#) Revoked.
- [100-11-3.](#) Revoked.
- [100-11-4.](#) Revoked.
- [100-11-5.](#) Exempt license.

Article 12. – RECORDS

- [100-12-1.](#) Records.

Article 13. – RECORDS

- [100-13-1 and 100-13-2.](#) Revoked.

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- [100-14-1.](#) Revoked.

Article 15. – LICENSE RENEWAL; CONTINUING EDUCATION

- [100-15-1.](#) Expiration dates.
- [100-15-2.](#) Revoked.
- [100-15-3.](#) Continuing education; institutional licensees.
- [100-15-4.](#) Continuing education standards; definitions.
- [100-15-5.](#) Continuing education requirement.
- [100-15-6.](#) Documentation of continuing education.
- [100-15-7.](#) Category I continuing education using distance-learning media.

Article 16. – REVOCATION

- [100-16-1.](#) Revoked.
- [100-16-2.](#) Revoked.

[100-16-3](#). Revoked.
[100-16-4](#). Grounds.
[100-16-5 and 100-16-6](#). Revoked.

Article 17. – PROFESSIONAL SIGNS; LETTERHEADS

[100-17-1](#). Revoked.
[100-17-2](#). Revoked.

Article 18. – ADVERTISING

[100-18-1](#). Revoked.
[100-18-2](#). Revoked.

Article 18a. – ADVERTISING

[100-18a-1](#). Free offers.

Article 19. – ADMINISTRATIVE PROCEDURES

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[100-20-1](#). Revoked.

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100-26-1. Services rendered to individuals located in this state.

100-26-2. Definitions

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Article 27. – LIGHT-BASED MEDICAL TREATMENT

100-27-1. Supervision of light-based medical treatment

Article 28. – RESERVED

Article 1. – BOARD OF HEALING ARTS

100-1-1. Seals. This board shall have a common seal which shall be used to authenticate all official acts and documents of the board.

(Authorized by K.S.A. 65-2865; effective Jan. 1, 1966; amended Feb. 15, 1977.)

100-1-2. Revoked. (Authorized by K.S.A. 65-2865; effective Jan. 1, 1966; revoked Feb. 15, 1977.)

100-1-3. Not in active use.

Article 2. – OFFICERS

100-2-1. Revoked.

(Authorized by K.S.A. 65-2865; effective Jan. 1, 1966; revoked May 1, 1988.)

100-2-2. Term. The officers herein provided for shall hold office for a term of one (1) year and until their successors are elected and qualified.

(Authorized by K.S.A. 65-2865; effective Jan. 1, 1966.)

100-2-3 President; duties. It shall be the duty of the president to preside at all meetings of the board and perform such other duties as authorized or required by law or as may be specifically assigned by the board. The president shall countersign the minutes of board meetings when approved. The president is authorized to appoint such standing committees as the board may direct and may appoint special committees for special purposes.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 65-2818, as amended by L. 1987, Ch. 240, Sec. 6; effective Jan. 1, 1966; amended May 1, 1988.)

100-2-4. Vice-president; duties. In the absence or disability of the president at any regular or special meeting, the vice-president shall possess all the powers of the president during such meeting and shall countersign the minutes of such meeting when approved.

(Authorized by K.S.A. 65-2865; effective Jan. 1, 1966.)

100-2-5. Revoked.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 65-2818; effective Jan. 1, 1966; amended Feb. 15, 1977; amended May 1, 1979; amended, T-87-42, Dec. 19, 1986; amended May 1, 1987; revoked May 1, 1988.)

100-2-6. Revoked.

(Authorized by K.S.A. 65-2865, K.S.A. 65-2878; effective Jan. 1, 1970; amended Feb. 15, 1977; revoked May 1, 1988.)

Article 3. – COMMITTEES

100-3-1. Appointment. The president is empowered to appoint special committees for special purposes upon his or her own motion and when directed by a majority of the board. Members serving on any committee shall receive no salary or compensation for services other than the compensation provided by K.S.A. 65-2823.

(Authorized by K.S.A. 65-2865; effective Jan. 1, 1966; amended Jan. 1, 1970; amended Feb. 15, 1977; amended May 1, 1979.)

Article 4.–VACANCIES

100-4-1. Causes. A vacancy shall occur in any board office herein provided for when the person holding that office resigns or is no longer a member of the board.

(Authorized by K.S.A. 65-2865; effective Jan. 1, 1966; amended Feb. 15, 1977.)

100-4-2. Filling. Vacancies in any office other than that of president shall be filled by a temporary appointment by the president, which temporary appointment shall continue until the next regular or special meeting of the board at which time one of the members of the board shall be elected to fill such vacancy for the unexpired term. If a vacancy occurs in the office of president, the vice-president shall act as president until the next regular meeting of the board at which time one of the members of the board shall be elected to fill such vacancy for the unexpired term.

(Authorized by K.S.A. 65-2865; effective Feb. 15, 1977.)

Article 5. – MEETINGS

100-5-1. Meetings.

(a) The annual meeting of the board shall be its first regular meeting subsequent to July 1 of each year.

(b) Prior to January 1 of each year the board shall designate the dates, times and places of its regular meetings for the next calendar year. Any changes to the dates, times or places of such meetings may be made by the board at any regular meeting or special meeting called for that purpose.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 65-2819; effective Jan. 1, 1966; amended Feb. 15, 1977; amended May 1, 1988.)

100-5-2. Special.

(a) Special meetings may be called by the president at any time.

(b) The president shall call a special meeting when a written request is made by a quorum of the board setting forth an agenda of business to be transacted at that meeting.

(c) Notice of the date, time and place of any special meeting and an agenda of business to be transacted at that meeting shall be furnished to each member of the board at least five days prior to the meeting.

(d) No business shall be transacted at a special meeting except as set forth in the agenda furnished pursuant to subsection (c) above.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 65-2819; effective Jan. 1, 1966; amended Feb. 15, 1977; amended May 1, 1988.)

100-5-3. Revoked.

(Authorized by K.S.A. 65-2865, 65-2822; effective Feb. 15, 1977; revoked May 1, 1988.)

100-5-4. Order of business.

Roll call

Consideration of and action upon minutes of a previous meeting

Approval of agenda

Reports of employees

Reports of officers

Reports of committees

Unfinished business

New business

Adjournment

Parliamentary procedure not covered by these rules shall be governed by Roberts' Rules of Order.

(Authorized by K.S.A. 65-2865; effective Feb. 15, 1977.)

Article 6. – LICENSES

100-6-1. Granting. Licenses to practice the healing arts in the state of Kansas shall be issued by examination or endorsement to qualified applicants who have complied with the requirements of the laws of the state of Kansas and the rules of this board adopted pursuant thereto.

(Authorized by K.S.A. 65-2865; effective Jan. 1, 1966; amended Jan. 1, 1970; amended Jan. 1, 1973; amended Feb. 15, 1977.)

100-6-2. General qualifications.

(a) Each applicant for licensure in medicine and surgery who is a graduate of an accredited school of medicine shall present to the board proof of completion of a postgraduate training or residency training program that is at least one year in length. This program shall have been approved by the council of education of the American medical association or its equivalent in the year in which the training took place.

(b) Each applicant for licensure in medicine and surgery who is a graduate of an unaccredited school of medicine shall present to the board proof of completion of a postgraduate training or residency training program that is at least two years in length. This program shall have been approved by the council of education of the American medical association or its equivalent in the year in which the training took place.

(c) Each applicant for licensure in osteopathic medicine and surgery who is a graduate of an accredited school of osteopathic medicine shall present to the board proof of completion of a postgraduate training program that is at least one year in length. This program shall have been approved by the American osteopathic association or its equivalent in the year in which the training took place.

(d) Each applicant for licensure in chiropractic who matriculates in chiropractic college on or after January 1, 2000 shall present proof of having received a baccalaureate degree from an accredited school or college. If the baccalaureate degree is granted by a chiropractic school or college, at least 90 semester hours applicable to the baccalaureate degree shall be earned at an accredited school or college, with none of these hours applying to the doctor of chiropractic

degree. For purposes of this subsection, an “accredited school or college” shall meet the standards for accreditation of the north central association of colleges and schools or its regional equivalent, as in effect July 1, 1999, which are hereby adopted by reference.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 65-2873; effective Jan. 1, 1966; amended Feb. 15, 1977; amended May 1, 1979; amended, T-86-44, Dec. 18, 1985; amended May 1, 1986; amended May 23, 1997; amended, T-100-11-5-99, Nov. 5, 1999; amended March 10, 2000.)

100-6-3. Approved school of medicine and surgery.

(a) Each school of medicine and surgery seeking approval pursuant to L. 1985, ch. 216, Sec. 3, shall on balance meet the following minimum standards:

(1) The school shall be accredited by the liaison committee on medical education of the association of American medical colleges or the council on medical education of the American medical association, the American osteopathic association bureau of professional education and the committee on postdoctoral training or the committee on accreditation of Canadian medical schools of the association of Canadian medical colleges and the Canadian medical association.

(2) The school shall have been approved for licensure in other states or its students shall have been authorized to perform clerkships or postgraduate training in other states.

(3) The school shall have been in existence for a sufficient number of years to ensure that an adequate program has been developed;

(4) The school shall be located in a college that is legally recognized and authorized by the jurisdiction in which it is located to confer the M.D. or D.O. degree.

(5) The school shall require the applicant, upon graduation, to have completed a total medical instruction of not less than 132 weeks in duration over a time period of not less than 35 months.

(6) The school shall include instruction in at least the following:

(A) Basic science

(i) Anatomy

(ii) Biochemistry

(iii) Physiology

(iv) Microbiology

(v) Pharmacology

(vi) Pathology

(vii) Physical diagnosis

(B) Clinical process

(i) Obstetrics/gynecology

(ii) Medicine

(iii) Pediatrics

(iv) Psychiatry

(v) Surgery

(7) Clinical clerkships.

(A) The school shall have a clerkship phase which the student performs in a clinical facility or facilities controlled by or affiliated with the medical college and supervised by one or more faculty members.

(B) The clerkship shall consist of a hands-on, supervised exposure to patients which is planned, supervised, and monitored by the medical college in cooperation with the clinical facility.

(C) Each clerkship shall last between four to 12 weeks with the total clerkship phase lasting at least 18 months.

(D) The students shall satisfactorily perform clerkships in at least the following areas: internal medicine, surgery, pediatrics, obstetrics/gynecology and psychiatry.

(E) Any additional electives shall be taken in a clinical facility approved for active postgraduate training in that school.

(8) If the school allows students to take an examination in lieu of attending and completing courses or accepts transfer credit for courses, the applicant shall have taken semester courses at another institution of a similar quality.

(9) The school shall have articles of affiliation between the medical college and each clinical facility which clearly defines the rights and responsibilities of each party, including agreements regarding the role and authority of the governing bodies of both the hospital and the medical college, and if portions of the required clinical or basic science curriculum are offered at different geographical sites, the curriculum shall be planned, supervised, administered, and evaluated in concert with appropriate faculty committees, department chairpersons and administrative officers of the parent school.

(10) The school shall have a balanced faculty comprised of a sufficient number of full-time biomedical and clinical instructors to ensure that the educational obligations to the student are fulfilled and the ratio between full-time faculty and students shall be substantially equivalent to the ratio at the University of Kansas School of Medicine. The faculty shall have an M.D. degree or an equivalent degree in the area in which they teach and shall demonstrate competence in the biological, behavioral, and clinical sciences, as evidenced by membership in appropriate specialty boards, publications or similar accomplishments.

(11) Library facilities.

(A) The school shall have a well-maintained catalogue library, sufficient in size and breadth to support the educational programs offered by the institution.

(B) The library shall receive the leading biomedical and clinical periodicals and the current volumes of those periodicals shall be readily accessible.

(C) The library and other learning resource centers shall be adequately equipped to allow students to learn new methods of retrieving information, and to use self-instructional material.

(D) The library shall have a professional library staff to supervise the library, provide instruction in its use, and respond to the needs of the medical school.

(12) The substantial cost of conducting the school shall be derived from diverse sources, such as tuition, endowments, earnings by the faculty, parent university, annual gifts, grants from organizations and individuals, and government appropriations. Tuition shall not be the predominant source of income.

(13) The school's admission requirements shall require an undergraduate degree or equivalent educational experience, and shall have instituted criteria by which applicants are evaluated and accepted for admission which shall include a balance of educational experience, pre-medical examination scores, and other relevant experience.

(14) The school shall maintain permanent student records that summarize admissions, credentials, grades, and other records of performance.

(15) The school shall have laboratory facilities with a sufficient number of modern equipment and specimens to ensure that each student obtains adequate clinical and basic science training.

(b) Effect of disapproval on pending application. When the board disapproves a school of medicine and surgery, the disapproval notice shall set forth:

(1) The period of time covered by the evaluation and which of the minimum requirements in subsection (a) the program failed to satisfy; or

(2) A statement that disapproval was based on the receipt of insufficient information concerning the program. If the board determines that a school, previously approved pursuant to subsection (a), must be disapproved, the board shall set a date after which a person graduating shall be considered not to have graduated from an approved school. Any school which has been disapproved may request a hearing or other appropriate action pursuant to the Kansas administrative procedures act.

(c) Annual publication. A list of all approved schools shall be published after July 1 of each year and provided to all of the approved schools of graduate medical education within the State of Kansas, the Kansas state medical society, the Kansas hospital association, Kansas osteopathic association, and to any person or organization making written request. The list shall also contain any schools disapproved in the preceding year.

(d) Reevaluation of an approved school.

(1) Any approved school of medicine and surgery may be reevaluated whenever the board has reason to believe that the school has failed to satisfy the minimum requirements of subsection (a).

(2) If any school is disapproved after the reevaluation, written notice shall be sent to the subject medical school, advising the administration that they may either submit written comments or request a hearing before the board within 15 days. The provisions of the Kansas administrative procedures act shall apply to any hearing under this subsection.

(3) If any school previously approved is subsequently disapproved by the board, the disapproval shall not disqualify any physician temporarily or permanently licensed in Kansas with respect to the license then held. For purposes of this regulation, any person holding a current and valid temporary permit issued by the board without disclaimer, conditions, or restriction on it, and who applies for and satisfies all requirements for full licensure shall not be disqualified if the program that served as the basis for that person's licensure is subsequently disapproved.

(Authorized by K.S.A. 65-2865; implementing L. 1985, Ch. 216, sec. 3; effective Jan. 1, 1966; amended Feb. 15, 1977; amended, T-86-44, Dec. 18, 1985; amended May 1, 1986.)

100-6-4. Applications for licensure by examination. Applicants for licensure by examination shall submit the following requirements not later than sixty (60) days preceding the date of examination:

1. A written application, on a form prescribed by the board with the full name and address of the applicant subscribed thereto.

2. A photograph of the applicant, exactly 3 x 4 inches in size, taken within ninety (90) days prior to the making of application and a certificate of the photographer upon the reverse side showing the date and place such picture was taken. A thumb print on back of photograph shall be taken by any law enforcement agency or in the office of the board of healing arts and certified by the person taking the print.

3. An affidavit specifying in detail that the applicant has met the following minimum educational requirements:

(a) A graduate of an accredited healing arts school or college stating the name and location of such school or college and the date of graduation. This affidavit shall further state that the applicant is the identical person attending the school and receiving the degrees claimed in such affidavit.

(b) A certified copy of accredited healing arts school or college diploma.

4. Evidence of proficiency in basic science issued by the national board of medical examiners, the national board of examiners of osteopathic physicians and surgeons or the national board of chiropractic examiners or such other examining body as may be approved by the board or in lieu thereof pass such examination as the board may require in the basic science subjects.

5. A certificate of the applicant's good moral character signed by two (2) reputable teachers or practitioners of the healing arts licensed in some state of the United States personally acquainted with the applicant.

(Authorized by K.S.A. 65-2865, K.S.A. 1976 Supp. 65-2873; effective Jan. 1, 1966; amended Feb. 15, 1977.)

100-6-5. Application for licensure of foreign graduates by examination. Persons graduating from healing arts schools or colleges located in a country other than the United States of America and applying for a license shall, in addition to the requirements set out in K.A.R. 100-6-2 and 100-6-4, meet the following:

(a) A certificate that the applicant has met the requirements and received a standard certificate from the educational council for foreign medical graduates, passed the visa qualifying examinations or has successfully completed a fifth pathway program approved by the board of healing arts.

(b) Proof that the healing arts school or college from which the applicant graduated meets the requirements set out in K.S.A. 65-2874, 65-2875 and 65-2876. Proof may include but not be limited to information concerning the curriculum of such school, the grading system in use, and foreign association or government accreditation.

(c) All documents and material required by K.A.R. 100-6-5 shall be translated into English and a certificate of the correctness shall be provided. These copies shall be notarized as true copies.

(d) Proof that the applicant has reasonable ability to communicate with the general public in English.

(Authorized by K.S.A. 65-2865; effective Feb. 15, 1977; amended May 1, 1979.)

Article 7. – EXAMINATIONS

100-7-1. Designated examinations for medicine and surgery and osteopathic medicine and surgery; passing grade.

(a) Applications before July 1, 2000.

(1) Each applicant for licensure by examination in medicine and surgery who applies before July 1, 2000 shall, as a requirement for licensure, successfully complete one acceptable combination of sections of examinations identified below in table 1.

TABLE 1—Medicine and Surgery Examination Sequence

A. Examination titles

National board of medical examiners (NBME): part I, part II, part III.		
Federation licensing exam (FLEX): component 1, component 2.		
United States medical licensing exam (USMLE): step 1, step 2, step 3.		
B. Acceptable combinations		
NBME part I	FLEX component 1	USMLE step 1
+	+	+
NBME part II	FLEX component 2	USMLE step 2
+		+
NBME part III		USMLE step 3
NBME part I or USMLE step 1	FLEX component 1	NBME part I or USMLE step 1
	+	
+	USMLE step 3	+
NBME part II or USMLE step 2		NBME part II or USMLE step 2
+		+
NBME part III or USMLE step 3		FLEX component 2

(2) Each applicant for licensure by examination in osteopathic medicine and surgery who applies before July 1, 2000 shall, as a requirement for licensure, successfully complete one acceptable combination of sections of examinations identified above in table 1, except that as an alternative to completing part I, part II, or part III of the NBME examination, the applicant may complete part I, part II, or part III, respectively, of the national board of osteopathic medical examiners (NBOME) examination, or level 1, level 2, or level 3, respectively, of the comprehensive osteopathic medical licensing examination (COMLEX), administered by the national board of osteopathic medical examiners.

(b) Applications on or after July 1, 2000.

(1) Each applicant for licensure by examination in medicine and surgery who applies on or after July 1, 2000 shall successfully complete step 1, step 2, and step 3 of the USMLE. To satisfy the requirements for licensure, the applicant shall complete all remaining portions of the USMLE within 10 years after passing step 1 of the examination.

(2) Each applicant for licensure by examination in osteopathic medicine and surgery who applies on or after July 1, 2000 either shall successfully complete step 1, step 2, and step 3 of the USMLE or shall successfully complete level 1, level 2, and level 3 of the COMLEX examination. To satisfy the requirements for licensure, the applicant shall complete all remaining steps of the USMLE examination or levels of the COMLEX examination within 10 years after passing step 1 or level 1 of the examination.

(c) Each applicant for licensure by endorsement shall show proof of successful completion of an examination that met the Kansas requirements for licensure by examination at the time the applicant completed the examination.

(d) To qualify for licensure, each applicant shall obtain a two-digit reported score of at least 75 on each step, part, component, or level of the examination.

(e)(1) Each applicant for licensure by examination who requests to sit for step 3 of the USMLE or level 3 of the COMLEX as a candidate sponsored by the board shall submit an application for licensure that satisfactorily shows that the applicant has met all qualifications for licensure except for completion of the examination.

(2) Any applicant who is sponsored by the board to sit for step 3 of the USMLE or level 3 of the COMLEX and who fails to successfully complete that step or level of the examination on three or more occasions shall not be eligible to sit for that step or level of the examination without completing additional educational requirements ordered by the board.
(Authorized by K.S.A. 1999 Supp. 65-2828 and K.S.A. 65-2865; implementing K.S.A. 1999 Supp. 65-2828, K.S.A. 65-2833, and K.S.A. 65-2873; effective Jan. 1, 1966; amended Feb. 15, 1977; amended July 7, 2000.)

100-7-2. Revoked.

(Authorized by K.S.A. 65-2865, K.S.A. 1976 Supp. 65-2873; effective Jan. 1, 1966; amended Jan. 1, 1970; amended Jan. 1, 1973; revoked Feb. 15, 1977.)

100-7-3. Revoked.

(Authorized by K.S.A. 65-2865, 65-2874, K.S.A. 1976 Supp. 65-2875, 65-2876; effective Jan. 1, 1966; amended Jan. 1, 1973; revoked Feb. 15, 1977.)

100-7-4. Revoked.

(Authorized by K.S.A. 65-2865, K.S.A. 1976 Supp. 65-2873; effective Jan. 1, 1966; amended Jan. 1, 1970; revoked Feb. 15, 1977.)

100-7-5. Revoked.

(Authorized by K.S.A. 65-2865, K.S.A. 1976 Supp. 65-2873; effective Jan. 1, 1966; amended Jan. 1, 1970; amended Jan. 1, 1973; revoked Feb. 15, 1977.)

Article 8 – LICENSE BY ENDORSEMENT

100-8-1. Issuance; requirement. The board, without examination, may issue a license to persons who meet requirements set out in K.S.A. 65-2833.

(a) All applicants for endorsement from other countries may be required to personally appear before the board.

(b) In order that the board may determine the standards established by law and rule in other countries the applicant will be responsible in furnishing to the board credible evidence such as affidavits, documents, publications and other material which will demonstrate the following: (1) Standards of the medical school of graduation.

- (A) requirements for admission
- (B) content of courses
- (C) number of applicants as compared to number of admissions
- (D) program of specialty training available
- (E) faculty-student ratio
- (F) description of physical plant
- (G) credentials of instructors
- (H) volumes and periodicals maintained in medical library
- (I) type of laboratory facilities
- (J) type of X-ray and diagnostic equipment in use
- (K) method through which the school is financed
- (L) number and type of examinations given during the school year

(M) construction and type of organization that accredits the school and monitors the continued accreditation

(N) requirements for graduation

(2) Standards of the national examination required prior to licensure:

(A) education and practical requirements prior to applicant qualifying to take the national examination

(B) construction and type of organization that makes up the national examination

(C) type of examination-written, oral, number of questions, length of examination, how monitored

(D) pass-fail rate

(E) questions from sample or past examinations.

(Authorized by K.S.A. 65-2833, 65-2834 and 65-2965; effective Jan. 1, 1970; amended Jan. 1, 1973; amended Feb. 15, 1977; amended May 1, 1979.)

100-8-2. Applications. All applications for endorsement registration shall be upon forms furnished by the Kansas healing arts board and these forms shall contain the following in plain, legible writing:

(a) Name in full.

(b) Post office address.

(c) Purpose of Kansas license.

(d) Date and place of birth.

(e) Certified statement in detail of professional education showing healing arts schools or colleges attended, periods of study, degrees obtained and date of graduation.

(f) Photograph, exactly three by four inches (3" x 4"), taken within ninety (90) days prior to date of application and certificate of the photographer on the back of the photograph showing date and place of the photograph. A thumb print on back of photograph shall be taken by any law enforcement agency or in the office of the board of healing arts and certified by the person taking the print.

(g) Affidavit of the applicant that he or she is the identical person completing the education requirements as provided in K.A.R. 100-6-2 [and] the photograph and thumb print submitted is that of the applicant.

(h) A certificate signed by the president or secretary of some county, district, state or country professional healing arts society, setting forth that the applicant is a member in good standing of said society, that he or she is a qualified ethical practitioner of good moral character as provided in K.S.A. 65-2804. In lieu of such certificate, the applicant may furnish a written recommendation from two (2) licensed practitioners who are members of the healing arts society where the applicant resides.

(i) A certified document of proficiency in basic science subjects.

(j) A true copy of the state or other country license or certificate issued by the endorsing state or country over the seal of the licensing authority and certified as correct by the secretary of the board or other licensing agency of such state or country from which the applicant comes endorsed.

(k) A certificate of state endorsement signed and attested by the secretary of the state board or other licensing authority from which the applicant is licensed.

(Authorized by K.S.A. 65-2833, 65-2834, 65-2865, 65-2873; effective Feb. 15, 1977; amended May 1, 1979.)

100-8-3. Reserved.

100-8-4. Endorsement from this state. The executive director is empowered to certify on behalf of the board all necessary certificates for persons licensed in this state desiring to obtain a license by endorsement in any other state or country. The certificate shall state whether the license is current or not.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 65-2878, as amended by L. 1987, Ch. 240, Sec. 10; effective Feb. 15, 1977; amended May 1, 1988.)

Article 9. – TEMPORARY LICENSE

100-9-1. Visiting professor license. The board may issue a visiting professor temporary license upon proper application to persons who meet the requirements set out in K.S.A. 65-2898 [65-28,100] provided any prescribed fees are paid.

(Authorized by K.S.A. 65-2865, K.S.A. 1976 Supp. 65-2898; effective Jan. 1, 1966; amended Feb. 15, 1977.)

100-9-2. Revoked.

(Authorized by K.S.A. 65-2865, K.S.A. 65-2895; effective Feb. 15, 1977; revoked May 1, 1988.)

Article 10. – TEMPORARY PERMIT

100-10-1. Revoked. (Authorized by K.S.A. 65-2865, K.S.A. 65-2811; effective Jan. 1, 1966; amended Jan. 1, 1970; amended Jan. 1, 1973; amended Feb. 15, 1977; revoked May 1, 1988.)

Article 10a. – EXEMPT LICENSE

100-10a-1. Applications.

(a) Each application for an exempt license shall be submitted upon a form furnished by the board. This form shall contain the following in plain, legible writing:

- (1) The applicant's name in full;
- (2) the applicant's post office box address if applicable;
- (3) the applicant's residence address;
- (4) the applicant's Kansas license number;
- (5) a statement that the applicant does not hold oneself out to the public as being professionally engaged in the practice of the healing arts for which the applicant holds a license;
- (6) a statement that the applicant is no longer regularly engaged in the state of Kansas in the branch of the healing arts for which the applicant holds a license;
- (7) a statement describing the professional activities relating to the healing arts in which the applicant intends to engage if issued an exempt license;
- (8) a statement acknowledging that if the applicant is issued an exempt license, the applicant shall be subject to all provisions of the healing arts act except for complying with the requirements of continuing education; and
- (9) a statement acknowledging that if the applicant is issued an exempt license, the following shall apply:

(A) The applicant will not be a health care provider, as defined by K.S.A. 40-3401 and amendments thereto.

(B) The applicant will not be required to maintain professional liability insurance in accordance with K.S.A. 40-3401 *et seq.*

(C) Any services rendered by the applicant, while the holder of an exempt license, will not be insured or covered by the health care stabilization fund.

(b) Each application for an exempt license shall be signed by the applicant.
(Authorized by K.S.A. 65-2865; implementing K.S.A. 1998 Supp. 65-2809; effective, T-88-52, Dec. 16, 1987; effective May 1, 1988; amended June 20, 1994; amended March 10, 2000.)

100-10a-2 Request for changes. An exempt license holder shall file a written request with the board whenever the nature or extent of the professional activities relating to the healing arts are proposed to be changed from those activities divulged to the board on the application for such license or on any renewal form. The board shall review the request, determine whether the proposed changes affect the eligibility for an exempt license and either grant or deny the request. (Authorized by K.S.A. 65-2865; implementing K.S.A. 1986 Supp. 65-2809, as amended by L. 1987, Ch. 242, Sec. 2; effective, T-88-52, Dec. 16, 1987; effective May 1, 1988.)

100-10a-3. Renewal applications. Each application for renewal of an exempt license shall be submitted upon a form furnished by the board and shall be accompanied by the fee required by K.A.R. 100-11-1.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 1998 Supp. 65-2809; effective, T-88-52, Dec. 16, 1987; effective May 1, 1988; amended March 10, 2000.)

100-10a-4. Criteria.

(a) Exempt licenses may be issued to qualified applicants if the professional activities of the applicant will be limited to the following:

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

(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 such services;

(3) rendering professional services as a “charitable health care provider” as defined in K.S.A. 1990 Supp. 75-6102 and amendments thereto; and

(4) providing services as a district coroner or deputy coroner.

(b) Applications describing professional activities not included in (a) shall be reviewed by the board on a case-by-case basis to determine eligibility for an exempt license.

(Authorized by K.S.A. 1990 Supp. 65-2865; implementing K.S.A. 1990 Supp. 65-2809; effective, T-88-52, Dec. 16, 1987; effective May 1, 1988; amended June 24, 1991.)

100-10a-5. Conversion.

(a) A holder of an exempt license desiring to become licensed to regularly practice the healing arts within Kansas shall submit a form provided by the board containing identical information to that required of individuals desiring to reinstate a license.

(b) Each holder of an exempt license desiring to become licensed to regularly practice the healing arts within Kansas shall submit proof of continuing education as follows:

(1) If the individual has held the exempt license for less than one year, no continuing education in addition to that which would have been necessary had the exempt licensee continued to hold an active license shall be required.

(2) if the exempt licensee has held the exempt license more than one year but less than three years, the individual must submit evidence of satisfactory completion of a program of continuing education in accordance with the requirements of K.A.R. 100-15-2; and

(3) if the exempt licensee has held the exempt license for more than three years, the applicant must complete a program recommended by the board.

(Authorized by and implementing K.S.A. 1986 Supp. 65-2809, as amended by L. 1987, Ch. 242, Sec. 2; effective, T-88-52, Dec. 16, 1987; effective May 1, 1988.)

100-10a-6. Activities not divulged.

(a) The holder of an exempt license shall not engage in any professional activities relating to the healing arts not divulged to the board on the application for exempt license, any renewal application or on a request submitted and approved by the board pursuant to K.A.R. 100-10a-2.

(b) Any departure from subsection (a) may constitute evidence of dishonorable conduct pursuant to K.S.A. 1986 Supp. 65-2836(b) as amended by L. 1987, Ch. 176, Sec. 5 as further amended by L. 1987, Ch. 242, Sec. 3 and any amendments thereto.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 1986 Supp. 65-2809, as amended by L. 1987, Ch. 242, Sec. 2; effective, T-88-52, Dec. 16, 1987; effective May 1, 1988.)

Article 11. – FEES

100-11-1. Amount. The following fees shall be collected by the board:

(a) Application for license	\$300.00
(b)(1) Annual renewal of active or federally active license:	
(A) Paper renewal	\$400.00
(B) On-line renewal	\$330.00
(2) Annual renewal of inactive license:	
(A) Paper renewal	\$150.00
(B) On-line renewal	\$150.00
(3) Annual renewal of exempt license:	
(A) Paper renewal	\$150.00
(B) On-line renewal	\$150.00
(c)(1) Conversion from inactive to active license	\$175.00
(2) Conversion from exempt to active license	\$175.00
(d)(1) Additional fee for late renewal of active or federally active license:	
(A) Paper late renewal	\$200.00
(B) On-line late renewal	\$70.00
(2) Additional fee for late renewal of inactive license:	
(A) Paper late renewal	\$50.00
(B) On-line late renewal	\$25.00
(3) Additional fee for late renewal of exempt license:	
(A) Paper late renewal	\$50.00

(B) On-line late renewal	\$25.00
(e) Institutional license	\$200.00
(f) Biennial renewal of institutional license.....	\$200.00
(g) Visiting clinical professor license	\$150.00
(h) Annual renewal of visiting clinical professor license.....	\$115.00
(i) Limited permit	\$30.00
(j) Annual renewal of limited permit	\$15.00
(k) Reinstatement of limited permit	\$15.00
(l) Visiting professor license	\$25.00
(m) Postgraduate training permit	\$50.00
(n) Reinstatement of cancelled license	\$400.00
(o) Reinstatement of revoked license	\$1000.00
(p) Temporary permit	\$50.00
(q) Special permit	\$30.00
(r) Certified statement of license	\$15.00
(s) Copy of wall license	\$15.00
(t) Written verification of license or permit	\$25.00

(Authorized by K.S.A. 65-2865; implementing K.S.A. 65-2809, K.S.A. 65-2852, and K.S.A. 65-28,125; effective Jan. 1, 1966; amended Jan. 1, 1970; amended Feb. 15, 1977; amended May 1, 1979; amended May 1, 1980; amended May 1, 1981; amended, T-83-33, Nov. 10, 1982; amended May 1, 1983; amended, T-85-50, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-42, Dec. 19, 1986; amended May 1, 1987; amended, T-88-11, May 18, 1987; amended May 1, 1988; amended, T-100-4-24-89, April 24, 1989; amended Aug. 21, 1989; amended June 24, 1991; amended, T-100-7-1-92, July 1, 1992; amended Aug. 10, 1992; amended Dec. 27, 1993; amended May 1, 1998; amended Aug. 4, 2000; amended, T-100-6-27-02, Aug. 1, 2002; amended Nov. 15, 2002; amended, T-100-4-27-04, April 27, 2004; amended July 23, 2004; amended Aug. 17, 2007; amended, T-100-10-16-08, Oct. 16, 2008; amended Feb. 13, 2009; amended May 21, 2010; amended April 19, 2019.)

100-11-2. Revoked.

(Authorized by K.S.A. 65-2865; effective Jan. 1, 1966; revoked Feb. 15, 1977.)

100-11-3. Revoked.

(Authorized by K.S.A. 65-2865, K.S.A. 1976 Supp. 65-2873; effective Jan. 1, 1966; amended Jan. 1, 1970; revoked Feb. 15, 1977.)

100-11-4. Revoked.

(Authorized by K.S.A. 65-2865; effective Jan. 1, 1966; revoked Feb. 15, 1977.)

100-11-5. Exempt license.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 1986 Supp. 65-2809, as amended by L. 1987, Ch. 242, Sec. 2; implementing K.S.A. 65-2852, as amended by L. 1987, Ch. 242, Sec. 4; effective, T-88-52, Dec. 16, 1987; effective May 1, 1988; revoked Sept. 10, 1999.)

Article 12. – RECORDS

100-12-1. Records. All records which are required by law to be maintained by the board shall be open to public inspection under the following conditions:

(1) Records shall be inspected at the board office located in Topeka.

(2) Records shall be inspected during normal working hours and under the supervision of the executive director of the board.

(3) Any person who inspects the records shall sign a written request.

(Authorized by K.S.A. 65-2865, implementing K.S.A. 65-2808; effective Jan. 1, 1966; amended Jan. 1, 1970; amended Jan. 1, 1973; amended, E-77-33, July 8, 1976; amended Feb. 15, 1977; amended May 1, 1988.)

Article 13. – RECORDS

100-13-1 and 100-13-2. Revoked.

(Authorized by K.S.A. 65-2865; effective Jan. 1, 1966; revoked Feb. 15, 1977.)

Article 14. – CERTIFICATE

100-14-1. Revoked.

(Authorized by K.S.A. 65-2865; effective Jan. 1, 1966; revoked Jan. 1, 1973.)

Article 15. – LICENSE RENEWAL; CONTINUING EDUCATION

100-15-1 Expiration dates.

(a) Each license to practice medicine and surgery issued by the board shall expire on June 30 of each year.

(b) Each license to practice osteopathic medicine and surgery issued by the board shall expire on September 30 of each year.

(c) Each license to practice chiropractic issued by the board shall expire on December 31 of each year.

(Authorized by and implementing K.S.A. 2000 Supp. 65-2809; effective Jan. 1, 1966; amended Jan. 1, 1970; amended Jan. 1, 1973; amended Feb. 15, 1977; amended Aug. 1, 1997; amended July 20, 2001.)

100-15-2. Revoked.

(Authorized by K.S.A. 65-2809, 65-2865; effective Feb. 15, 1977; amended May 1, 1979; revoked July 22, 2005.)

100-15-3. Continuing education; institutional licensees.

(a) Each institutional licensee shall submit, with an application for renewal of the license, evidence of satisfactory completion of a minimum of 100 hours of continuing education within the previous two-year period. Evidence of that attainment shall be submitted to the board in the same manner as licensees in the same branch of the healing arts are required to submit evidence of satisfactory completion of a program of continuing education in accordance with K.A.R. 100-5-2 and amendments thereto.

(b) An extension that does not exceed six months may be granted by the board to any applicant for renewal who, during the 12-month period prior to the renewal date, suffered an

illness or accident which made it impossible or extremely difficult for that applicant to reasonably obtain the required continuing education.

(Authorized by and implementing K.S.A. 65-2895, as amended by L. 1987, Ch. 239, Sec. 5 and as further amended by L. 1987, Ch. 240, Sec. 11; effective May 1, 1988.)

100-15-4. Continuing education standards; definitions.

(a) “Continuing education” shall mean an activity designed to maintain, develop, or increase the knowledge, skills, and professional performance of persons licensed to practice a branch of the healing arts. Each continuing education activity shall have significant intellectual or practical content, shall be relevant to the branch of the healing arts for which the practitioner is licensed, and shall meet at least one of the following content requirements:

- (1) Have a direct bearing on patient care;
- (2) have a direct bearing on the person's ability to deliver patient care; or
- (3) relate to the teaching, ethical, legal, or social responsibilities of a person licensed to practice the healing arts.

(b) “Category I” continuing education shall mean a continuing education activity that meets the requirements of subsection (a) of this regulation and is presented by a person qualified by practical or academic experience, using any of the following methods:

- (1) Lecture, which shall mean a discourse given before an audience for instruction;
- (2) panel discussion, which shall mean the presentation of a number of views by several professional individuals on a given subject, with none of the views considered a final solution;
- (3) workshop, which shall mean a series of meetings designed for intensive study, work, or discussion in a specific field of interest;
- (4) seminar, which shall mean a directed advanced study or discussion in a specific field of interest;
- (5) symposium, which 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; or
- (6) any other structured, interactive, and formal learning method that the board deems to meet the requirements of subsection (a).

(c) “Category II” continuing education shall mean attendance at a lecture, panel discussion, workshop, seminar, symposium, college course, professional publication, in-service training, or professional activity that the board determines does not meet the requirements of category I, but that is in a health-related field indirectly related to healing arts skill and knowledge. Category II continuing education shall include the following:

- (1) Clinical consultations with other healing arts practitioners that contribute to a practitioner's education;
- (2) participation in activities to review the quality of patient care;
- (3) instructing healing arts and other health care practitioners;
- (4) patient-centered discussions with other health care practitioners;
- (5) participating in journal clubs;
- (6) using searchable electronic databases in connection with patient care activities; and
- (7) using self-instructional materials.

(d) Credit for continuing education activities shall be awarded on the basis of one credit for each 50 minutes actually spent in attendance at a continuing education activity.

(e) Each instructor of a healing arts continuing education activity shall be awarded category I continuing education credit at the rate of one credit for each three hours of the instructor's first-time preparation of the presentation of a category I continuing education activity.

(f) For successful completion of a postbaccalaureate program awarding a degree in an area related to the healing arts, 25 credits of category I continuing education shall be awarded. A copy of the transcript shall be maintained as proof of successful completion of the program.

(g) For successful completion of one year of postgraduate training, 50 credits of category I continuing education credit shall be awarded.

(h) Any other activity may be approved by the board for category I or category II continuing education upon the board's determination that the activity furthers the ethical and competent practice of the healing arts.

(Authorized by K.S.A. 65-2809 and 65-2865; implementing K.S.A. 65-2809; effective July 22, 2005.)

100-15-5. Continuing education requirement.

(a)(1) Each person who is licensed to practice a branch of the healing arts and who is required to submit proof of completion of continuing education as a condition to renewing a license shall certify, on a form provided with the license renewal application, one of the following:

(A) During the 18-month period immediately preceding the license expiration date, the person completed at least 50 credits of continuing education, of which at least 20 credits shall be in category I and the remaining credits in category II.

(B) During the 30-month period immediately preceding the license expiration date, the person completed at least 100 credits of continuing education, of which at least 40 credits shall be in category I and the remaining credits in category II.

(C) During the 42-month period immediately preceding the license expiration date, the person completed at least 150 credits of continuing education, of which at least 60 credits shall be in category I and the remaining credits in category II.

(2) The requirement specified in this subsection shall not apply to any person renewing a license for the first time.

(b) Each person who applies for conversion of an inactive or exempt license to a regular license or for reinstatement of a cancelled license and whose license has been inactive, exempt, or cancelled for a period of less than the two-year period immediately preceding the application for conversion shall certify, on a form provided with the conversion or reinstatement application, that the person completed at least 50 credits of continuing education, of which at least 20 credits shall be in category I and the remaining credits in category II.

(c) Any licensee may request that the board grant an extension of the time to complete the required continuing education if, during the 12-month period immediately preceding the license expiration date, the person experienced an undue hardship resulting from illness, injury, or other circumstance preventing the timely completion of continuing education.

(Authorized by K.S.A. 2006 Supp. 65-2809 and K.S.A. 65-2865; implementing K.S.A. 2006 Supp. 65-2809; effective July 22, 2005; amended April 6, 2007.)

100-15-6. Documentation of continuing education.

(a) Each person who certifies completion of continuing education shall, for at least four years following the date of certification, maintain documentation of completion that shall include either of the following:

(1) A verification of completion issued by a national, state, or local organization with standards for continuing education that are at least as stringent as the standards of the board; or

(2) a copy of the written materials provided with a category I continuing education activity, along with documentation of all of the following:

(A) The name, address, and telephone number of the activity sponsor, and the name and telephone number of a contact person for the activity sponsor;

(B) the title of the continuing education activity;

(C) the date and location of the activity;

(D) specification of whether the activity was presented in person or by video, satellite, or internet;

(E) the number of continuing education hours completed;

(F) the activity agenda;

(G) the identification and professional biographical information of the presenters;

(H) written proof of participation; and

(I) a list of category II continuing education activities, identifying the date of each activity, a description or program title, and the number of hours claimed.

(b) Within 30 days following a written request by the board to a licensee, the licensee shall provide the board with proof of completion of continuing education as specified in this regulation.

(Authorized by K.S.A. 2006 Supp. 65-2809 and K.S.A. 65-2865; implementing K.S.A. 2006 Supp. 65-2809; effective July 22, 2005; amended April 6, 2007.)

100-15-7. Category I continuing education using distance-learning media. Each continuing education activity offered using distance-learning media shall qualify for category I continuing education credit if the activity meets the requirements in K.A.R. 100-15-4 and meets all of the following conditions:

(a) The activity has a mechanism in place for the user to be able to contact the provider regarding questions about the continuing education activity.

(b) The provider of the activity evaluates the user's knowledge of the subject matter discussed in the continuing education activity.

(c) The activity limits the amount of time within which a user can complete the activity, which shall be no more than twice the number of hours for each credit awarded for the activity.

(d) The person or organization offering the activity provides a printed verification of completion of the activity or allows the user to print verification when the activity is completed.

(Authorized by K.S.A. 65-2809 and 65-2865; implementing K.S.A. 65-2865; effective July 22, 2005.)

Article 16. – REVOCATION

100-16-1. Revoked.

(Authorized by K.S.A. 65-2865, K.S.A. 1976 Supp. 65-2838, 65-2839, 65-2840; effective Jan. 1, 1966; amended Feb. 15, 1977; revoked, T-86-40, Dec. 11, 1985; revoked May 1, 1986.)

100-16-2. Revoked.

(Authorized by K.S.A. 65-2865; effective Jan. 1, 1966; amended Feb. 15, 1977; revoked, T-86-40, Dec. 11, 1985; revoked May 1, 1986.)

100-16-3. Revoked.

(Authorized by K.S.A. 65-2865, K.S.A. 1976 Supp. 65-2836; effective Jan. 1, 1966; amended Jan. 1, 1970; amended Feb. 15, 1977; revoked, T-86-40, Dec. 11, 1985; revoked May 1, 1986.)

100-16-4. Grounds. A license may be revoked, suspended, or limited when the licensee has been found to have committed any of the acts specified in K.S.A. 65-2836 and 65-2837. (Authorized by K.S.A. 65-2865; effective Jan. 1, 1966; amended Feb. 15, 1977.)

100-16-5 and 100-16-6. Revoked.

(Authorized by K.S.A. 65-2865; effective Jan. 1, 1966; revoked Feb. 15, 1977.)

Article 17. – PROFESSIONAL SIGNS; LETTERHEADS

100-17-1. Revoked.

(Authorized by K.S.A. 65-2865, K.S.A. 1976 Supp. 65-2837; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Feb. 15, 1977; revoked May 1, 1985.)

100-17-2. Revoked.

(Authorized by K.S.A. 65-2865; effective Jan. 1, 1966; revoked May 1, 1985.)

Article 18. – ADVERTISING

100-18-1. Revoked.

(Authorized by K.S.A. 66-2865; effective Jan. 1, 1966; amended Jan. 1, 1970; amended Jan. 1, 1973; amended Feb. 15, 1977; revoked May 1, 1980.)

100-18-2. Revoked.

(Authorized by K.S.A. 65-2894; effective Jan. 1, 1970; revoked Feb. 15, 1977.)

Article 18a. – ADVERTISING

100-18 a-1. Free offers. Any licensee who offers to perform a free examination, service or procedure for a patient, shall, during the initial visit, only perform the examination, service or procedure contained in the offer. Before any other examinations, services or procedures are 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 examination, service or procedure.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 1984 Supp. 65-2836, 65-2837; effective May 1, 1985.)

Article 19. – ADMINISTRATIVE PROCEDURES

100-19-1. Types of hearings.

(a) Hearings and procedures of the board shall be in accordance with the hearings and procedures established by the Kansas administrative procedures act.

(b) Summary adjudicative proceedings pursuant to K.S.A. 1986 Supp. 77-538 to 77-541, inclusive, and amendments thereto may be used for the following types of action:

(1) denials of initial license, permit, registration or certificate;

(2) cancellation for failure to renew a license, permit, registration or certificate;

(3) cease and desist orders, enforcement orders based on stipulations, public or private censures, warnings, reprimands, restrictions, fines or suspensions for violations of any laws administered by the board or rules and regulations promulgated thereunder.

(c) Any party who disagrees with and is subject to a summary adjudicative action may request that the proceedings be converted to a conference adjudicative proceeding or a formal adjudicative proceeding. Upon the request the summary proceeding shall be converted to the appropriate proceeding available under the Kansas administrative procedure act or rules and regulations promulgated thereunder.

(d) The order issued pursuant to subsection (b) of this regulation shall contain a notice informing the persons who are subject to the order that a request for review or conversion must be made within 15 days.

(e) The presiding officer for summary adjudicative proceedings may be the executive director or the executive director's designee.

(f) Conference adjudicative proceedings pursuant to K.S.A. 77-533, 77-534 and 77-535 of the Kansas administrative procedure act may be used for actions in which:

(1) there is no disputed issue of material fact; or

(2) the parties agree to a conference adjudicative proceeding.

(g) All other proceedings, except those which are emergency adjudicative proceedings, or which have been initiated as or converted to conference or summary adjudicative proceedings, shall be formal adjudicative proceedings.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 1986 Supp. 77-513, 77-533-541; effective Jan. 1, 1966; amended Feb. 15, 1977; amended, T-86-44, Dec. 18, 1985; amended May 1, 1986; amended May 1, 1988.)

Article 20. – AMENDMENT TO RULES

100-20-1. Revoked.

(Authorized by K.S.A. 65-2865; effective Jan. 1, 1966; revoked May 1, 1979.)

Article 21. – DISPENSING PHYSICIANS

100-21-1. Definition of dispensing physician. “Dispensing physician” means a person licensed to practice medicine and surgery who purchases and keeps drugs and compounds his or her own prescriptions for the purpose of supplying such drugs to his or her patients.

(Authorized by K.S.A. 65-2865; effective, E-81-11, May 14, 1980; effective May 1, 1981.)

100-21-2. Drug label. A dispensing physician shall clearly label each drug dispensed. The label shall be typed or machine printed and shall include the following:

(a) The name, address and telephone number of the dispensing physician.

- (b) The full name of the patient.
- (c) The identification number assigned to the prescription order by the dispensing physician.
- (d) The date the prescription was filled or refilled.
- (e) Adequate directions for use.
- (f) The expiration date of the drug dispensed, if applicable.
- (g) The brand name or corresponding generic name and manufacturer or distributors name and the strength, at the discretion of the physician.

(Authorized by K.S.A. 65-2865; effective, E-81-11, May 14, 1980; effective May 1, 1981.)

100-21-3. Packaging. All oral medications shall be dispensed in child resistant containers in accordance with the poison prevention packaging act of 1970 and in light resistant air-tight containers as required by the United States pharmacopeia. In those cases where a bona fide circumstance exists to make it undesirable to use safety closures, medication may be dispensed in a non-child resistant container.

(Authorized by K.S.A. 65-2865; effective, E-81-11, May 14, 1980; effective May 1, 1981.)

100-21-4. Record keeping and inventories.

(a) There shall be kept in the office of every dispensing physician a suitable book or file in which shall be preserved for a period of not less than three (3) years, every prescription order filled or refilled by such dispensing physician, and said book or file of prescription orders shall at all times be open to inspection to proper authorities.

(b) Each dispensing physician shall maintain the inventories and records of controlled substances as follows: (1) Inventories and records of all controlled substances listed in schedules I and II shall be maintained separately from all other records and prescriptions for such substances shall be maintained in a separate prescription file:

(2) Inventories and records of controlled substances listed in schedules III, IV, and V shall be maintained either separately from all other records or in such form that the information required is readily retrievable from ordinary business records and prescriptions for such substances shall be maintained either in a separate prescription file for controlled substances listed in schedules III, IV, and V only, or in such form that they are readily retrievable from the other prescription records. Prescriptions will be deemed readily retrievable if, at the time they are initially filled the face of the prescription is stamped in red ink in the lower right corner with the letter "C" no less than 1-inch high and filed either in the prescription file for controlled substances listed in schedules I and II or in the usual consecutively numbered prescription file for non-controlled substances.

(c) Inventory requirements. An initial inventory of all controlled substances shall be taken and recorded. Every two years on May 1, a new inventory shall be taken and recorded. The records of these inventories shall be maintained for a period of three years.

(Authorized by K.S.A. 65-2865; effective, E-81-11, May 14, 1980; effective May 1, 1981.)

100-21-5. Storage and security.

(a) All dispensing physicians shall provide effective controls and procedures to guard against theft and diversion of controlled substances.

(b) All drugs shall be stored under conditions proper and suitable to maintain their integrity.
(Authorized by K.S.A. 65-2865; effective, E-81-11, May 14, 1980; effective May 1, 1981.)

Article 22. – DISHONORABLE CONDUCT

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.)

100-22-2 Description of professional activities.

(a) Any person applying for an exempt license shall divulge on the application for such license a description of all professional activities related to the healing arts such person intends to perform if issued an exempt license.

(b) Any person holding an exempt license shall, at the time of renewal, divulge on the renewal application all professional activities related to the healing arts such person intends to perform during the renewal period.

(c) Any departure from subsection (a) or (b) may constitute evidence of dishonorable conduct pursuant to K.S.A. 1986 Supp. 65-2836(b) as amended by L. 1987, Ch. 176, Sec. 5 as further amended by L. 1987, Ch. 242, Sec. 2 and any amendments thereto.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 1986 Supp. 65-2836 as amended by L. 1987, Ch. 176, Sec. 5 as further amended by L. 1987, Ch. 242, Sec. 2; effective, T-88-52, Dec. 16, 1987; effective May 1, 1988.)

100-22-3. Business transactions with patients.

(a) Non-health-related goods or services. A licensee shall be deemed to engage in dishonorable conduct by offering to sell a non-health-related product or service to a patient from a location at which the licensee regularly practices the healing arts unless otherwise allowed by this subsection. A licensee shall not be deemed to engage in dishonorable 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 licensee shall be deemed to engage in dishonorable 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 a 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 practices the healing arts.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 1998 Supp. 65-2836; effective May 5, 2000.)

100-22-4. Description of affiliation with specialty board.

(a) On and after January 1, 2004, each licensee who represents to the public that the licensee is credentialed by a specialty board other than a state licensing agency, including through the use of the description “board-certified” in connection with the licensee's name, shall, in the same medium as that in which the representation is made, identify the official name of the specialty board that has granted the credential to the licensee.

(b) Each violation of this regulation shall constitute prima facie evidence of dishonorable conduct.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 2001 Supp. 65-2836; effective May 23, 2003.)

100-22-6. Notice to the public of licensure.

(a) A person licensed to practice a branch of the healing arts shall not perform direct patient care in an office, unless the notice adopted by reference in this subsection is placed in a conspicuous location where the notice is reasonably likely to be seen by persons who receive direct patient care in the office. The document titled “notice to patients: required signage for K.A.R. 100-22-6,” as prepared by the state board of healing arts and dated April 5, 2007, is hereby adopted by reference.

(b) As used in this regulation, “office” shall mean any place intended for the practice of the healing arts. This term shall not include a medical care facility, as defined by K.S.A. 65-425 and amendments thereto, which is licensed by the Kansas department of health and environment.

(c) Each violation of this regulation shall constitute prima facie evidence of dishonorable conduct.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 65-2836; effective Nov. 2, 2007.)

100-22-7. Orders to dispense prescription-only medical devices.

(a) For the purpose of this regulation, “prescription-only medical device” shall mean an apparatus that meets the following conditions:

(1) May be sold or distributed only upon the authorization of a person licensed by state law to administer or use the device; and

(2) is intended either to use in diagnosing or treating a disease, injury, or deformity or to affect the structure, action, or physiologic property of any part of the human body.

(b) Each licensee who issues an order that authorizes the sale, lease, or other method of distribution of a prescription-only medical device to another person for other than self-treatment shall create a written record of the order, signed by the licensee, and shall maintain that record for at least 10 years following the date of the order. The written record shall include, at a minimum, all of the following statements.

(1) The licensee knows or has reason to know that the person to whom the medical device is to be dispensed is professionally competent and legally authorized to use the device for other than self-treatment.

(2) The licensee acknowledges that the device is approved for acts and functions that are within the normal and customary specialty, competence, and lawful practice of the licensee.

(3) The licensee will supervise the use of the device.

(c) Each violation of this regulation shall constitute prima facie evidence of dishonorable conduct.

(Authorized by K.S.A. 65-2865 and K.S.A. 2006 Supp. 65-28,127; implementing K.S.A. 65-2836 and K.S.A. 2006 Supp. 65-28,127; effective July 6, 2007.)

100-22-8. Revoked.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 65-2836; effective, T-100-4-24-07, April 24, 2007; effective Sept. 14, 2007; revoked, T-100-12-10-07, Dec. 10, 2007; revoked April 4, 2008.)

100-22-8a. Phosphatidylcholine and sodium deoxycholate.

(a) As used in this regulation, the following terms shall have the meanings specified in this subsection.

(1) “Adverse event” means any unfavorable medical occurrence experienced by a patient that reasonably could be related to the administration of PCDC.

(2) “Compounding” means combining component drug ingredients by or upon the order of a physician for the purpose of creating a drug tailored to the specialized needs of an individual patient.

(3) “Designated physician” means a physician who is professionally competent to compound or order the compounding of PCDC and who agrees to be available on the premises during the administration of PCDC whenever the physician who compounded or ordered the compounding of PCDC is not present.

(4) “Institutional review board” and “IRB” mean a board or committee designated by a public or private entity or agency to review biomedical research and to ensure protection of the rights and welfare of patients.

(5) “PCDC” means phosphatidylcholine and sodium deoxycholate prepared for administration individually or in combination.

(6) “Physician” means a person licensed in this state to practice medicine and surgery or osteopathic medicine and surgery.

(b) Except as specified in subsections (c) and (d), a physician shall not administer or authorize another person to administer PCDC by injection to a human being.

(c) This regulation shall not prohibit the administration of PCDC to a research subject during clinical research of PCDC as an investigational new drug.

(d) This regulation shall not prohibit a physician from compounding PCDC or from preparing a written prescription order directing a lawfully operating pharmacy to compound PCDC for a specific patient if all of the following conditions are met:

(1) The physician has notified the board in writing of the intent to compound or order the compounding of PCDC in the scope of the physician's practice and agrees to meet the requirements stated in subsection (e).

(2) The physician has a physician-patient relationship with the specific patient.

(3) The patient has given the physician written informed consent for the administration of PCDC that includes, at a minimum, all of the following:

(A) The patient acknowledges that PCDC is a drug and that neither the state of Kansas nor any federal agency has approved PCDC as a drug.

(B) The patient has been informed that a preponderance of competent medical literature regarding clinical research establishing whether PCDC is safe and effective has not been published.

(C) The patient has been informed that the clinical data will be submitted to an IRB for peer review.

(D) The patient has been given a description of the known and potential side effects of PCDC.

(4) Before compounding or writing an order to compound PCDC, the physician personally performs a physical examination of the patient, records the patient's medical history in the patient record, performs or orders relevant laboratory tests as indicated, and, based upon the examination, history, and test results, determines that PCDC is indicated for the patient.

(5) The physician or designated physician supervises and is personally present on the premises when the PCDC is administered.

(6) The patient record identifies each ingredient, the amount of each ingredient, and the amount of the preparation compounded by the physician, or the order to compound PCDC identifies each ingredient, the amount of each ingredient, and the amount of the preparation to be dispensed.

(e) Each physician who compounds or writes an order to compound PCDC shall meet each of the following requirements:

(1) Before compounding or writing an order to compound PCDC, the physician shall establish a written procedure that identifies each of the following:

(A) A general plan of care applicable to all patients, including indications and contraindications for administering PCDC to patients;

(B) each designated physician;

(C) each person who may administer PCDC upon the order of the physician; and

(D) each location within this state at which PCDC will be administered based upon the order of the physician.

(2)(A) A physician who has compounded or ordered PCDC to be compounded for a patient under a medical regimen that has not been completed on or before the effective date of this regulation shall, before administering or authorizing the administration of PCDC, submit a copy of the written procedure and informed consent form to the board and shall, within 60 days following the effective date of this regulation, submit evidence that an IRB has approved the written procedure and the informed consent form that the physician uses.

(B) Each physician not described in paragraph (e)(2)(A) shall obtain approval of the written procedure and informed consent form by an IRB and submit evidence of that approval and a copy of the written procedure and informed consent form to the board, before compounding or writing an order to compound PCDC.

(3) The physician shall report each adverse event resulting in medical intervention to the IRB and to the board within 24 hours of receiving notice of the adverse event. The physician shall report all other adverse events observed by or reported to the physician and all clinical results for each patient to the IRB at least monthly.

(4) At least monthly, the physician shall prepare or obtain from the compounding pharmacy and shall forward to the IRB the following information:

(A) Verification that the preparation is sterile;

(B) a description of the quantity and strength of all ingredients used as components of the preparation;

(C) documentation of adequate mixing to ensure homogeneity of the preparation; and

(D) verification of the clarity, completeness, or pH of the solution.

(f) Each departure from this regulation shall constitute prima facie evidence of dishonorable conduct.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 65-2836; effective, T-100-12-10-07, Dec. 10, 2007; effective April 4, 2008.)

Article 23. – TREATMENT OF OBESITY

100-23-1. Treatment of obesity. A person shall not dispense or prescribe controlled substances to treat obesity, as defined by this regulation, except in conformity with the following minimal requirements.

(a) Amphetamines shall not be dispensed or prescribed to treat obesity.

(b) The treating physician shall personally examine the patient. The physical examination shall include checking the blood pressure and pulse, examining the heart and lungs, recording weight and height, and administering any other appropriate diagnostic tests. The examination and patient history shall determine if controlled substances are indicated and if any co-morbidity exists. The treating physician shall enter each of these findings in the patient's record.

(c) The treating physician shall prescribe nutritional counseling, including behavior modification and appropriate exercise for weight loss, and record these parameters on the patient record.

(d) The treating physician shall not dispense or prescribe more than a 30-day supply of controlled substances, at one time, to treat obesity.

(e) Except as provided by subsection (f) of this regulation, the treating physician may continuously dispense or prescribe controlled substances to treat obesity when the physician observes and records that the patient significantly benefits from the controlled substances and has no serious adverse effects related to the drug regimen. A patient significantly benefits from the controlled substances when weight is reduced, or when weight loss is maintained and any existing co-morbidity is reduced. At the time of each return patient visit, the treating physician shall monitor progress of the patient; the treating physician or a person acting at the treating physician's order shall check the patient's weight, blood pressure, pulse, heart, and lungs. The findings shall be entered in the patient's record.

(f) The treating physician shall not dispense or prescribe additional controlled substances to treat obesity for a patient who has not achieved a weight loss of at least 5% of the patient's initial weight, during the initial 90 days of treatment using controlled substances to treat obesity.

(g) As used in this regulation, the term “controlled substance” means any drug included in any schedule of the Kansas uniform controlled substances act.

(h) As used in this regulation, the term “obesity” means a documented diagnosis of excess adipose tissue, resulting in body mass index of 30 or higher ($BMI \geq 30\text{kg/m}^2$), or a body mass index of 27 or higher in the presence of other risk factors ($BMI \geq 27\text{kg/m}^2$). Body mass index is

calculated by dividing measured body weight in kilograms by body height in meters squared (kg/m²); expected body mass index is 20-25 kg/m². (Authorized by and implementing K.S.A. 1997 Supp. 65-2837a; effective, T-86-25, July 24, 1985; effective May 1, 1986; amended, T-100-12-16-96, Dec. 16, 1996; amended May 9, 1997; amended, T-100-7-1-97, July 1, 1997; amended, T-100-10-30-97, Oct. 30, 1997; amended March 20, 1998.)

Article 24. – PATIENT RECORDS

100-24-1. Adequacy; minimal requirements.

(a) Each licensee of the board shall maintain an adequate record for each patient for whom the licensee performs a professional service.

(b) Each patient record shall meet these 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 dates any professional service was provided;

(5) contain pertinent and significant information concerning the patient's condition;

(6) reflect what examinations, vital signs, and tests were obtained, performed, or ordered and the findings and results of each;

(7) indicate the initial diagnosis and the patient's initial reason for seeking the licensee's services;

(8) indicate the medications prescribed, dispensed, or administered and the quantity and strength of each;

(9) reflect the treatment performed or recommended;

(10) document the patient's progress during the course of treatment provided by the licensee; and

(11) 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 hand-writing.

(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 implementing the healing arts act and this regulation, an electronic patient record shall be deemed a written patient record if the electronic record cannot be altered and if each entry in the electronic record is authenticated by the licensee.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 1997 Supp. 65-2837, as amended by L. 1998, ch. 142, §19 and L. 1998, ch. 170, §2; effective, T-87-42, Dec. 19, 1986; effective May 1, 1987; amended June 20, 1994; amended Nov. 13, 1998.)

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.)

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, § 19 and L. 1998, ch. 170, § 2 and K.S.A. 65-2865; effective May 7, 1999.)

Article 25. – OFFICE REQUIREMENTS

100-25-1. Definitions. As used in this article, the following terms shall have the meanings specified in this regulation.

(a) “General anesthesia” means a drug that, when administered to a patient, results in the patient's controlled state of unconsciousness accompanied by a loss of protective reflexes, including the loss of the independent and continuous ability to maintain the airway and a regular breathing pattern, and the loss of the ability to respond purposefully to verbal commands or tactile stimulation.

(b) “Local anesthesia” means a drug that, when administered to a localized part of the human body by topical application or by local infiltration in close proximity to a nerve, produces a transient and reversible loss of sensation. This term shall include lidocaine injections not exceeding seven milligrams per kilogram of body weight and also tumescent local anesthesia.

(c) “Medical care facility” has the meaning specified in K.S.A. 65-425 and amendments thereto.

(d) “Minimal sedation” means an oral sedative or oral analgesic administered in doses appropriate for the unsupervised treatment of insomnia, anxiety, or pain.

(e) “Minor surgery” means surgery that meets both of the following conditions:

(1) Any complication from the surgery requiring hospitalization is not reasonably foreseeable.

(2) The surgery can safely and comfortably be performed either on a patient who has received no anesthesia or on a patient who has received local anesthesia or topical anesthesia.

(f) “Office” means any place intended for the practice of the healing arts in the state of Kansas. This term shall not include a medical care facility, as defined by K.S.A. 65-425 and amendments thereto, that is licensed by the Kansas department of health and environment.

(g) “Office-based surgery” means any surgery that requires any anesthesia, parenteral analgesia, or sedation and that is performed by or upon the order of a physician in an office. Office-based surgery shall not include minor surgery.

(h) “Physician” means a person licensed to practice medicine and surgery or osteopathic medicine and surgery in the state of Kansas.

(i) “Reportable incident” means any act by a licensee or a person performing professional services under the licensee's supervision, order, or direction that meets either of the following criteria:

(1) Could be below the applicable standard of care and has a reasonable probability of causing injury to a patient; or

(2) could be grounds for disciplinary action by the board.

(j) “Sedation” means a depressed level of consciousness in which the patient retains the independent and continuous ability to perform the following:

(1) Maintain adequate cardiorespiratory functioning;

(2) maintain an open airway;

(3) maintain a regular breathing pattern;

(4) maintain the protective reflexes; and

(5) respond purposefully and rationally to tactile stimulation and verbal commands.

(k) “Special procedure” means any patient care service that involves any potentially painful contact with the human body, with or without instruments, for the purpose of diagnosis or therapy and for which the applicable standard of care necessitates any anesthesia to prevent or reduce pain. This term shall include a diagnostic or therapeutic endoscopy, invasive radiology, manipulation under anesthesia, and an endoscopic examination. This term shall include the conduct of pain management when performed using anesthesia levels exceeding local anesthesia.

(l) “Surgery” means a manual or operative method that involves the partial or complete excision or resection, destruction, incision, or other structural alteration of human tissue by any means, including the use of lasers, performed upon the human body for the purpose of preserving health, diagnosing or treating disease, repairing injury, correcting deformity or defects, prolonging life, terminating pregnancy, or relieving suffering, or for aesthetic, reconstructive, or cosmetic purposes.

(m) “Topical anesthesia” means a drug applied to the skin or mucous membranes for the purpose of producing a transient and reversible loss of sensation to a circumscribed area.

(n) “Tumescent local anesthesia” means local anesthesia administered in large volumes of highly diluted lidocaine not exceeding 55 milligrams per kilogram of body weight, epinephrine not exceeding 1.5 milligrams per liter of solution, and sodium bicarbonate not exceeding 15 milliequivalents per liter of solution in a sterile saline solution by slow infiltration into subcutaneous fat. Tumescent local anesthesia shall not include the concomitant administration of any sedatives, analgesics, or hypnotic drugs, or any combination of these, at any dosage that poses a significant risk of impairing the patient's independent and continuous ability to maintain adequate cardiorespiratory functioning, an open airway, a regular breathing pattern, and protective reflexes and to respond purposefully to tactile stimulation and verbal commands.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 65-2837; effective, T-100-8-22-05, Aug. 22, 2005; effective, T-100-12-20-05, Dec. 20, 2005; effective March 17, 2006.)

100-25-2. General requirements.

(a) Except in an emergency, a person licensed to practice a branch of the healing arts shall not perform direct patient care in an office unless all of the following conditions are met:

(1) The office at which the direct patient care is performed is sanitary and safe.

(2) Smoking is prohibited in all patient care areas and all areas where any hazardous material is present.

(3) Medical services waste is segregated, stored, collected, processed, and disposed of in accordance with K.A.R. 28-29-27.

(b) On and after July 1, 2006, each person licensed to practice a branch of the healing arts who maintains an office within this state shall adopt and follow a written procedure for sanitation and safety that includes at least the following:

(1) Standards for maintaining the cleanliness of the office. The standards shall specify the following:

(A) The methods for and the frequency of cleaning and decontaminating the walls, ceilings, floors, working surfaces, furniture, and fixtures. The written procedure shall identify the types of disinfectants and cleaning materials to be used; and

(B) the methods to prevent the infestation of insects and rodents and, if necessary, to remove insects and rodents;

(2) standards for infection control and the disposal of biological waste. The standards shall be at least as stringent as the standards in all applicable laws pertaining to the disposal of medical and hazardous waste and shall specify the following:

(A) The procedures to limit the spread of infection among patients and personnel through universal precautions, hand hygiene, and the proper handling and disposal of sharp objects;

(B) the methods to decontaminate infected items with germicidal, virucidal, bactericidal, tuberculocidal, and fungicidal products; and

(C) the procedures to sterilize reusable medical instruments and devices;

(3) standards for maintaining drugs, supplies, and medical equipment. The standards shall be at least as stringent as the standards in all applicable laws pertaining to the supply, storage, security, and administration of controlled drugs and shall specify the following:

(A) The manner of storing drugs and supplies to guard against tampering and theft;

(B) the procedures for disposal of expired drugs and supplies; and

(C) the procedures for maintaining, testing, and inspecting medical equipment;

(4) standards for maintaining the safety of physical facilities. The standards shall require that all of the following conditions are met:

(A) The office is properly equipped and maintained in good repair as necessary to prevent reasonably foreseeable harm to patients, personnel, and the public;

(B) the lighting, ventilation, filtration, and temperature control are adequate for the direct patient care to be performed;

(C) the floors, walls, and ceilings have surfaces that can be cleaned, disinfected, sterilized, or replaced as appropriate for the direct patient care to be performed;

(D) adequate measures are in place to deter any unauthorized individuals from entering the treatment rooms; and

(E) all passageways are free of clutter; and

(5) a plan for reporting each reportable incident pursuant to K.S.A. 65-28,122 and K.S.A. 65-4923 and amendments thereto.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 65-2837; effective, T-100-8-22-05, Aug. 22, 2005; effective, T-100-12-20-05, Dec. 20, 2005; effective March 17, 2006.)

100-25-3. Requirements for office-based surgery and special procedures. A physician shall not perform any office-based surgery or special procedure unless the office meets the requirements of K.A.R. 100-25-2. Except in an emergency, a physician shall not perform any office-based surgery or special procedure on and after January 1, 2006 unless all of the following requirements are met:

(a) Personnel.

(1) All health care personnel shall be qualified by training, experience, and licensure as required by law.

(2) At least one person shall have training in advanced resuscitative techniques and shall be in the patient's immediate presence at all times until the patient is discharged from anesthesia care.

(b) Office-based surgery and special procedures.

(1) Each office-based surgery and special procedure shall be within the scope of practice of the physician.

(2) Each office-based surgery and special procedure shall be of a duration and complexity that can be undertaken safely and that can reasonably be expected to be completed, with the patient discharged, during normal operational hours.

(3) Before the office-based surgery or special procedure, the physician shall evaluate and record the condition of the patient, any specific morbidities that complicate operative and anesthesia management, the intrinsic risks involved, and the invasiveness of the planned office-based surgery or special procedure or any combination of these.

(4) The physician or a registered nurse anesthetist administering anesthesia shall be physically present during the intraoperative period and shall be available until the patient has been discharged from anesthesia care.

(5) Each patient shall be discharged only after meeting clinically appropriate criteria. These criteria shall include, at a minimum, the patient's vital signs, the patient's responsiveness and orientation, the patient's ability to move voluntarily, and the ability to reasonably control the patient's pain, nausea, or vomiting, or any combination of these.

(c) Equipment.

(1) All operating equipment and materials shall be sterile, to the extent necessary to meet the applicable standard of care.

(2) Each office at which office-based surgery or special procedures are performed shall have a defibrillator, a positive-pressure ventilation device, a reliable source of oxygen, a suction device, resuscitation equipment, appropriate emergency drugs, appropriate anesthesia devices and equipment for proper monitoring, and emergency airway equipment including appropriately sized oral airways, endotracheal tubes, laryngoscopes, and masks.

(3) Each office shall have sufficient space to accommodate all necessary equipment and personnel and to allow for expeditious access to the patient, anesthesia machine, and all monitoring equipment.

(4) All equipment shall be maintained and functional to ensure patient safety.

(5) A backup energy source shall be in place to ensure patient protection if an emergency occurs.

(d) Administration of anesthesia. In an emergency, appropriate life-support measures shall take precedence over the requirements of this subsection. If the execution of life-support measures requires the temporary suspension of monitoring otherwise required by this subsection, monitoring shall resume as soon as possible and practical. The physician shall identify the emergency in the patient's medical record and state the time when monitoring resumed. All of the following requirements shall apply:

(1) A preoperative anesthetic risk evaluation shall be performed and documented in the patient's record in each case. In an emergency during which an evaluation cannot be documented preoperatively without endangering the safety of the patient, the anesthetic risk evaluation shall be documented as soon as feasible.

(2) Each patient receiving intravenous anesthesia shall have the blood pressure and heart rate measured and recorded at least every five minutes.

(3) Continuous electrocardiography monitoring shall be used for each patient receiving intravenous anesthesia.

(4) During any anesthesia other than local anesthesia and minimal sedation, patient oxygenation shall be continuously monitored with a pulse oximeter. Whenever an endotracheal tube or laryngeal mask airway is inserted, the correct functioning and positioning in the trachea shall be monitored throughout the duration of placement.

(5) Additional monitoring for ventilation shall include palpation or observation of the reservoir breathing bag and auscultation of breath sounds.

(6) Additional monitoring of blood circulation shall include at least one of the following:

- (A) Palpation of the pulse;
- (B) auscultation of heart sounds;
- (C) monitoring of a tracing of intra-arterial pressure;
- (D) pulse plethysmography; or
- (E) ultrasound peripheral pulse monitoring.

(7) When ventilation is controlled by an automatic mechanical ventilator, the functioning of the ventilator shall be monitored continuously with a device having an audible alarm to warn of disconnection of any component of the breathing system.

(8) During any anesthesia using an anesthesia machine, the concentration of oxygen in the patient's breathing system shall be measured by an oxygen analyzer with an audible alarm to warn of low oxygen concentration.

(e) Administrative policies and procedures.

(1) Each office shall have written protocols in place for the timely and safe transfer of the patients to a prespecified medical care facility within a reasonable proximity if extended or emergency services are needed. The protocols shall include one of the following:

- (A) A plan for patient transfer to the specified medical care facility;
- (B) a transfer agreement with the specified medical care facility; or
- (C) a requirement that all physicians performing any office-based surgery or special procedure at the office have admitting privileges at the specified medical care facility.

(2) Each physician who performs any office-based surgery or special procedure that results in any of the following quality indicators shall notify the board in writing within 15 calendar days following discovery of the event:

- (A) The death of a patient during any office-based surgery or special procedure, or within 72 hours thereafter;
- (B) the transport of a patient to a hospital emergency department;

(C) the unscheduled admission of a patient to a hospital within 72 hours of discharge, if the admission is related to the office-based surgery or special procedure;

(D) the unplanned extension of the office-based surgery or special procedure more than four hours beyond the planned duration of the surgery or procedure being performed;

(E) the discovery of a foreign object erroneously remaining in a patient from an office-based surgery or special procedure at that office; or

(F) the performance of the wrong surgical procedure, surgery on the wrong site, or surgery on the wrong patient.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 65-2837; effective, T-100-8-22-05, Aug. 22, 2005; effective, T-100-12-20-05, Dec. 20, 2005; effective March 17, 2006.)

100-25-4. Office-based surgery and special procedures using general anesthesia or a spinal or epidural block.

(a) In addition to meeting the requirements stated in K.A.R. 100-25-2 and 100-25-3, a physician shall not perform any office-based surgery or special procedure using general anesthesia or a spinal or epidural block unless the office is equipped with the following:

(1) Medications and equipment available to treat malignant hyperthermia when triggering agents are used. At a minimum, the office shall have a supply of dantrolene sodium adequate to treat each patient until the patient is transferred to an emergency facility;

(2) tracheotomy and chest tube kits;

(3) an electrocardiogram that is continuously displayed from the induction and during the maintenance of general anesthesia or the spinal or epidural block;

(4) a means readily available to measure the patient's temperature; and

(5) qualified, trained personnel available and dedicated solely to patient monitoring.

(b) On and after July 1, 2006, each physician who performs any office-based surgery or special procedure using general anesthesia or a spinal or epidural block shall perform the office-based surgery or special procedure only in an office that meets at least one of the following sets of standards, all of which are hereby adopted by reference except as specified:

(1) Sections 110-010 through 1031-02 in the “standards and checklist for accreditation of ambulatory surgery facilities” by the American association for accreditation of ambulatory surgery facilities, inc., revised in 2005;

(2) “section two: accreditation” and the glossary, except the definition of “physician,” in “accreditation requirements for ambulatory care/surgery facilities” by the healthcare facilities accreditation program of the American osteopathic association, 2001-2002 edition;

(3) section 1 and section 2 in “accreditation manual for office-based surgery practices” by the joint commission on accreditation of healthcare organizations, second edition, dated 2005;

(4) “accreditation standards for ambulatory facilities” by the institute for medical quality, 2003 edition. The appendices are not adopted; or

(5) chapters 1 through 6, 8 through 10, 15, 16, 19, 22, and 24 and appendices A and I in the “accreditation handbook for ambulatory health care” by the accreditation association for ambulatory health care, inc., 2005 edition.

(c) A physician who maintains an office shall not permit any office-based surgery or special procedure involving general anesthesia or a spinal or epidural block to be performed in that office unless the office meets at least one of the five sets of standards adopted in subsection (b).

(d) Accreditation of an office by an organization whose standards are adopted in subsection (b) shall be prima facie evidence that those standards are currently being met.

(e) This regulation shall not apply to any professional service performed in an emergency. (Authorized by K.S.A. 65-2865; implementing K.S.A. 65-2837; effective, T-100-8-22-05, Aug. 22, 2005; effective, T-100-12-20-05, Dec. 20, 2005; effective March 17, 2006.)

100-25-5. Standard of care. Each person licensed to practice a branch of the healing arts who performs direct patient care in an office or who performs any office-based surgery or special procedures in an office shall meet the standard of care established by the regulations in this article.

(Authorized by K.S.A. 65-2865; implementing K.S.A. 65-2837; effective, T-100-8-22-05, Aug. 22, 2005; effective, T-100-12-20-05, Dec. 20, 2005; effective March 17, 2006.)

Article 26. – SERVICES RENDERED TO INDIVIDUALS LOCATED IN THIS STATE; OUT-OF-STATE PRACTITIONERS

100-26-1. Services rendered to individuals located in this state.

(a) Except as authorized by K.S.A. 65-2872 and amendments thereto and this article, each person, regardless of location, who performs any act specified in K.S.A. 65-2802(a) and amendments thereto or who issues an order for any service that constitutes the practice of the healing arts on an individual located in this state shall be deemed to be engaged in the practice of the healing arts in this state.

(b) Nothing in this article shall be construed to prohibit an out-of-state practitioner, as defined by K.A.R. 100-26-2, from providing verbal, written, or electronic communication that is incidental to the services lawfully provided by the out-of-state practitioner and that is conveyed to any of the following individuals located in this state:

- (1) Any health professional;
- (2) any patient; or
- (3) any individual authorized to act on behalf of a patient.

(Authorized by K.S.A. 65-2865 and 65-2872, as amended by L. 2005, Ch. 117, §1; implementing K.S.A. 65-2872, as amended by L. 2005, Ch. 117, §1; effective June 20, 1994; amended, T-100-8-22-05, Aug. 22, 2005; amended, T-100-12-20-05, Dec. 20, 2005; amended March 17, 2006.)

100-26-2. Definitions. As used in this article, the following definitions shall apply:

(a) “Diagnostic professional service” means the testing of a human being for the detection or evaluation of a disease, ailment, deformity, or injury within this state pursuant to the valid order of an out-of-state practitioner.

(b) “Health care facility” means an entity licensed by the secretary of the Kansas department of health and environment or by the secretary of the department of social and rehabilitation services of the state of Kansas to provide any service that constitutes the practice of the healing arts. This term shall include any persons who are employed by the health care facility to implement the orders issued by licensees of the board.

(c) “Health professional” means an individual who is licensed, registered, or certified by a Kansas regulatory agency and who renders services, directly or indirectly, for the purpose of any of the following:

- (1) Preventing physical, mental, or emotional illness;
- (2) detecting, diagnosing, and treating illness;
- (3) facilitating recovery from illness; or

(4) providing rehabilitative or continuing care following illness.

(d) "Licensee" means a person licensed by the board to practice the healing arts.

(e) "Out-of-state practitioner" means an individual who is licensed in another state to practice a branch of the healing arts without suspension or disciplinary limitation to issue a valid order, if that individual does not maintain an office or appoint a place to regularly meet patients or receive calls within the state of Kansas.

(f) "Therapeutic professional service" means any treatment for the cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, or injury.

(g) "Valid order" means an order by an out-of-state practitioner for a diagnostic professional service or therapeutic professional service that is transmitted orally, electronically, or in writing, if all of the following conditions are met:

(1) The order is within the lawful scope of authority of the out-of-state practitioner.

(2) The order may be lawfully ordered or provided by a licensee in this state who practices the same branch of the healing arts as that of the out-of-state practitioner.

(3) The order is issued by an out-of-state practitioner who is not any of the following:

(A) A licensee whose license is suspended;

(B) an individual who previously was a licensee whose license is revoked under K.S.A. 65-2836 and amendments thereto; or

(C) a licensee whose license has a limitation by the board that prohibits the order.

(Authorized by and implementing K.S.A. 65-2872, as amended by L. 2005, Ch. 117, § 1; effective, T-100-8-22-05, Aug. 22, 2005; effective, T-100-12-20-05, Dec. 20, 2005; effective March 17, 2006.)

100-26-3. Orders for diagnostic professional services and therapeutic professional services.

(a) Any health care facility may perform a diagnostic professional service or therapeutic professional service pursuant to the valid order of an out-of-state practitioner.

(b) Any health professional may perform a diagnostic professional service outside of a health care facility pursuant to the valid order of an out-of-state practitioner.

(Authorized by and implementing K.S.A. 65-2872, as amended by L. 2005, Ch. 117, § 1; effective, T-100-8-22-05, Aug. 22, 2005; effective, T-100-12-20-05, Dec. 20, 2005; effective March 17, 2006.)

Article 27. – LIGHT-BASED MEDICAL TREATMENT

100-27-1. Supervision of light-based medical treatment.

(a) (1) The phrase "class III or class IV device" shall mean a medical instrument that meets either of the following conditions:

(A) Is a class IIIa, class IIIb, or class IV laser product as defined by 21 C.F.R. § 1040.10, as in effect on March 31, 2000; or

(B) emits radiation in a continuous wave of more than one milliwatt or at a pulsed rate of more than five milliwatts.

(2) The phrase "immediately available" shall mean that the licensee either is physically present in the same building or can be present at the location where the service is performed within five minutes.

(3) “Licensee” shall mean a person licensed to practice medicine and surgery or osteopathic medicine and surgery in this state.

(4) The phrase “light-based medical device” shall mean any instrument that produces or amplifies electromagnetic radiation at wavelengths equal to or greater than 180 nanometers, but less than or equal to 1.0×10^6 nanometers, for the purpose of affecting the structure or function of any part of the living human body.

(5) The phrase “physically present” shall mean that the licensee is capable of constant, direct communication and is in the same office within the building where the service is performed throughout the entire time during which the service is performed.

(b) A licensee shall not authorize another person to perform a professional service using a light-based medical device unless either the licensee is immediately available or, except as limited by subsection (c), there is a written practice protocol signed by the licensee and the person performing the treatment that requires all of the following:

(1) The person performing the treatment will not provide any service for which the person is not competent by training, education, and experience.

(2) The person receiving the treatment is required to give consent to the treatment, after being informed of the nature and purpose of the treatment, risks, and expected consequences of treatment, alternatives to light-based medical treatment, and identification of the treatment as a medical and surgical procedure.

(3) The person performing the treatment is required to inform the person receiving the treatment of the licensee's identity, emergency telephone number, and practice location, if different from the location at which the treatment is performed.

(4) Each treatment is required to be performed only at a location that the licensee maintains for the practice of the branch of the healing arts for which the licensee is licensed.

(5) Each treatment provided while the licensee is not physically present is required to be performed within written operating parameters.

(6) Creation of an adequate patient record is required.

(7) The licensee is required to review the patient record and authenticate this review within 14 days following the treatment.

(8) The person performing the treatment is prohibited from delegating the use of the light-based medical device to another person.

(c) A licensee shall not authorize another person to perform a professional service using a class III or class IV device or an intense pulsed-light device substantially equivalent to a laser surgical device as defined by 21 C.F.R. § 878.4810, as in effect on January 16, 1996, unless either of the following conditions is met:

(1) The licensee is physically present.

(2) The licensee is immediately available, and there is a written protocol signed by the licensee and the person performing the treatment that meets the requirements of paragraphs (b)(1) through (b)(8).

(d) This regulation shall not apply to an order by a licensee to any appropriate person for the application of light-based medical devices for phototherapy in the treatment of hyperbilirubinemia in neonates.

(e) This regulation shall not apply to any of the following:

(1) Any person licensed under the healing arts act to practice chiropractic who engages in light-based physiotherapy;

(2) any licensed physical therapist who provides treatments as authorized by law; or

(3) any licensed occupational therapist who provides treatments as authorized by law.
(Authorized by K.S.A. 65-2865; implementing K.S.A. 2005 Supp. 65-28,127; effective June 1, 2001; amended March 22, 2002; amended Sept. 15, 2006.)

Article 28. – RESERVED