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KANSAS STATUTES ANNOTATED and ADMINISTRATIVE REGULATIONS

Pertaining to those Professions Licensed and Regulated by the

KANSAS STATE BOARD OF HEALING ARTS

Section 1 – Podiatrists
Section 2 – Healing Arts (MDs, DOs, DCs)
Section 3 – Physician Assistants
Section 4 – Independent Nurse-Midwives
Section 5 – Physical Therapists
Section 6 – Contact Lens Dispensers
Section 7 – Occupational Therapists
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Section 9 – Athletic Trainers
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KANSAS STATE BOARD

OF

HEALING ARTS

KANSAS STATUTES ANNOTATED

AND

KANSAS ADMINISTRATIVE REGULATIONS

Relating to the practice of

PODIATRISTS

August 2014

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.

Chapter 65 – PUBLIC HEALTH
ARTICLE 20 – PODIATRY ACT

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65-2001
Chapter 65 – PUBLIC HEALTH
Article 20 – PODIATRY ACT

65-2001. Podiatry act; definitions. As used in the podiatry act, unless the context otherwise requires:

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

(b) "Podiatrist" means one practicing podiatry.

(c) "Podiatry" means the diagnosis and medical and surgical treatment of all illnesses of the human foot, including the ankle and tendons which insert into the foot as well as the foot, subject to subsection (d) of K.S.A. 65-2002, and amendments thereto.

History: L. 1927, ch. 246, § 1; L. 1979, ch. 197, § 1; L. 2014, ch. 60, § 131; May 22.

65-2002
Chapter 65 – PUBLIC HEALTH
Article 20 – PODIATRY ACT

65-2002. License required; scope of practice; applicability of act.

(a) It shall be unlawful for any person to profess to be a podiatrist, to practice or assume the duties incidental to podiatry, to advertise or hold oneself out to the public as a podiatrist, or to use any sign or advertisement with the word or words podiatrist, foot specialist, foot correctionist, foot expert, practapedist or chiropodist, or any other term or terms indicating that such person is a podiatrist or that such person practices or holds oneself out as practicing podiatry or foot correction in any manner, without first obtaining from the board a license authorizing the practice of podiatry in this state, except as hereinafter provided.

(b) A licensed podiatrist shall be authorized to prescribe such drugs or medicine, and to perform such surgery on the human foot, ankle and tendons that insert into the foot, including amputation of the toes or part of the foot, as may be necessary to the proper practice of podiatry, but no podiatrist shall amputate the human foot or administer any anesthetic other than local.

(c) This act shall not prohibit the recommendation, advertising, fitting or sale of corrective shoes, arch supports, or similar mechanical appliances, or foot remedies by manufacturers, wholesalers or retail dealers.

(d) No podiatrist shall perform surgery on the ankle unless such person has completed a three-year-post-doctoral surgical residency program in reconstructive rearfoot/ankle surgery and is either board-certified or board qualified progressing to board certification in reconstructive rearfoot/ankle surgery by a nationally recognized certifying organization acceptable to the board. Surgical treatment of the ankle by a podiatrist shall be performed only in a medical care facility, as defined in K.S.A. 65-425, and amendments thereto.

(e) Not later than 90 days after the effective date of this act, the board shall appoint a five-member committee to be known as the podiatry interdisciplinary advisory committee. Such committee shall advise and make recommendations to the board on matters relating to licensure of podiatrists to perform surgery on the ankle pursuant to subsection (d). The podiatry interdisciplinary advisory committee shall consist of five members:

(1) One member of the board appointed by the board who shall serve as a nonvoting chairperson;

(2) two persons licensed to practice medicine and surgery specializing in orthopedics, chosen by the board from four names submitted by the Kansas medical society; and

(3) two podiatrists, at least one of whom shall have completed an accredited residency in foot and ankle surgery, chosen by the board from four names submitted by the Kansas podiatric medical association.

Members appointed to such committee shall serve at the pleasure of the board without compensation. All expenses of the committee shall be paid by the board. The provisions of this subsection shall expire on July 1, 2018.

History: L. 1927, ch. 246, § 2; L. 1951, ch. 362, § 1; L. 1975, ch. 323, § 1; L. 1979, ch. 197, § 2; L. 1988, ch. 246, § 1; L. 1997, ch. 88, § 1; L. 2014, ch. 61, § 131; May 22.

65-2003
Chapter 65 – PUBLIC HEALTH
Article 20 – PODIATRY ACT

65-2003. Examination for license to practice podiatry; licensure qualifications; license by endorsement; recognized school of podiatry, criteria.

(a) Examinations for a license to practice podiatry in this state shall be held at the same time and place as the examinations held by the board under the Kansas healing arts act. All applicants for a license to practice podiatry under the provisions of this act: (1) Shall have attained the age of 21 years; (2) shall have completed at least four years of instruction in, and be graduates of, a school of podiatry which is recognized as being in good standing by the board; and (3) commencing with applicants for a license to be granted on or after July 1, 1988, shall have completed acceptable postgraduate study as may be established by the board by rules and regulations.

(b) Applicants licensed, registered or certified by a board of examiners of any other state or country whose requirements for licensure, registration or certification are substantially equal to those of this state in the opinion of the state board of healing arts may be granted, upon payment of the endorsement license fee established pursuant to K.S.A. 65-2012, and amendments thereto, a license without examination.

(c) The board shall adopt rules and regulations establishing the criteria which a school of podiatry shall satisfy to be recognized as being in good standing by the board under subsection (a). The board may send a questionnaire developed by the board to any school of podiatry for which the board does not have sufficient information to determine whether the school meets the requirements of subsection (a) and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the school to be recognized as being in good standing. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about schools of podiatry. In entering such contracts the authority to approve schools shall remain solely with the board.

History: L. 1927, ch. 246, § 4; L. 1951, ch. 362, § 2; L. 1975, ch. 323, § 2; L. 1979, ch. 197, § 3; L. 1983, ch. 213, §5; L. 1984, ch. 232, § 1; L. 1988, ch. 243, § 9; L. 1988, ch. 246, § 2; L. 1988, ch. 245, § 2; July 1.

65-2004
Chapter 65 – PUBLIC HEALTH
Article 20 – PODIATRY ACT

65-2004. Nature and scope of examinations; passing grade; fees; reexamination.

(a) Except as provided in subsection (b) of K.S.A. 65-2003 and amendments thereto, each applicant for a license to practice podiatry shall be examined by the board in the following subjects: Anatomy, bacteriology, chemistry, dermatology, histology, pathology, physiology, pharmacology and medicine, diagnosis, therapeutics, and clinical podiatry and surgery, limited in their scope to the treatment of the human foot, including the ankle and tendons which insert into the foot as well as the foot. If the applicant possesses the qualifications required by K.S.A. 65-2003 and amendments thereto, completes the examination prescribed with the passing grade as established by rules and regulations of the board and pays to the board the license fee established pursuant to K.S.A. 65-2012 and amendments thereto, such applicant shall be issued a license by the board to practice podiatry in this state.

(b) Each applicant before taking the examination shall pay to the board the examination fee established pursuant to K.S.A. 65-2012 and amendments thereto. Any applicant failing the examination 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.

History: L. 1927, ch. 246, § 5; L. 1975, ch. 323, § 3; L. 1979, ch. 197, § 4; L. 1987, ch. 239, § 1;L. 1987, ch. 240, § 1; L. 1988, ch. 246, § 3; L. 2014, ch. 62, § 131; May 22.

65-2005
Chapter 65 – PUBLIC HEALTH
Article 20 – PODIATRY ACT

65-2005. Designation of licensee; expiration and renewal of license; reinstatement of license; temporary permits; temporary licenses; exempt license; display of license or permit; postgraduate permit; inactive license; federally active licensee.

(a) A licensee shall be designated a licensed podiatrist and shall not use any title or abbreviations without the designation licensed podiatrist, practice limited to the human foot, including the ankle and tendons which insert into the foot as well as the foot, and shall not mislead the public as to such licensee's limited professional qualifications to treat human ailments. Whenever a registered podiatrist, or words of like effect, is referred to or designated by any statute, contract or other document, such reference or designation shall be deemed to refer to or designate a licensed podiatrist.

(b) The license of each licensed podiatrist shall expire 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 less than one year, the board may prorate the amount of the fee established under K.S.A. 65-2012 and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the renewal fee established under K.S.A. 65-2012 and amendments thereto which shall be paid not later than the expiration date of the license. At least 30 days before the expiration of a licensee's license, the board shall notify the licensee of the expiration by mail addressed to the licensee's last mailing address as noted upon the office records. If a licensee fails to pay the renewal fee by the date of expiration, the licensee shall be given a second notice that the licensee's license has expired and the license may be renewed only if the renewal fee and the late renewal fee are received by the board within the thirty-day period following the date of expiration and that, if both fees are not received within the thirty-day period, such licensee's license shall be canceled by operation of law and without further proceedings for failure to renew and shall be reissued only after the licensee has been reinstated under subsection (c).

(c) Any licensee who allows the licensee's license to be canceled by failing to renew may be reinstated upon recommendation of the board and upon payment of the renewal fee and the reinstatement fee established pursuant to K.S.A. 65-2012 and amendments thereto and upon submitting evidence of satisfactory completion of the applicable reeducation and continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate reeducation and continuing education requirements for reinstatement of persons whose licenses have been canceled for failure to renew.

(d) The board, prior to renewal of a license, shall require the licensee, if in the active practice of podiatry within Kansas, 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 annual premium surcharge as required by K.S.A. 40-3404 and amendments thereto.

(e) The board may issue a temporary permit to practice podiatry in this state to any person making application for a license to practice podiatry who meets the required

qualifications for a license and who pays to the board the temporary permit fee established pursuant to K.S.A. 65-2012 and amendments thereto. A temporary permit shall authorize the permittee to practice within the limits of the permit until the license is issued or denied to the permittee by the board.

(f) The board may issue a postgraduate permit to practice podiatry to any person engaged in a full-time, approved postgraduate study program; has made application for such postgraduate permit upon a form provided by the board; meets all the qualifications for a license, except the examination required under K.S.A. 65-2004, and amendments thereto; and has paid the fee established pursuant to K.S.A. 65-2012, and amendments thereto. The postgraduate permit shall authorize the person receiving the permit to practice podiatry in the postgraduate study program, but shall not authorize practice outside of the postgraduate study program. The postgraduate permit shall be canceled if the permittee ceases to be engaged in the postgraduate study program.

(g) The board may issue, upon payment to the board of the temporary license fee established pursuant to K.S.A. 65-2012 and amendments thereto, a temporary license to a practitioner of another state or country who is appearing as a clinician at meetings, seminars or training programs approved by the board, if the practitioner holds a current license, registration or certificate as a podiatrist from another state or country and the sole purpose of such appearance is for promoting professional education.

(h) 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 under K.S.A. 65-2012 and amendments thereto. The board may issue an exempt license only to a person who has previously been issued a license to practice podiatry within Kansas, who is no longer regularly engaged in such practice and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder to all privileges attendant to the practice of podiatry. Each exempt license may be renewed annually subject to the other provisions of this section and other sections of the podiatry act. Each exempt licensee shall be subject to all provisions of the podiatry act, except as otherwise provided. The holder of an exempt license shall not be required to submit evidence of satisfactory completion of a program of continuing education required under the podiatry act. Each exempt licensee may apply for a license to regularly engage in the practice of podiatry upon filing a written application with the board and submitting evidence of satisfactory completion of the applicable and continuing education requirements established by the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established under K.S.A. 65-2012 and amendments thereto. The board shall adopt rules and regulations establishing appropriate and continuing education requirements for exempt licensees to become licensed to regularly practice podiatry within Kansas.

(i) 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. 65-2012, and amendments thereto. The board may issue an inactive license only to a person who meets all the requirements for a license to practice podiatry in Kansas, who is not regularly engaged in the practice of podiatry 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 health care provider as defined in K.S.A. 40-3401, and amendments thereto. An inactive license shall not entitle the holder to practice podiatry 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 podiatry 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. 65-2010, and amendments thereto. Each inactive licensee may apply for a license to regularly engage in the practice of podiatry 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. 65-2012, 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 podiatry within Kansas. Any licensee whose license has been inactive for more than two years and who has not been in the active practice of podiatry 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.

(j) 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. 65-2012, 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 podiatry in Kansas and who practices podiatry solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies or who, in addition to such employment or assignment, provides professional services as a charitable health care provider as defined under K.S.A. 75-6102, and amendments thereto. The provisions of subsections (b) and (c) of this section relating to expiration, renewal and reinstatement of a license and K.S.A. 65-2010, and amendments thereto, relating to continuing education shall be applicable to a federally active license issued under this subsection. A person who practices under a federally active license 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.

(k) Each license or permit granted under this act shall be conspicuously displayed at the office or other place of practice of the licensee or permittee.

(l) A person whose license has been revoked may apply for reinstatement of the license 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 fee established by the board under K.S.A. 65-2012, and amendments thereto. The burden of proof by clear and convincing evidence shall be on the applicant to show sufficient rehabilitation to justify reinstatement of the license. If the board determines a license should not be reinstated, the person shall not be eligible to reapply for reinstatement for three years from the effective date of the denial. All proceedings conducted on an application for reinstatement shall be in accordance with the 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.

History: L. 1927, ch. 246, § 6; L. 1951, ch. 362, § 3; L. 1974, ch. 254, § 1; L. 1975, ch. 323, § 4; L. 1979, ch. 197, § 5; L. 1987, ch. 240, § 2; L. 1988, ch. 246, § 4; L. 1992, ch. 253, § 1; L. 2004, ch. 117, § 15; L. 2010, ch. 17, § 136; L. 2014, ch. 63, § 131; May 22.

65-2006. Suspension, revocation or limitation of licenses and permits; grounds; consent to submit to mental or physical examination implied; professional incompetency and unprofessional conduct defined; hearing procedure.

(a) The board, upon hearing, may revoke, suspend or limit any license or permit to practice podiatry, may deny issuance or renewal of any such license or permit, or may publicly or privately censure a licensee or permittee, if the person holding or applying for such license or permit is found by the board to:

(1) Have committed fraud in securing the license or permit;

(2) have engaged in unprofessional or dishonorable conduct or professional incompetency;

(3) have been convicted of a felony if the board determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;

(4) have used untruthful or improbable statements or flamboyant, exaggerated or extravagant claims in advertisements concerning the licensee's or permit holder's professional excellence or abilities;

(5) be addicted to or have distributed intoxicating liquors or drugs for any other than lawful purposes;

(6) have willfully or repeatedly violated the podiatry act, the pharmacy act or the uniform controlled substances act, or any rules and regulations adopted thereunder, or any rules and regulations of the secretary of health and environment which are relevant to the practice of podiatry;

(7) have unlawfully invaded the field of practice of any branch of the healing arts;

(8) have failed to submit proof of completion of a continuing education course required pursuant to the podiatry act;

(9) have engaged in the practice of podiatry under a false or assumed name or impersonated another podiatrist, but practice by a licensee or permit holder under a professional corporation or other legal entity duly authorized to provide podiatry services in the state shall not be considered to be practice under an assumed name;

(10) be unable to practice podiatry with reasonable skill and safety to patients by reason of any mental or physical condition, illness, alcoholism or excessive use of drugs, controlled substances or chemical or any other type of material;

(11) have had the person's license or permit to practice podiatry revoked, suspended or limited, or have had other disciplinary actions taken or an application for a license or permit denied, by the proper licensing authority of any state, territory or country or the District of Columbia;

(12) have violated any rules and regulations of the board or any lawful order or directive of the board;

(13) have knowingly submitted a misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement; or

(14) have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2011 Supp. 21-5407, and amendments thereto as established by any of the following:

(A) 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. 2011 Supp. 21-5407, and amendments thereto.

(B) 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.

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

(b) In determining whether or not a licensee or permit holder is unable to practice podiatry with reasonable skill and safety to patients as provided in subsection (a)(10), the board, upon probable cause, shall have authority to compel a licensee or permit holder to submit to mental or physical examination by such persons as the board may designate. Failure of a licensee or permit holder to submit to such examination when directed shall constitute an admission of the allegations against the licensee or permit holder, unless the failure was due to circumstances beyond the licensee's or permit holder's control. A person affected by this subsection shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice of podiatry with reasonable skill and safety to patients. Each licensee or permit holder accepting the privilege to practice podiatry in this state, by practicing podiatry in this state or by making and filing an application for a license or permit, or renewal of a license or permit, to practice podiatry in this state, shall be deemed to have consented to submit to a mental or physical examination when directed in writing by the board pursuant to this subsection and to have waived all objections to the admissibility of the testimony or examination report of the person conducting such examination at any proceeding or hearing before the board on the ground that such testimony or examination report constitutes a privileged communication. The record of any board proceedings involving a mental or physical examination pursuant to this subsection shall not be used in any other administrative or judicial proceeding.
Whenever the board directs that a licensee or permit holder submit to an examination pursuant to this subsection, the time from the date of the board's directive until the submission to the board of the report of the examination shall not be included in the computation of the time limit for hearing prescribed by the Kansas administrative procedure act.

(c) As used in this section, "professional incompetency" and "unprofessional conduct" shall have the meanings ascribed thereto by K.S.A. 65-2837, and amendments thereto.

(d) The procedure for revocation, suspension, limitation, temporary suspension, temporary limitation, or for denial of issuance or renewal pursuant to this section, of any license or permit to practice podiatry shall be in accordance with the provisions of the Kansas administrative procedure act.

History: L. 1927, ch. 246, § 7; L. 1975, ch. 323, § 5; L. 1979, ch. 197, § 6; L. 1984, ch. 313, § 117; L. 1986, ch. 234, § 4; L. 1988, ch. 246, § 5; L. 1998, ch. 142, § 11; L. 2011, ch. 30, § 239; July 1.

65-2007
Chapter 65 – PUBLIC HEALTH
Article 20 – PODIATRY ACT

65-2007. Violation of act; penalty. Any person who knowingly violates any of the provisions of this act shall, upon conviction thereof, be fined not more than three hundred dollars ($300) or shall be imprisoned in the county jail for a period of not to exceed ninety (90) days.

History: L. 1927, ch. 246, § 9; L. 1975, ch. 323, §6; July 1.

65-2008
Chapter 65 – PUBLIC HEALTH
Article 20 – PODIATRY ACT

65-2008. Exceptions to operation of act. This act shall not apply to persons licensed by the state board of healing arts to practice medicine and surgery, nor to the surgeons of the United States army, navy, and United States public health service when in actual performance of their official duties.

History: L. 1927, ch. 246, § 10; L. 1975, ch. 323, §7; July 1.

65-2009
Chapter 65 – PUBLIC HEALTH
Article 20 – PODIATRY ACT

65-2009. Injunction or ouster for unlawful practice. An action to enjoin or oust from the unlawful practice of podiatry may be brought and maintained in the name of the state of Kansas against any person who shall practice podiatry without being licensed to practice podiatry by the board. This authority shall be in addition to and not in lieu of authority to prosecute criminally any person unlawfully engaged in the practice of podiatry.

History: L. 1951, ch. 362, § 4; L. 1975, ch. 323, §8; L. 1988, ch. 246, § 7; July 1.

65-2010
Chapter 65 – PUBLIC HEALTH
Article 20 – PODIATRY ACT

65-2010. Continuing education.

(a) Every licensed podiatrist in the active practice of podiatry within Kansas shall submit with the request for renewal under K.S.A. 65-2005 and amendments thereto evidence of satisfactory completion of a continuing education course approved by the board. The board shall revoke the license of any individual who fails to submit proof of completion of such course. Where a license has been revoked for this cause, the board may later reissue such license if proof of completion of such course is later provided.

(b) Every licensed podiatrist in the active practice of podiatry within Kansas, in order to comply with the provisions of this section, shall complete such hours of continuing education as may be required by the board by rules and regulations. The following categories of continuing education programs shall count toward satisfying the hourly requirement: (1) Programs offered by colleges of podiatry; (2) veterans administration programs; (3) American podiatry association programs; (4) state podiatry association programs; (5) seminars sponsored by recognized specialty groups of the American podiatry association; and (6) the activities of persons publishing papers, presenting clinics, lecturing and teaching shall be granted 10 credit hours for each hour of original presentation and hour for hour credit for additional presentations of the same material.

(c) Formal meetings and seminars which are not included in any category of subsection (b) shall be assigned credit by the board upon the licensee furnishing a copy of the program of such meetings and seminars to the board for the board's approval 30 days prior to the license renewal date. Podiatrists engaged in acceptable internships, residencies, military service or formal graduate study will fulfill their continuing education requirements by the nature of their activities and shall not be required to

fulfill the formal requirements for continuing education while involved in the above training programs.

(d) Commercially sponsored courses shall not constitute approved courses for continuing education credit.

(e) Each licensed podiatrist shall be responsible for keeping a record of attendance for credit in compliance with the requirements of continuing education established by this section. Such record shall be submitted to the board at the time required by subsection (a). The board may waive educational requirements set forth in subsections (a) and (b) for good cause shown.

History: L. 1974, ch. 254, § 2; L. 1975, ch. 323, § 9; L. 1988, ch. 246, § 8; July 1.

65-2011
Chapter 65 – PUBLIC HEALTH
Article 20 – PODIATRY ACT

65-2011. Disposition of moneys; healing arts fee fund. The state board of healing arts shall remit all moneys received by or for it under this act 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 each such deposit shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from such fund shall be made in accordance with the provisions of K.S.A. 65-2855, and amendments thereto.

History: L. 1975, ch. 323, § 10; L. 2001, ch. 5, § 235; L. 2011, ch. 53, § 31; July 1.

65-2012
Chapter 65 – PUBLIC HEALTH
Article 20 – PODIATRY ACT

65-2012. Fees, establishment within limitations. The following fees shall be established by rules and regulations adopted by the board and shall be collected by the board:

(a) For a license to practice podiatry or an inactive license or federally active license, issued on the basis of an examination, an amount of not more than $300;

(b) for a license to practice podiatry or an inactive license or federally active license, issued without examination and by endorsement, an amount of not more than $300;

(c) for the renewal of a license to practice podiatry or an inactive license or federally active license, an amount of not more than $500;

(d) for the renewal of an exempt license, an amount of not more than $150;

(e) for the renewal of an inactive license, an amount of not more than $150;

(f) for late renewal of any license, an amount of not more than $500;

(g) for reinstatement of a license canceled for failure to renew, an amount of not more than $300;

(h) for a temporary permit, an amount of not more than $60;

(i) for a temporary license, an amount of not more than $50;

(j) for any examination given by the board, an amount equal to the cost to the board of the examination and its administration;

(k) for a certified statement from the board that a licensee is licensed to practice podiatry in this state, an amount of not more than $30;

(l) for any copy of any license issued by the board, an amount of not more than $30;

(m) for written verification of any license issued by the board, an amount of not more than $25;

(n) for conversion of an exempt or inactive license to a license to practice podiatry, an amount of not more than $300;

(o) for reinstatement of a revoked license, an amount of not more than $1,000; and

(p) for a postgraduate permit, an amount of not more than $60.

History: L. 1979, ch. 197, § 7; L. 1988, ch. 246, § 9; L. 1997, ch. 94, § 1; L. 2004, ch. 117, § 16; July 1.

65-2013
Chapter 65 – PUBLIC HEALTH
Article 20 – PODIATRY ACT

65-2013. Rules and regulations. The board shall adopt such rules and regulations as necessary to carry out the provisions of the podiatry act, and may amend or revoke any existing rules and regulations adopted by the state podiatry board of examiners.

History: L. 1979, ch. 197, § 8; July 1.

65-2014
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Article 20 – PODIATRY ACT

65-2014. Citation of act. K.S.A. 65-2001 to 65-2013, inclusive, and amendments thereto, shall be known and may be cited as the podiatry act.

History: L. 1979, ch. 197, § 9; July 1.

65-2015
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65-2015. Civil fine for violation of podiatry act.

(a) The state board of healing arts, in addition to any other penalty prescribed under the podiatry act, may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for a violation of the podiatry 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.

(b) This section shall be part of and supplemental to the podiatry act.

History: L. 1988, ch. 246, § 6; L. 2001, ch. 5, § 236; July 1.

65-2016. Review committee; establishment and appointment; qualifications; expenses. The state board of healing arts shall establish and appoint a review committee for the practice of podiatry. The review committee shall be composed of not less than two members. The members shall be licensed podiatrists. Additional members of the review committee may be appointed on an ad hoc basis. Such additional members shall be licensed podiatrists. Members of the state board of healing arts shall not be eligible to act as members of the review committee. Members of the review committee may be selected from names submitted by the state podiatry association. The state board of healing arts shall ensure that no conflict of interest exists by reason of geography, personal or professional relationship, or otherwise, between any of the review committee members and any person whose conduct is being reviewed. Members of the review committee attending meetings of such committee shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and amendments thereto.

History: L. 1992, ch. 137, § 1; July 1.

ARTICLE 49. – PODIATRY

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100-49-2. Licensure by examination.
100-49-3. Licensure by endorsement.
100-49-4. Fees.
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100-49-7. Examinations.
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100-49-10. Definition of human foot.

100-49-1. Approved schools of podiatry. A school of podiatry shall be deemed by the board to be in good standing if it meets the provisions of CPME 120, ''standards and requirements for accrediting colleges of podiatric medicine,'' revised November 1997 by the council on podiatric medical education and hereby adopted by reference. (Authorized by K.S.A. 65-2013; implementing K.S.A. 65-2003; effective May 1, 1980; amended Jan. 10, 2003.)

100-49-2. Licensure by examination. (a) Each applicant for licensure by examination shall submit the following materials not later than 30 days prior to the date of examination:

(1) A completed written application on a form prescribed by the board. The application shall include the full name and address of the applicant;

(2) A photograph of the applicant. The photograph shall measure three by four inches and shall be signed across the front by the applicant with the signature of the photographer, the address of the photographer, and the date when the photograph was taken on the back of the photograph. A statement that the photograph is a true picture of the applicant taken within 90 days prior to the date of application shall also be placed on the back of the photograph;

(3) An affidavit from an approved college of podiatry stating the dates of attendance at the college, and the date of graduation, over the seal of the college;

(4) A certified copy of the podiatry college diploma;

(5) A transcript from the podiatry school;

(6) A written oath of applicant that all statements are strictly true in every respect; and

(7) The appropriate fee.

(b) All examinations shall be given in the English language only.

(c) A second re-examination shall require the full payment of the examination fee. (Authorized by K.S.A. 65-2013; implementing K.S.A. 65-2004, K.S.A. 1983 Supp. 65-2003; effective May 1, 1980; amended May 1, 1984.)

100-49-3. Licensure by endorsement. (a) Each applicant for licensure by endorsement shall submit the following materials not later than 30 days preceding the June or the December meeting of the board:

(1) A completed written application, on a form prescribed by the board. The application shall include the full name and address of the applicant;

(2) A photograph of the applicant. The photograph shall measure three by four inches and shall be signed across the front by the applicant. The name of the photographer, the address of the photographer, the date when the photograph was taken

and a statement that the photograph is a true picture of the applicant taken within 90 days of the application shall be placed on the back of the photograph;

(3) An affidavit from an approved college of podiatry stating the dates of attendance at the college, and the date of graduation, over the seal of the college;

(4) A certified copy of the podiatry college diploma;

(5) A transcript from the podiatry school;

(6) A written oath of applicant that all statements are strictly true in every respect; and

(7) The appropriate fee.

(b) A certificate of endorsements from another state or country shall include grades in subjects required by K.S.A. 65-2004, as certified by a board of examiners of that state or country. (Authorized by K.S.A. 65-2013; implementing K.S.A. 65-2004, K.S.A. 1983 Supp. 65-2003; effective May 1, 1980; amended May 1, 1984.)

100-49-4. Fees. The following fees shall be collected by the board:

(a) Application for license $300.00
(b) Examination $450.00
(c) (1) Annual renewal of active or federally active license:
(A) Paper renewal . . . . $ 330.00
(B) On-line renewal . . . . . $ 320.00
(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
(d) (1) Conversion from exempt to active license $175.00
(2) Conversion from inactive to active license $175.00
(e) (1) Late renewal of active or federally active license:
(A) Paper late renewal $350.00
(B) On-line late renewal $339.00
(2) Late renewal of inactive license:
(A) Paper late renewal . . . . . $ 175.00
(B) On-line late renewal . . . . . .$ 165.00
(3) Late renewal of exempt license:
(A) Paper late renewal . . . . . $ 175.00
(B) On-line late renewal . . . . . .$ 165.00
(f)Temporary license $50.00
(g) Duplicate license $15.00
(h) Temporary permit $50.00
(i) Certified statement of license $15.00
(j) Postgraduate permit $50.00
(k) Reinstatement of revoked license $1,000.00
(l) Reinstatement of canceled license $300.00
(m) Written verification of license or permit $25.00

(Authorized by K.S.A. 2009 Supp. 65-2012 and K.S.A. 65-2013; implementing K.S.A. 2009 Supp. 65-2012; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1987; amended April 24, 1989; amended Aug. 21, 1989; amended, T-100-12-28-89, Dec. 28, 1989; amended April 9, 1990; 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 Aug. 13, 2004; amended Aug. 17, 2007; amended, T-100-6-2-09, June 2, 2009; amended Sept. 11, 2009; amended May 21, 2010.)

100-49-5. Expiration of license. Each license to practice podiatry issued by the board shall expire on September 30 of each year. (Authorized by and implementing K.S.A. 65-2005; effective, T-100-7-1-92, July 1, 1992; effective Aug. 17, 1992; amended Aug. 1, 1997.)

100-49-6. Education requirements. (a) Each applicant for a license to practice podiatry shall provide proof of successful completion of a minimum of one year in an approved podiatric residency program. An approved podiatric residency program shall be a program that meets the requirements of or is substantially equivalent to CPME 320, ‘‘standards, requirements and guidelines for approval of residencies in podiatric medicine,’’ approved by the council on podiatric medical education, effective July 1, 2002, and hereby adopted by reference.

(b) Each applicant who does not meet the requirements of subsection (a) shall be deemed to have completed acceptable postgraduate training if the applicant meets one of the following:

(1) The applicant has been in the continuous practice of podiatry for a minimum of 10 years before the date of submission of the application.

(2) The applicant is currently certified by a specialty board meeting the requirements of CPME 220, ‘‘criteria and guidelines for recognition of a specialty board for podiatric medical practice,’’ effective January 1, 2001, approved by the council on podiatric medical education, and hereby adopted by reference. (Authorized by K.S.A. 65- 2013; implementing K.S.A. 65-2003; effective Jan. 10, 2003.)

100-49-7. Examinations. (a) Each applicant for licensure as a podiatrist shall submit proof of having passed a nationally administered, standardized examination that is approved by the board and consists of written questions assessing knowledge on subject matter from the following content areas:

(1) Medicine, including podiatric and non-podiatric dermatology, podiatric vascular medicine, podiatric neurology, immunology, emergency medicine, cardiovascular medicine, neurology, respiratory medicine, metabolic and endocrine medicine, hematology, behavioral medicine, and rheumatology;

(2) orthopedics, biomechanics, and sports medicine;

(3) surgery, general anesthesia, regional anesthesia, intravenous sedation, and hospital protocol; and

(4) radiology.

(b) In order to qualify as board-approved, part III of PMLexis, as administered by the national board of podiatric medical examiners, shall meet the standards for an examination established by the board in this regulation.

(c) To pass the approved examination, each applicant for licensure shall obtain a criterion-referenced
score of at least 75.

(d) Each applicant for licensure by endorsement shall show proof of successful completion of any examinations that met the Kansas requirements for licensure by examination at the time the applicant completed the examinations. (Authorized by K.S.A. 65-2013; implementing K.S.A. 65-2003 and K.S.A. 65-2004; effective Jan. 10, 2003.)

100-49-8. Continuing education. (a) Every three years, each podiatrist shall submit, before or with the application for renewal, evidence of having completed a minimum of 54 hours of continuing education during the preceding three-year period.

(b) Any podiatrist who suffered an illness or injury that made it impossible or extremely difficult to reasonably obtain the required hours may be granted an extension of not more than six months.

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

(1) Courses offered by sponsors of continuing education in podiatric medicine and meeting the requirements of CPME 720, ‘‘standards, requirements, and guidelines for approval of sponsors of continuing education in podiatric medicine,’’ revised May 1999 by the council on podiatric medical education and hereby adopted by reference;

(2) courses and instructional media approved for category I by the American medical association;

(3) courses and instructional media approved for category I by the American osteopathic association; or

(4) other courses approved by the board.

(d) Each applicant desiring to reinstate a license that has been canceled for failure to renew and each exempt licensee desiring to apply for a license to regularly engage in the practice of podiatry shall submit proof of continuing education to the board as follows:

(1) If the time since the license was canceled or exempt has been one year or less, no continuing education in addition to that which would have been necessary had the license been renewed before cancellation or not exempt shall be required.

(2) If the time since the license was canceled or exempt has been more than one year, the applicant shall complete a program of continuing education recommended by the board.

(e) If, since the date the license was canceled or exempt, the applicant has been in active practice as a podiatrist in another state or jurisdiction, the applicant shall submit proof of the current license and proof of compliance with the continuing education requirements of that jurisdiction.

(f) Each applicant seeking reinstatement of a revoked license shall successfully complete an individually tailored program approved by the board. (Authorized by K.S.A. 65-2013; implementing K.S.A. 65-2010; effective Jan. 10, 2003.)

100-49-9. Additional requirements. In addition to meeting the requirements of this article, each podiatrist shall also meet the requirements of each of the following:

(a) K.A.R. 100-10a-1;
(b) K.A.R. 100-10a-2;
(c) K.A.R. 100-10a-3;
(d) K.A.R. 100-10a-4;
(e) K.A.R. 100-10a-6;
(f) K.A.R. 100-21-1;
(g) K.A.R. 100-21-2;
(h) K.A.R. 100-21-3;
(i) K.A.R. 100-21-4;
(j) K.A.R. 100-21-5;
(k) K.A.R. 100-22-1;
(l) K.A.R. 100-22-2;
(m) K.A.R. 100-22-3;
(n) K.A.R. 100-24-1;

(o) K.A.R. 100-24-2;
(p) K.A.R. 100-24-3; and
(q) K.A.R. 100-26-1.
(Authorized by K.S.A. 65-2013; implementing K.S.A. 2001 Supp. 65-2002, K.S.A. 65-2005, K.S.A. 2001 Supp. 65-2006; effective Jan. 10, 2003.)

100-49-10. Definition of human foot. As utilized in the podiatry act, K.S.A. 65-2001 through 65-2013 and amendments thereto, ‘‘human foot’’ shall mean that part of the human anatomy that consists of the tarsus, metatarsus, phalanges, cartilage, muscles, tendons, ligaments, skin, vasculature, and the other tissues distal to and including the articulating cartilaginous surfaces of the ankle joint.
(Authorized by K.S.A. 65-2013; implementing K.S.A. 65-2001, K.S.A. 65-2002, K.S.A. 65-2004, and K.S.A. 2006 Supp. 65-2005; effective Sept. 14, 2007.)

KANSAS STATE BOARD

OF

HEALING ARTS

KANSAS STATUTES ANNOTATED

AND

KANSAS ADMINISTRATIVE REGULATIONS

Relating to the practice of

HEALING ARTS

July 2015

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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ARTICLE 28 – HEALING ARTS ACT

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65-2801
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2802
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65-2802. Definitions. For the purpose of this at 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; L. 2014, ch. 131, § 5; July 1, 2015.

65-2803
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2803. License prerequisite to practice of the healing arts; exceptions; penalty.

(a) Unless otherwise specified by the board, 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 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. 64-2891, 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.

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; July 1.

65-2805
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65-2805. Repealed

History: L. 1957, ch. 343, § 5; Repealed, L. 1991, ch. 192, § 7; July 1.

65-2806
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; Feb. 13.

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; Feb. 13.

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; Feb. 13.

65-2809
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65-2809. Expiration date of licenses; continuing education requirements; evidence licensee maintaining professional liability insurance; notice of expiration; fees; cancellation of license; reinstatement, when; exempt licensees; inactive license; federally 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 make 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 (f). 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 (f) 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 health care 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 health care 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 (g). 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 pro-vided 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 subsection (h)(1)(B) 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 health care 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 health care provider in this state for purposes of K.S.A. 40-3402, and amendments thereto.

(j) (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 pro-
vided 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.

History: L. 1957, ch. 343, § 9; L. 1966, ch. 35, § 1 (Budget Session); 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; L. 2015, ch. 46 § 3; July 1.

65-2810
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2810. Repealed

History: L. 1957, ch. 343, § 10; Repealed, L. 1969, ch. 299, § 21; July 1.

65-2811
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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 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; July 1.

65-2811a
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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 fulltime, 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.

65-2812
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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 ACT

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. 1992 Supp. 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; July 1.

65-2814
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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; Jan. 1, 1988.

65-2815, 65-2816
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Article 28 – HEALING ARTS ACT

65-2815, 65-2816. Repealed

History: L. 1957, ch. 343, §§ 15, 16; Repealed, L. 1969, ch. 299, § 21; July 1.

65-2817
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2818
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; Jan. 1, 1988.

65-2819
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2820
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2820. Repealed

History: L. 1957, ch. 343, §20; Repealed, L. 1967, ch. 434, § 69; July 1.

65-2821
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2822
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2823
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; Jan. 1, 1988.

65-2824
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2825
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2826
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2827
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2828
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2829
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2829. Repealed

History: L. 1957, ch. 343, § 29; Repealed, L. 1995, ch. 82, § 8; July 1.

65-2830
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2830. Repealed

History: L. 1957, ch. 343, § 30; L. 1969, ch. 299, § 8; L. 1976, ch. 273, § 11; Repealed, L. 1989, ch. 196, § 5; July 1.

65-2831
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2832
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; Feb. 14.

65-2833
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2833. Endorsement licenses; requirements. 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; L. 1986, ch. 229, § 40; L. 2014, ch. 131, § 9; July 1, 2015.

65-2834
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2834. Repealed

History: L. 1957, ch. 343, § 34; Repealed, L. 1979, ch. 198, § 11; July 1.

65-2835
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

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. 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 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 which 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 or 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, health care facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct which 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 health care 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 which 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 which 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 which 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 which 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 which 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. 2014 Supp. 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. 2014 Supp. 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; L. 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; L. 2011, ch. 30, § 241; L. 2014, ch. 131, § 10; L. 2015, ch. 46, § 5; July 1.

65-2836a
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2836a. Repealed

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; L. 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. 162, § 19; Repealed, L. 2001, ch. 31, § 5; July 1.

65-2837
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; L. 2008, ch. 154, § 7; L. 2014, ch. 131, § 11; L. 2017, ch. 33, § 1; July 1.

65-2837a
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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; L. 2016, ch. 95, § 1; L. 2017, ch. 34, § 21; Apr. 20.

65-2837b
Chapter 65 – PUBLIC HEALTH

65-2837b. Repealed

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. 142, § 19; Repealed, L. 2000, ch. 141, § 7; July 1.

65-2838. Disciplinary action against licensee; 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. 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; L. 2014, ch. 131, § 13; July 1, 2015.

65-2839
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2839. Repealed

History: L. 1957, ch. 343, § 39; L. 1976, ch. 273, § 17; Repealed, L. 1984, ch. 238, § 17; July 1, 1984; Repealed, L. 1984, ch. 313, § 157; July 1, 1985.

65-2839a
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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 boards 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 ACT

65-2840. Repealed.

History: L. 1957, ch. 343, § 40; L. 1976, ch. 273, § 18; Repealed, L. 1984, ch. 238, § 17; July 1.

65-2840a
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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 ACT

65-2840b. Repealed.

History: L. 1984, ch. 238, § 9; L. 1984, ch. 313, § 156; Repealed, L. 1985, ch. 88, § 7; July 1.

65-2840c
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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 alternatives. Each of the members and their designated alternatives shall serve for a period of two years, all of whom shall be licensed by the board to practice the branch of 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; Apr. 17.

65-2840d
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2840d. Repealed.
History: L. 1984, ch. 238 § 11; Repealed, L. 1985, ch. 88, § 7; July 1.

65-2841
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2841. Repealed.
History: L. 1957, ch. 343, § 41; L. 1984, ch. 238, § 13; Repealed, L. 1984, ch. 313, § 157; July 1, 1985.

65-2842
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2842. Mental or physical examination or drug screen, or any combination thereof, of licensee; requirement by board; 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.

65-2844
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2844. Reinstatement of license; application; burden of proof; reapplication for reinstatement, when; proceedings. A person whose license, registration, permit or certificate has been revoked may apply for reinstatement of 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; L. 2014, ch. 131, § 17; July 1, 2015.

65-2845
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2845. Repealed.

History: L. 1957, ch. 343, § 45; L. 1976, ch. 273, § 21; Repealed, L. 1984, ch. 313, § 157; July 1, 1985.

65-2846
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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 ACT

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; July 1.

65-2848
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2848. Repealed.

History: L. 1957, ch. 343, § 48; L. 1986, ch. 273, § 22; L. 1979, ch. 198, § 7; Repealed, L. 1984, ch. 313, § 157; July 1, 1985.

65-2849
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2849. Hearing of cause in district court; procedure. 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 workman's compensation and criminal cases.

History: L. 1957, ch. 343, § 49; July 1.

65-2850
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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 ACT

65-2851. Repealed.

History: L. 1957, ch. 343, § 51; Repealed, L. 1984, ch. 313, § 157; July 1, 1985.

65-2851a
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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

(a) Unless otherwise specified, all administrative proceedings provided for 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, L. 2014, ch. 131, § 20; July 1, 2015.

65-2852
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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 sumof 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; and

(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, ch. 35, § 2 (Budget Session); 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; L. 2015, ch. 46, § 6; July 1.

65-2853
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2853. Repealed.
History: L. 1957, ch. 343, § 53; Repealed, L. 1991, ch. 192, § 7; July 1.

65-2854
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2854. Repealed.
History: L. 1957, ch. 343, § 54; Repealed, L. 1973, ch. 309, § 46; July 1.

65-2855
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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, ch. 35, § 3 (Budget Session); 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.

65-2856
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2856. Repealed.
History: L. 1957, ch. 343, § 56; L. 1965, ch. 382, § 12; L. 1969, ch. 299, § 13; Repealed, L. 1973, ch. 309, § 46; July 1.

65-2857
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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 without being duly licensed therefor.
History: L. 1957, ch. 343, § 57, L. 1976, ch. 273, § 24; L. 2014, ch. 131, § 22; L. 2015, ch. 46 § 12; July 1.

65-2858
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2858. Same; authority conferred by 65-2857 additional 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 ACT

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. 2011 Supp. 21-5823, and amendments thereto.
History: L. 1957, ch. 343, § 59; L. 1976, ch. 237, § 25; L. 1993, ch. 291, § 231; L. 2011, ch. 30, § 242; July 1.

65-2860
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2860. False impersonation; fraud; penalty. Any person who shall present 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 shall falsely impersonate anyone to whom a license, registration, permit or certificate has been issued by the board. Violation of this section is 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; L. 2015, ch. 46, § 13; July 1.

65-2861
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2862
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2863
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2863. Repealed.

History: L. 1957, ch. 343, § 63; Repealed, L. 1976, ch. 273, § 40; Feb. 13.

65-2863a
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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 ACT

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 in this state 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 ACT

65-2865. Rules and regulations; filing. The board shall promulgate all necessary rules and regulations, not inconsistent herewith, for carrying out the provisions 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 ACT

65-2866. Attorney general, county or district attorney to prosecute violations.

(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 ACT

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

(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.

(e) 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, § 68; L. 1992, ch. 32, § 2; L. 2010, ch. 69, § 1; L. 2014, ch. 131, § 29; July 1, 2015.

65-2868
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

68-2868. Repealed.

History: L. 1957, ch. 343, § 68; L. 1976, ch. 273, § 29; Repealed, L. 1992, ch. 32, § 3; July 1.

65-2869
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

68-2869. Persons deemed engaged in the 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 publically profess to be physicians or surgeons, or publicly profess to assume the duties incident to the practice of medicine and 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; July 1.

65-2870
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; Feb. 13.

65-2871
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; Feb. 13.

65-2872
Chapter 65 – PUBLIC HEALTH

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 art, 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) 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; L. 2014, ch. 131, § 30; July 1, 2015.

65-2872a
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2872a. Repealed

History: L. 1982, ch. 378, § 6; Repealed, L. 2002, ch. 203, § 39; Jan. 1, 2003.

65-2872b
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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.

65-2873
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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 art 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 ACT

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; Feb. 4.

65-2873b
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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.

65-2874
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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

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 ACT

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; July 1.

65-2877
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2877. Repealed.

History: L. 1957, ch. 343, § 77; L. 2014, ch. 131, § 65; July 1, 2015.

65-2877a
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2877a. Prohibition on practice by corporation inapplicable to certain schools. The healing arts act and any other provision of law prohibiting practice of the healing arts by a general corporation shall not 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.

65-2878
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; L. 2009, ch. 143, § 25; L. 2012, ch. 116, § 2; May 24.

65-2878a
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2878b
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2878b. Repealed.
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. 154, § 8; Repealed, L. 2009, ch. 143, § 37; July 1.

65-2879
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2879. Repealed.
History: L. 1957, ch. 343, § 79; L. 1965, ch. 382, § 13; L. 1969, ch. 299, § 18; Repealed, L. 1973, ch. 309, § 46; July 1.

65-2880
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2881
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2882
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2882 to 65-2884. Repealed.
History: L. 1957, ch. 343, §§ 82 to 84; Repealed, L. 1976, ch. 273, § 40; Feb. 13.

65-2885
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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 ACT

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; July 1.

65-2886a
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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.

65-2887
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2888
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2889
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2889. Repealed.

History: L. 1957, ch. 343, § 89; Repealed, L. 1965, ch. 382, § 14; June 30.

65-2890
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2890a
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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.

65-2891
Chapter 65 – PUBLIC HEALTH

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 which 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 attendant'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; July 1.

65-2891a
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2891a. Repealed.

History: L. 1973, ch. 252, § 2; L. 1978, ch. 253, § 1; Repealed, L. 1988, ch. 252, § 2; July 1.

65-2891b
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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. 2014 Supp. 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.

65-2892
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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 fiancé 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; July 1.

65-2892a
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-2893
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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 ACT

65-2894. Repealed.

History: L. 1969, ch. 299, § 19; Repealed, L. 1976, ch. 273, § 40; Feb. 13.

65-2895
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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. 2017 Supp. 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. 115, § 260; L. 2014, ch. 131, § 36; L. 2015, ch. 46, § 7; L. 2017, ch. 33, § 2; July 1.

65-2896
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2896. Repealed.

History: L. 1972, ch. 294, § 1; L. 1973, ch. 315, § 1; L. 1975, ch. 327, § 1; L. 1978, ch. 254, § 2; L. 1987, ch. 240, § 12; L. 1989, ch. 197, § 1; L. 1997, ch. 94, § 3; Repealed, L. 2000, ch. 162, § 27; Feb. 1, 2001.

65-2896a
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2896a. Repealed.
History: L. 1975, ch. 327, § 2; L. 1978, ch. 254, § 4; L. 1987, ch. 239, § 6; L. 1989, ch. 197, § 2; L. 1991, ch. 194, § 1; Repealed, L. 2000, ch. 162, § 27; Feb. 1, 2001.

65-2896b
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2896b. Repealed.
History: L. 1975, ch. 327, § 3; L. 1978, ch. 254, § 5; L. 1984, ch. 313, § 122; L. 1989, ch. 197, § 3; L. 1991, ch. 194, § 2; L. 1998, ch. 142, § 13; Repealed, L. 2000, ch. 162, § 27; Feb. 1, 2001.

65-2896c
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2896c. Repealed.
History: L. 1975, ch. 327, § 4; L. 1978, ch. 254, § 6; Repealed, L. 2000, ch. 162, § 27; Feb. 1, 2001.

65-2896d
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2896d. Repealed.
History: L. 1978, ch. 254, § 3; L. 1987, ch. 240, § 13; Repealed, L. 2000, ch. 162, § 27; Feb. 1, 2001.

65-2896e
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2896e. Repealed.
History: L. 1978, ch. 254, § 7; L. 1987, ch. 239, § 7; L. 1999, ch. 115, § 13; Repealed, L. 2000, ch. 162, § 27; Feb. 1, 2001.

65-2896f to 65-2896h
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

65-2896f to 65-2896h. Repealed.
History: L. 1978, ch. 254, §§ 8 to 10; Repealed, L. 2000, ch. 162, § 27; Feb. 1, 2001.

65-2897

65-2897. Repealed.
History: L. 1973, ch. 315, § 2; Repealed, L. 1978, ch. 254, § 11; July 1.

65-2897a. Repealed.
History: L. 1978, ch. 254, § 1; L. 1987, ch. 239, § 8; Repealed, L. 2000, ch. 162, § 27; Feb. 1, 2001.

65-2897b. Repealed.
History: L. 1989, ch. 197, § 4; Repealed, L. 2000, ch. 162, § 27; Feb. 1, 2001.

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; L. 2017, ch. 33, § 3; July 1.

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; July 1.

65-2899
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1, 1985.

65-28,100
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; Jan. 1, 1988.

65-28,101
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-28,102
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-28,103
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-28,104
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-28,105
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-28,106
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-28,107
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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.

65-28,108
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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. 2014 Supp. 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.

65-28,109
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

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

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; July 1.

65-28,122. Person licensed to practice healing arts required to report knowledge of violation of 65-2836 to state board of healing arts.

(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 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 ACT

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; May 18.

65-28,124
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; April 30.

65-28,125
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; July 1.

65-28,126
Chapter 65 – PUBLIC HEALTH

65-28,126. Changes in licensee's mailing address; 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. 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; L. 2014, ch. 131, § 40; L. 2015, ch. 46, § 8; July 1.

65-28,128
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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.

65-28,129
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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.

65-28,130
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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.

65-28,131
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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 or plea arrangement resulting from the commission or alleged 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; L. 2014, ch. 131, § 59; July 1, 2015.

65-28,132
Chapter 65 – PUBLIC HEALTH
Article 28 – HEALING ARTS ACT

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; L. 2014, ch. 131, § 41; July 1, 2015.

65-6836
Chapter 65 – PUBLIC HEALTH
Article 68 – HEALTH CARE DATA ACT

65-6836. Health care records; provision of copies; enforcement of act; costs; definitions.

(a) As used in this section:

(1) ''Health care provider'' means any person licensed by the state board of healing arts.

(2) ''Authorized representative'' means the person designated in writing by the patient to obtain the health care records of the patient or the person otherwise authorized by law to obtain the health care records of the patient.

(3) ''Authorization'' means a written or printed document signed by a patient or a patient's authorized representative containing: (A) A description of the health care records a health care provider is authorized to produce; (B) the patient's name, address and date of birth; (C) a

designation of the person or entity authorized to obtain copies of the health care records; (D) a date or event upon which the force of the authorization shall expire which shall not exceed one year; (E) if signed by a patient's authorized representative, the authorized representative's name, address, telephone number and relationship or capacity to the patient; and (F) a statement setting forth the right of the person signing the authorization to revoke it in writing.

(b) Subject to K.S.A. 2014 Supp. 65-6824, and amendments thereto, except as otherwise provided herein, copies of health care records shall be furnished to a patient, a patient's authorized representative or any other person or entity authorized by law to obtain or reproduce such records, within 30 days of the receipt of the authorization, or the health care provider shall notify the patient or the patient's authorized representative of the reasons why copies are not available. A health care provider may withhold copies of health care records if the health care provider reasonably believes that providing copies of the requested records will cause substantial harm to the patient or another person. Health care providers may condition the furnishing of the patient's health care records to the patient, the patient's authorized representative or any other person or entity authorized by law to obtain or reproduce such records, upon the payment of charges not to exceed those established and updated not less than every two years by rules and regulations adopted by the state board of healing arts. In establishing such charges, the board shall consider changes in the all-items consumer price index published by the United States department of labor. Providers may charge for the reasonable cost of all duplications of health care record information which cannot be routinely duplicated on a standard photocopy machine.

(c) Any health care provider, patient, authorized representative or any other entity authorized by law to obtain or reproduce such records may bring a claim or action to enforce the provisions of this section. The petition shall include an averment that the party bringing the action has in good faith conferred or attempted to confer with the other party concerning the matter in dispute without court action. Upon a showing that the failure to comply with this section was without just cause or excuse, the court shall award the costs of the action and order the records produced without cost or expense to the prevailing party.

(d) Nothing in this section shall be construed to prohibit the state board of healing arts from adopting and enforcing rules and regulations not inconsistent with this section that require licensees of the board to furnish health care records to patients or to their authorized representative. To the extent that the board determines that an administrative disciplinary remedy is appropriate for violation of such rules and regulations, that remedy is separate from and in addition to the provisions of this section.

History: L. 2015, ch. 46, § 20, July 1.

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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. (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 32 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		
NNBME part I + NBME part II + NBME part III	FLEX component 1 + FLEX component 2	USMLE step 1 + USMLE step 2 + USMLE step 3
NBME part I or USMLE step 1 + NBME part II or USMLE step 2 + NBME part III or USMLE step 3	FLEX component 1 + USMLE step 3	NBME part I or USMLE step 1 + NBME part II or USMLE step 2 + 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"24"), 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. 2008 Supp. 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.)

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 Revoked. (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 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 18a.—ADVERTISING

100-18a-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 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 nonchild 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 nonhealth-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 30kg/m2), or a body mass index of 27 or higher in the presence of other risk factors (BMI 27kg/m2). 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 handwriting.

(d) Each patient record shall include any writing intended to be a final record, but shall not require the maintenance of rough drafts, notes, other writings, or recordings once this information is converted to final form. The final form shall accurately reflect the care and services rendered to the patient.

(e) For purposes of 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 PRACTIONERS

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 X 106 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.)

KANSAS STATE BOARD

OF

HEALING ARTS

KANSAS STATUTES ANNOTATED

AND

KANSAS ADMINISTRATIVE REGULATIONS

Relating to the practice of

PHYSICIAN ASSISTANTS

May 2016

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.

Chapter 65 – PUBLIC HEALTH
ARTICLE 28a – PHYSICIAN ASSISTANT LICENSURE ACT

65-28a01. Physician assistant licensure act; citation.
65-28a02. Definitions.
65-28a03. List of names; renewal of license; canceled licenses; inactive licenses; reinstatement of license; federally active licenses; fees; rules and regulations.
65-28a04. Licensure as a physician assistant, requirements; refusal to license; continuing education; registration to licensure transition.
65-28a05. Revocation, suspension, limitation, censure or denial of license, grounds.
65-28a06. Prohibited acts; act not to include certain persons; penalty for violations.
65-28a07. Temporary licensure; period of validity.
65-28a08. Practice of physician assistant; direction and supervision of physician; prescription of drugs; identification to patient of physician assistant; rules and regulations; "drug" defined.
65-28a09. Repealed.
65-28a10. Limitation on number of physician assistants a responsible physician may direct and supervise.
65-28a11. Physician assistant council established; appointment of members; payment for attending meetings of council.
65-28a12. Administrative proceedings; actions to enjoin violations.
65-28a13. Physician assistant ownership limitations in professional corporations.
65-28a14. Criminal and civil penalties for violations of act.
65-28a15. Changes in licensee's address; penalties; costs.
65-28a16. License by endorsement.

65-28a01
Chapter 65- PUBLIC HEALTH
Article 28a – PHYSICIAN ASSISTANT LICENSURE ACT

65-28a01. Physician assistant licensure act; citation. K.S.A. 65-28a01 to 65-28a12, inclusive, and amendments thereto, of this act shall be known and may be cited as the physician assistant licensure act.

History: L. 2000, ch. 162, § 1; Feb. 1, 2001.

65-28a02. Definitions.

(a) The following words and phrases when used in the physician assistant licensure act shall have the meanings respectively ascribed to them in this section:

(1) ‘‘Board’’ means the state board of healing arts.

(2) ‘‘Direction and supervision’’ means the guidance, direction and coordination of activities of a physician assistant by such physician assistant’s supervising physician, whether written or verbal, whether immediate or by prior arrangement, in accordance with standards established by the board by rules and regulations, which standards shall be designed to ensure adequate direction and supervision by the supervising physician of the physician assistant. The term ‘‘direction and supervision’’ shall not
be construed to mean that the immediate or physical presence of the supervising physician is required during the performance of the physician assistant.

(3) ‘‘Physician’’ means any person licensed by the state board of healing arts to practice medicine and surgery.

(4) ‘‘Physician assistant’’ means a person who is licensed in accordance with the provisions of K.S.A. 65-28a04, and amendments thereto, and who provides patient services under the direction and supervision of a supervising physician.

(5) ‘‘Supervising physician’’ means prior to January 11, 2016, a responsible physician and on and after January 11, 2016, a physician who has accepted responsibility for the medical services rendered and actions of the physician assistant while performing under the direction and supervision of the supervising physician.

(6) ‘‘Responsible physician’’ means a physician who has accepted continuous and ultimate responsibility for the medical services rendered and actions of the physician assistant while performing under the direction and supervision of the responsible physician.

(7) ‘‘Licensee,’’ for purposes of the physician assistant licensure act, means all persons issued a license or temporary license pursuant to the physician assistant licensure act.

(8) ‘‘License,’’ for purposes of the physician assistant licensure act, means any license or temporary license granted by the physician assistant licensure act.

(9) ‘‘Agreement’’ means, prior to January 11, 2016, protocol and on and after January 11, 2016, agreement.

(b) Prior to January 11, 2016, wherever the term ‘‘supervising physician’’ in connection with the term ‘‘physician assistant,’’ or words of like effect, appears in any statute, contract or other document, it shall mean responsible physician as defined in subsection (a)(6). On and after January 11, 2016, such term shall mean supervising physician as defined in subsection (a)(5).

History: L. 2000, ch. 162, § 2; L. 2014, ch. 131, §42; L. 2015, ch. 46, § 9; July 1.

65-28a03. List of names; renewal of license; canceled licenses; inactive licenses; reinstatement of license; federally active licenses; fees; rules and regulations.

(a) There is hereby created a designation of active license. The board is authorized to issue an active license to a physician assistant 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 subsection (h). As a condition of engaging in active practice as a physician assistant, each licensed physician assistant shall file a request to engage in active practice signed by the physician assistant and the physician who will be responsible for the physician assistant. The request shall contain such information as required by rules and regulations adopted by the board. The board shall maintain a list of the names of physician assistants who may engage in active practice in this state.

(b) All licenses, except temporary licenses, shall be canceled on the date of cancellation established by rules and regulations of the board and may be renewed as required by the board. The request for renewal shall be on a form provided by the board and shall be accompanied by the renewal fee established pursuant to this section, which shall be paid not later than the renewal date of the license. The board, prior to renewal of an active license, shall require the 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.

(c) At least 30 days before the renewal date of the license of a physician assistant, except a temporary 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 of the board. 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 licensee has failed to pay the renewal fee by the renewal date of the license and the license may be renewed only if the renewal fee and the late renewal fee are received by the board within the 30-day period following the renewal date and that, if both fees are not received within the 30-day period, the license shall be deemed canceled by operation of law without further proceedings for failure to renew
and shall be reissued only after the license has been reinstated under subsection (d).

(d) Any license canceled for failure to renew as herein provided may be reinstated upon recommendation of the board and upon payment of the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable continuing education requirements established
by the board. The board shall adopt rules and regulations establishing appropriate continuing education requirements for reinstatement of licenses canceled for failure to renew.

(e) There is hereby created the designation of inactive license. The board is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an inactive license established pursuant to subsection (h) of this section. The board may issue an inactive license only to a person who meets all the requirements for a license to practice as a physician assistant and who does not engage in active practice as a physician
assistant in the state of Kansas. An inactive license shall not entitle the holder to engage in active practice. The provisions of subsections (c) and (d) of this section relating to cancellation, renewal and reinstatement of a license shall be applicable to an inactive license issued under this subsection. Each inactive licensee may apply to engage in active practice by presenting a request required by subsection (a) and submit to the board evidence satisfactory to the board that such 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. The request shall contain such information as required by rules and regulations adopted by the board. The request shall be accompanied by the fee established pursuant to subsection (h).

(f) (1) There is hereby created a designation of federally active license. The board is authorized to issue a federally active license to any licensed physician assistant who makes

written application for such license on a form provided by the board and remits the same fee required for a federally active license established under subsection (h). The board may issue a federally active license only to a person who meets all of the requirements for a license to practice as a physician assistant in Kansas and who practices as a physician assistant 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 (g), 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 subsection (f)(1)(B) shall prohibit a physician assistant 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 health care provider as defined in K.S.A. 75-6102, and amendments thereto.

(2) The provisions of subsections (c) and (d) 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 health care provider in this state for purposes of K.S.A. 40-3402, and amendments thereto.

(g) (1) There is hereby created a designation of exempt license. The board is authorized to issue an exempt license to any licensed physician assistant who makes written application for such license on a form provided by the board and remits the fee for an exempt license established under subsection (h). The board may issue an exempt license to a person who is not regularly engaged in physician assistant practice 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 of a physician assistant 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 physician assistant licensure act, except as otherwise provided in this subsection (g). 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 under this section 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 a physician assistant 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 active license fee established pursuant to subsection (h).

(2) 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 as a physician assistant within Kansas. Any licensee whose license has been exempt for more than two years and who has not been in the active practice as a physician assistant 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.

(3) Nothing in this subsection (g) shall be construed to prohibit a person holding an exempt license from serving as a paid employee of: (A) A local health department as defined by K.S.A. 65-241, and amendments thereto; or (B) an indigent health care clinic as defined by K.S.A. 75-6102,
and amendments thereto.

(h) The following fees shall be fixed by rules and regulations adopted by the state board of healing arts and shall be collected by the board:

(1) For an active license as a physician assistant, the sum of not more than $200;

(2) for any license by endorsement as a physician assistant, the sum of not more than $200;

(3) for temporary licensure as a physician assistant, the sum of not more than $30;

(4) for the renewal of an active license to practice as a physician assistant, the sum of not more than $150;

(5) for renewal of an inactive license, the sum of not more than $150;

(6) for the late renewal of any license as a physician assistant, the sum of not more than $250;

(7) for reinstatement of a license canceled for failure to renew, the sum of not more than $250;

(8) for a certified statement from the board that a physician assistant is licensed in this state, the sum of not more than $30;

(9) for a federally active license, the sum of not more than $200;

(10) for the exempt license, the sum of not more than $150;

(11) for a copy of the licensure certificate of a physician assistant, the sum of not more than $25; and

(12) for conversion of an inactive license to an active license to actively practice as a physician assistant, the sum of not more than $150.

(i) The board shall remit all moneys received by or for the board under the provisions of this act to the state treasurer and such money shall be deposited in the state treasury, credited to the state general fund and the healing arts fee fund and expended all in accordance with K.S.A. 65-2855, and amendments thereto.

(j) The board may promulgate all necessary rules and regulations for carrying out the provisions of this act.

History: L. 2000, ch. 162, § 3; L. 2004, ch. 117, § 17; L. 2014, ch. 131, § 43; L. 2015, ch. 46, § 10; July 1.

65-28a04

Chapter 65- PUBLIC HEALTH

Article 28a – PHYSICIAN ASSISTANT LICENSURE ACT

65-28a04. Licensure as a physician assistant, requirements; refusal to license; continuing education; registration to licensure transition.

(a) No person shall be licensed as a physician assistant by the state board of healing arts unless such person has:

(1) Presented to the state board of healing arts proof that the applicant has successfully completed a course of education and training approved by the state board of healing arts for the education and training of a physician assistant or presented to the state board of healing arts proof that the applicant has acquired experience while serving in the armed forces of the United States which experience is equivalent to the minimum experience requirements established by the state board of healing arts;

(2) passed an examination approved by the state board of healing arts covering subjects incident to the education and training of a physician assistant; and

(3) submitted to the state board of healing arts any other information the state board of healing arts deems necessary to evaluate the applicant's qualifications.

(b) The board may refuse to license a person as a physician assistant upon any of the grounds for which the board may revoke such license.

(c) The state board of healing arts shall require every physician assistant to submit with the renewal application evidence of satisfactory completion of a program of continuing education

required by the state board of healing arts. The state board of healing arts by duly adopted rules and regulations shall establish the requirements for such program of continuing education as soon as possible after the effective date of this act. In establishing such requirements the state board of healing arts shall consider any existing programs of continuing education currently being offered to physician assistants.

(d) A person registered to practice as a physician assistant immediately prior to the effective date of this act shall be deemed to be licensed to practice as a physician assistant under this act, and such person shall not be required to file an original application for licensure under this act. Any application for registration filed which has not been granted prior to February 1, 2001, shall be processed as an application for licensure under this act.

History: L. 2000, ch. 162, § 4; Feb. 1, 2001.

65-28a05
Chapter 65- PUBLIC HEALTH
Article 28a – PHYSICIAN ASSISTANT LICENSURE ACT

65-28a05. Revocation, suspension, limitation, censure or denial of license, grounds. A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

(a) The licensee has committed an act of unprofessional conduct as defined by rules and regulations adopted by the board;

(b) the licensee has obtained a license by means of fraud, misrepresentations or concealment of material facts;

(c) the licensee has committed an act of professional incompetency as defined by rules and regulations adopted by the board;

(d) the licensee has been convicted of a felony;

(e) the licensee has violated any provision of this act, and amendments thereto;

(f) the licensee has violated any lawful order or rule and regulation of the board;

(g) 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 is incompetent to stand trial by a court of competent jurisdiction;

(h) the licensee has violated a federal law or regulation relating to controlled substances;

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

(j) the licensee has surrendered a license or authorization to practice as a physician assistant 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 which would constitute grounds for disciplinary action under this section;

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

(l) 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 which would constitute grounds for disciplinary action under this section;

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

(n) the licensee's ability to practice 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;

(o) the licensee has exceeded or has acted outside the scope of authority given the physician assistant by the responsible supervising physician or by this act; or

(p) the licensee has assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2013 Supp. 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. 2013 Supp. 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.

History: L. 2000, ch. 162, § 5; L. 2011, ch. 30, § 244; L. 2014, ch. 131, § 44; July 1, 2015.

65-28a06
Chapter 65- PUBLIC HEALTH
Article 28a – PHYSICIAN ASSISTANT LICENSURE ACT

65-28a06. Prohibited acts; act not to include certain persons; penalty for violations.

(a) It shall be unlawful for any person who is not licensed under this act or whose license has been revoked or suspended to engage in the practice as a physician assistant as defined by this act.

(b) No person shall use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is a licensed physician assistant, nor shall any person represent oneself to be a licensed physician assistant unless such person has been duly licensed as a physician assistant in accordance with the provisions of this act.

(c) The provisions of this act shall not be construed to include the following persons:

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

(2) Persons gratuitously administering ordinary household remedies.

(3) Individuals practicing religious beliefs which provide for reliance on spiritual means alone for healing.

(4) Students while performing professional services in an approved physician assistant education and training program under the supervision of an approved instructor.

(5) Persons whose professional services are performed under the direct and personal supervision or by order of a practitioner who is licensed under the healing arts act.

(6) Other health care providers licensed, registered, certified or otherwise credentialed by agencies of the state of Kansas.

(7) Persons who practice as physician assistants solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies.

(d) Any person violating the provisions of this section shall be guilty of a class B misdemeanor.

History: L. 2000, ch. 162, § 6; L. 2014, ch. 131, § 45; July 1, 2015.

65-28a07
Chapter 65- PUBLIC HEALTH
Article 28a – PHYSICIAN ASSISTANT LICENSURE ACT

65-28a07. Temporary licensure; period of validity.

(a) The board shall provide for the temporary licensure of any physician assistant who has made proper application for licensure, has the required qualifications for licensure, except for examination, and has paid the prescribed license
fee. Such temporary license shall authorize the person so licensed to provide patient services within the limits of the temporary license.

(b) A temporary license is valid: (1) For six months from the date of issuance; or (2) until the board makes a final determination on the applicant's request for licensure. The board may extend a temporary license, upon a majority vote of the members of the board, for a period not to exceed one year.

History: L. 2000, ch. 162, § 7; L. 2014, ch. 131, § 46; July 1, 2015.

65-28a08
Chapter 65- PUBLIC HEALTH
Article 28a – PHYSICIAN ASSISTANT LICENSURE ACT

65-28a08. Practice of physician assistant; direction and supervision of physician; prescription of drugs; identification to patient of physician assistant; rules and regulations; "drug" defined.

(a) The practice of a physician assistant shall include medical services within the education, training and
experience of the physician assistant that are delegated by the supervising physician. Physician assistants practice in a dependent role with a supervising physician, and may perform those duties and responsibilities through delegated authority or written agreement. Medical services rendered by physician assistants may be performed in any setting authorized by the supervising physician, including, but not limited to, clinics, hospitals, ambulatory surgical centers, patient homes, nursing homes and
other medical institutions.

(b) (1) A person licensed as a physician assistant may perform, only under the direction and supervision of a physician, acts which constitute the practice of medicine and surgery to the extent and in the manner authorized by the physician responsible for the physician assistant and only to the extent such acts are consistent with rules and regulations adopted by the board which relate to acts performed by a physician assistant under the supervising physician's direction and supervision. A physician assistant may prescribe drugs pursuant to a written agreement as authorized by the supervising physician.

(2) On and after January 11, 2016, a physician assistant, when authorized by a supervising physician, may dispense prescription-only drugs:

(A) In accordance with rules and regulations adopted by the board governing prescription-only drugs;

(B) when dispensing such prescription-only drugs is in the best interests of the patient and pharmacy services are not readily available; and

(C) if such prescription-only drugs do not exceed the quantity necessary for a 72-hour supply.

(c) Before a physician assistant shall perform under the direction and supervision of a supervising physician, such physician assistant shall be identified to the patient and others involved in providing the patient services as a physician assistant to the supervising physician. Physician assistants licensed under the provisions of this act shall keep such person's license available for inspection at their primary place of business. A physician assistant may not perform any act or procedure performed in the practice of optometry except as provided in K.S.A. 65-1508 and 65-2887, and amendments thereto.

(d) (1) The board shall adopt rules and regulations to be effective January 11, 2016, governing the practice of physician assistants, including the delegation, direction and supervision responsibilities of a supervising physician. Such rules and regulations shall establish conditions and limitations as the board determines to be necessary to protect the public health and safety, and may include a limit upon the number of physician assistants that a supervising physician is able to safely and properly supervise. In developing rules and regulations relating to the practice of physician assistants, the board shall take into consideration the amount of training and capabilities of physician assistants, the different practice settings in which physician assistants and supervising physicians practice, the needs of the geographic area of the state in which the physician assistant and the supervising physician practice and the differing degrees of direction and supervision by a supervising physician appropriate for such settings and areas.

(2) The board shall adopt rules and regulations governing the prescribing of drugs by physician assistants and the responsibilities of the supervising physician with respect thereto. Such rules and regulations shall establish such conditions and limitations as the board determines to be necessary to protect the public health and safety. In developing rules and regulations relating to the prescribing of drugs by physician assistants, the board shall take into consideration the amount of training and capabilities of physician assistants, the different practice settings in which physician assistants and supervising physicians practice, the degree of direction and supervision to be provided by a supervising physician and the needs of the geographic area of the state in which the supervising physician's physician assistant and the supervising physician practice. In all cases in which a physician assistant is authorized to prescribe drugs by a supervising physician, a written agreement between the supervising physician and the physician assistant containing the essential terms of such authorization shall be in effect. Any written prescription order shall include the name, address and telephone number of the supervising physician. In no case shall the scope of the authority of the physician assistant to prescribe drugs exceed the normal and customary practice of the supervising physician in the prescribing of drugs.

(e) The physician assistant may request, receive and sign for professional samples and may distribute professional samples to patients pursuant to a written agreement as authorized by the supervising physician. In order to prescribe or dispense controlled substances, the physician assistant shall register with the federal drug enforcement administration.

(f) As used in this section, ''drug'' means those articles and substances defined as drugs in K.S.A. 65-1626 and 65-4101, and amendments thereto.

(g) Prior to January 11, 2016, the board shall limit the number of physician assistants a responsible physician may supervise at any one time to the equivalent of two full-time physician assistants as approved in each case by the board. Any limitation on the number of physician assistants in this subsection shall not apply to services performed in a medical care facility, as defined in K.S.A. 65-425, and amendments thereto. The provisions of this subsection shall expire on January 11, 2016.

History: L. 2000, ch. 162, § 8; L. 2014, ch. 131, §47; L. 2015, ch. 46, § 11; July 1.

65-28a09
Chapter 65- PUBLIC HEALTH
Article 28a – PHYSICIAN ASSISTANT LICENSURE ACT

65-28a09. Responsible and designated physician; notice to board when supervision and direction terminated; forms.

(a) If a supervising physician temporarily leaves such physician's customary location of practice, the supervising physician shall, by prior arrangement, name another supervising physician who shall provide direction and supervision to the physician assistant of such responsible physician.

(b) A physician assistant shall not perform professional services unless the name, address and signature of each supervising physician and the form required under subsection (a)(2) of K.S.A. 65-28a03, and amendments thereto, have been provided to the board. A supervising physician and physician assistant shall notify the board when supervision and direction of the physician assistant has terminated. The board shall provide forms for identifying each supervising physician and for giving notice that direction and supervision has terminated. These forms may direct that additional information be provided, including a copy of any written agreements, as required by rules and regulations adopted by the board.

History: L. 2000, ch. 162, § 9; L. 2014, ch. 131, § 48; July 1, 2015.

65-28a10
Chapter 65- PUBLIC HEALTH
Article 28a – PHYSICIAN ASSISTANT LICENSURE ACT

65-28a10. Repealed.

History: L. 2000, ch. 162, § 10; L. 2004, ch. 117, § 7; Repealed. L. 2014, ch. 131, § 65; July 1, 2015

65-28a11
Chapter 65- PUBLIC HEALTH
Article 28a – PHYSICIAN ASSISTANT LICENSURE ACT

65-28a11. Physician assistant council established; appointment of members; payment for attending meetings of council.

(a) There is established a physician assistant council to advise the board in carrying out the provisions of K.S.A. 65-28a01 through 65-28a09, and amendments thereto. The council shall consist of five members, all citizens and residents of the state of Kansas appointed as follows: One member shall be a physician appointed by the board who is a supervising physician for a physician assistant; one member shall be the president of the board or a person designated by the president; and three members shall be licensed physician assistants appointed by the governor. The governor, insofar as possible, shall appoint persons from different geographical areas and persons who represent various types of practice settings. If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term, if any. The Kansas academy of physician assistants shall recommend the names of licensed physician assistants to the governor in a number equal to at least twice the positions or vacancies to be filled, and the governor may appoint members to fill the positions or vacancies from the submitted list. Members of the council appointed by the governor on and after the effective date of this act shall be appointed for terms of three years and until their successors are appointed and qualified except that of the members first appointed by the governor on or after the effective date of this act one shall be

appointed for a term of one year, one shall be appointed for a term of two years and one shall be appointed for a term of three years, as designated by the governor. The member appointed by the board shall serve at the pleasure of the board. A member designated by the president of the board shall serve at the pleasure of the president.

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

History: L. 2000, ch. 162, § 11; L. 2014, ch. 131, § 49; July 1, 2015.

65-28a12
Chapter 65- PUBLIC HEALTH
Article 28a – PHYSICIAN ASSISTANT LICENSURE ACT

65-28a12. Administrative proceedings; actions to enjoin violations.

(a) All administrative proceedings to revoke, suspend, limit or deny a license, or to censure a licensee, shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

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

History: L. 2000, ch. 162, § 12; Feb. 1, 2001.

65-28a13
Chapter 65- PUBLIC HEALTH
Article 28a – PHYSICIAN ASSISTANT LICENSURE ACT

65-28a13. Physician assistant ownership limitations in professional corporations. (a) The state board of healing arts shall adopt rules and regulations to limit the percentage of ownership when a licensed physician assistant forms a professional corporation pursuant to K.S.A. 17-2706 et seq., and amendments thereto, in combination with other professional services.

(b) This section shall be part of and supplemental to the physician assistant licensure act.

History: L. 2004, ch. 143, § 105; Jan. 1, 2005.

65-28a14
Chapter 65- PUBLIC HEALTH
Article 28a – PHYSICIAN ASSISTANT LICENSURE ACT

65-28a14. Criminal and civil penalties for violations of act.

(a) Any violation of the provisions of the physician assistant licensure act shall constitute a class B misdemeanor.

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

(c) The board, in addition to any other penalty prescribed under the physician assistant licensure act, may assess a civil fine, after proper notice and an opportunity to be heard, against a

licensee for a violation of the physician assistant licensure 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.

(d) Costs assessed by the board pursuant to subsection (c) 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.

(e) This section shall be part of and supplemental to the physician assistant licensure act.

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

History: L. 2014, ch. 131, § 56; May 22.

65-28a15
Chapter 65- PUBLIC HEALTH
Article 28a – PHYSICIAN ASSISTANT LICENSURE ACT

65-28a15. Changes in licensee's address; penalties; costs. (a) It shall be the duty of each licensee to notify the board in writing within 30 days of any changes in the licensee's home mailing address or primary practice mailing address.

(b) In addition to any other penalty prescribed under the physician assistant licensure act, the board may assess a civil fine for a violation of subsection (a) in an amount not to exceed $100 for a first violation and $150 for each subsequent violation.

(c) Costs assessed by the board pursuant to subsection (b), shall be considered costs in an administrative matter pursuant to 11 U.S.C. § 523. If the board is an unsuccessful party, the costs shall be paid from the healing arts fee fund.

(d) This section shall be part of and supplemental to the physician assistant licensure act.

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

History: L. 2014, ch. 131, § 57; May 22.

65-28a16
Chapter 65- PUBLIC HEALTH
Article 28a – PHYSICIAN ASSISTANT LICENSURE ACT

65-28a16. License by endorsement.

(a) There is hereby created a license by endorsement. The board is authorized to issue a license by endorsement without examination to a person who has been in active practice as a physician assistant in some other state, territory, 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:

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

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

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

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

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

(b) An applicant for a license by endorsement shall not be licensed unless, as determined by the board, the applicant's qualifications are substantially equivalent to Kansas requirements. In lieu of any other requirement prescribed by law for satisfactory passage of any examination for physician assistants, the board may accept evidence demonstrating that the applicant or licensee has satisfactorily passed an equivalent examination given by a national board of examiners for physician assistants.

(c) This section shall be part of and supplemental to the physician assistant licensure act.

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

History: L. 2014, ch. 131, § 58; May 22.

ARTICLE 28a. – PHYSICIAN ASSISTANTS

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100-28a-1. Fees. The following fees shall be collected by the board:
(a) Application for license $200.00
(b) Annual renewal of license:
(1) Paper renewal $150.00
(2) On-line renewal $150.00
(c) Late renewal of license:
(1) Paper late renewal $215.00
(2) On-line late renewal $208.00
(d) License reinstatement $250.00
(e) Copy of license certificate $15.00
(f) Certified statement of licensure .. $15.00
(g) Temporary license $30.00
(Authorized by and implementing K.S.A. 2007 Supp. 65-28a03; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended Nov. 15, 2002; amended Nov. 19, 2004; amended Nov. 26, 2007; amended, T-100-10-16-08, Oct. 16, 2008; amended Feb. 13, 2009.)

100-28a-1a. Definitions. As used in this article, each of the following terms shall have the meaning specified in this regulation:

(a) "Active practice request form" means the board-provided form that each physician assistant is required to submit to the board pursuant to K.S.A. 65-28a03, and amendments thereto, as a condition of engaging in active practice and that is signed by the physician assistant, supervising physician, and each substitute supervising physician. Each active practice request form contains a section called the written agreement.

(b) "Different practice location" means a practice location at which a supervising physician is physically present less than 20 percent of the time that the practice location provides medical

services to patients. This term shall not include a medical care facility, as defined in K.S.A. 65-425 and amendments thereto.

(c) "Direct supervision" means a type of supervision in which the supervising physician or substitute supervising physician is physically present at the site of patient care and capable of immediately providing direction or taking over care of the patient.

(d) "Emergency medical condition" means the sudden and, at the time, unexpected onset of a person's health condition that requires immediate medical attention, for which the failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part or would place the person's health in serious jeopardy.

(e) "Indirect supervision" means a type of supervision in which the supervising physician or substitute supervising physician can be physically present at the site of patient care within 15 minutes to provide direct supervision.

(f) "Off-site supervision" means a type of supervision in which the supervising physician or substitute supervising physician is not physically present at the site of patient care but is immediately available by means of telephonic or electronic communication.

(g) "Practice location" means any location at which a physician assistant is authorized to practice, including a medical care facility as defined in K.S.A. 65-425 and amendments thereto.

(h) "Substitute supervising physician" means each physician designated by prior arrangement pursuant to K.S.A. 65-28a09, and amendments thereto, to provide supervision to the physician assistant if the supervising physician is temporarily unavailable.

(i) "Supervision" means oversight by a supervising physician or a substitute supervising physician of delegated medical services that may be performed by a physician assistant. The types of supervision shall include direct supervision, indirect supervision, and off-site supervision.

(j) "Written agreement" means the section of the active practice request form that specifies the agreed scope of authorized medical services and procedures and prescription-only drug authority for each physician assistant. (Authorized by K.S.A. 2015 Supp. 65-28a02 and 65-28a08; implementing K.S.A. 2015 Supp. 65-28a03, 65-28a08, and 65-28a09; effective, T-100-12-10-15, Jan. 11, 2016; effective May 6, 2016.)

100-28a-2. Application. (a) Each application for licensure as a physician assistant shall be submitted on a form provided by the board. The form shall contain the following information:

(1) The applicant's full name;

(2) the applicant's home address and, if different, the applicant's mailing address;

(3) the applicant's date and place of birth;

(4) the applicant's social security number, individual tax identification number, or nondriver identification number, if the applicant is advised that providing a social security number is voluntary pursuant to K.S.A. 74-139 and 74-148, and amendments thereto, and that if the social security number is provided, the agency may provide this number to the Kansas department of social and rehabilitation services for child support enforcement purposes and to the Kansas department of revenue's director of taxation;

(5) the issue date; state, territory, the District of Columbia, or other country of issuance; and the identifying number on any license, registration, or certification issued to the applicant to practice any health care profession;

(6) documentation of any prior acts constituting unprofessional conduct as defined in K.A.R. 100-28a-8;

(7) the applicant's daytime telephone number;

(8) the names of all educational programs recognized under K.A.R. 100-28a-3 that the applicant attended, including the program from which the applicant graduated, the degree awarded to the applicant, and the date of graduation;

(9) notarized certification that the applicant has completed a physician assistant program from a postsecondary school recognized under K.A.R. 100-28a-3;

(10) a list of all attempts to gain board certification recognized under K.A.R. 100-28a-4 and an official copy of the applicant's board certification; and

(11) a notarized release authorizing the board to receive any relevant information, files, or records requested by the board in connection with the application.

(b) Each applicant shall submit the following with the application:

(1) The fee required by K.A.R. 100-28a-1;

(2) an official transcript from an educational program approved by the board as provided in K.A.R. 100-28a-3 that specifies the degree awarded to the applicant;

(3) a verification from each state, country, territory, or the District of Columbia where the applicant has been issued any license, registration, or certification to practice any health care profession;

(4) a photograph of the applicant measuring two inches by three inches and showing the head and shoulder areas only. The photograph shall be taken within 90 days before the date of application; and

(5) evidence provided directly to the board from the national commission on certification of physician assistants that the applicant has passed the physician assistant national certifying examination.

(c) The applicant shall sign the application under oath and shall have the application notarized. (Authorized by and implementing K.S.A. 2008 Supp. 65-28a03; implementing K.S.A 65-28a04; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended Jan. 4, 2010.)

100-28a-3. Education and training. (a) Each educational program for physician assistants accredited by the accreditation review committee on education for the physician assistant, inc., or by a predecessor agency, and all other educational programs that are determined by the board to have a standard of education substantially equivalent to the accreditation criteria of the committee shall be approved by the board.

(b) Each applicant who has acquired experience as a physician assistant while serving in the armed forces of the United States shall provide proof that the applicant is competent to perform all of the following:

(1) Screen patients to determine need for medical attention;

(2) review patient records to determine health status;

(3) take a patient history;

(4) perform a physical examination;

(5) perform a developmental screening examination on children;

(6) record pertinent patient data;

(7) make decisions regarding data gathering and appropriate management and treatment of patients being seen for the initial evaluation of a problem or the follow-up evaluation of a previously diagnosed and stabilized condition;

(8) prepare patient summaries;

(9) initiate requests for commonly performed initial laboratory studies;

(10) collect specimens for and carry out commonly performed blood, urine, and stool analyses and cultures;

(11) identify normal and abnormal findings on history, physical examination and commonly performed laboratory studies;

(12) initiate appropriate evaluation and emergency management for emergency situations, including cardiac arrest, respiratory distress, injuries, burns and hemorrhage;

(13) counsel and instruct patients; and

(14) administer commonly performed clinical procedures that shall include all of the following:

(A) Venipuncture;

(B) intradermal tests;

(C) electrocardiogram;

(D) care and suturing of minor lacerations;

(E) casting and splinting;

(F) control of external hemorrhage;

(G) application of dressings and bandages;

(H) administration of medications and intravenous fluids, and transfusion of blood or blood components;

(I) removal of superficial foreign bodies;

(J) cardiopulmonary resuscitation;

(K) audiometry screening;

(L) visual screening; and

(M) aseptic and isolation techniques. (Authorized by K.S.A. 2000 Supp. 65-28a03; implementing K.S.A. 2000 Supp. 65-28a04; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001.)

100-28a-4. Examination. (a) The examination approved by the board for licensure as a physician assistant shall be the physician assistant national certifying examination prepared and administered by the national commission on certification of physician assistants.

(b) To pass the approved examination, each applicant shall achieve at least the minimum passing score of 350.

(c) Each applicant who has passed the approved examination for a license and has not been in active practice as a physician assistant for more than one year, but less than five years from the date the application was submitted, shall provide one of the following:

(1) Evidence of completion of a minimum of 50 continuing education credit hours; or

(2) proof that the applicant has passed an examination approved by the board within 12 months before the date the application was submitted, or has successfully completed a continuing education program, or other individually tailored program approved by the board.

(d) Each applicant who has passed the examination for a license and has not been in active practice as a physician assistant for five years or more from the date the application was submitted shall provide proof that the applicant has passed an examination approved by the board within 12 months before the date the application was submitted, or has successfully completed a continuing education program or other individually tailored program approved by the board. (Authorized by K.S.A. 2000 Supp. 65-28a03; implementing K.S.A. Supp. 65-28a03 and 65-28a04; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001.)

100-28a-5. Continuing education. (a) Each physician assistant shall submit with the renewal application one of the following:

(1) Evidence of satisfactory completion of at least 50 continuing education credit hours during the preceding year. At least 20 continuing education credit hours shall be acquired from category I if 50 hours are submitted with the renewal application;

(2) evidence of satisfactory completion of at least 100 continuing education credit

hours during the preceding two-year period. At least 40 continuing education credit hours shall be acquired from category I if 100 continuing education credit hours are submitted with the renewal application; or

(3) evidence verifying satisfactory completion of continuing education credit hours equivalent, in number and category, to those hours required by paragraph (a)(1) or (2), issued by a national, state, or local organization with continuing education standards that are at least as stringent as the board's standards.

(b) A continuing education credit hour shall be 50 minutes of instruction or its equivalent. Meals and exhibit breaks shall not be included in the calculation of continuing education credit hours.

(c) Any applicant that does not meet the requirements for license renewal in subsection (a) may request an extension from the board. The request shall include a plan for completion of the continuing education requirements within the requested extension period. An extension of up to six months may be granted by the board if documented circumstances make it impossible or extremely difficult for the individual to reasonably obtain the required continuing education hours.

(d) Each physician assistant initially licensed within one year of a renewal registration date shall be exempt from the continuing education required by subsection (a) for that first renewal period.

(e) The categories of continuing education credit shall be the following:

(1) Category I: attendance at an educational presentation approved by the board. Courses accepted by the American academy of physician assistants shall be approved by the board; and

(2) category II: participating in or attending an educational activity that does not meet the criterion specified in paragraph (e)(1) but that is approved by the board. Category II continuing education may include self-study or group activities.

(f) Evidence of satisfactory completion of continuing education shall be submitted to the board as follows:

(1) Documented evidence of attendance at or participation in category I and II activities; and

(2) verification, on a form provided by the board, of self-study from reading professional literature or other self-study activities. (Authorized by K.S.A. 2010 Supp. 65-28a03; implementing K.S.A. 65-28a04; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended March 30, 2012.)

100-28a-6. Scope of practice. Any physician assistant may perform acts that constitute the practice of medicine and surgery as follows:

(a) When directly ordered, authorized, and coordinated by the supervising physician or substitute supervising physician through that individual's physical presence;

(b) when directly ordered, authorized, and coordinated by the supervising physician or substitute supervising physician through verbal or electronic communication;

(c) when authorized by the active practice request form submitted to, the board by the physician assistant and the supervising physician as required by K.A.R. 100-28a-9; or

(d) if required to treat a patient with an emergency medical condition. (Authorized by K.S.A. 2015 Supp. 65-28a03; implementing K.S.A. 2015 Supp. 65-28a08; amended, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended, T-100-12-10-15, Jan. 11, 2016; amended May 6, 2016.)

100-28a-7. Professional incompetency: defined. ''Professional incompetency'' means any of the following:

(a) One or more instances involving failure to adhere to the applicable standard of

care to a degree that constitutes gross negligence, as determined by the board;

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

(c) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to perform professional services as a physician assistant. (Authorized by K.S.A. 2000 Supp. 65-28a03; implementing K.S.A. 2000 Supp. 65-28a05; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001.)

100-28a-8. Unprofessional conduct: defined. ‘‘Unprofessional conduct’’ means any of the following:

(a) Being convicted of a class A misdemeanor, whether or not related to the practice as a physician assistant;

(b) committing fraud or misrepresentation in applying for or securing an original, renewal, or reinstated license;

(c) cheating on or attempting to subvert the validity of the examination for a license;

(d) soliciting professional services through the use of fraudulent or false advertisements;

(e) willfully or repeatedly violating the physician assistant licensure act, the pharmacy act of the state of Kansas, or the uniform controlled substances act, or any regulations adopted pursuant to these acts;

(f) engaging in the practice as a physician assistant under a false or assumed name, or impersonating another practitioner;

(g) practicing as a physician assistant without reasonable skill and safety to patients because of any of the following:

(1) Illness;

(2) alcoholism;

(3) excessive use of alcohol, drugs, controlled substances, chemicals, or any other type of material; or

(4) any mental or physical condition;

(h) having a license, certification, or registration revoked, suspended, limited, censured, or having any other disciplinary action taken, or an application for a license denied by the proper licensing authority of another state, territory, the District of Columbia, or other country;

(i) prescribing, selling, administering, distributing, or giving a controlled substance to any person for other than a medically accepted or lawful purpose;

(j) prescribing, dispensing, administering, or distributing a prescription drug or substance, including a controlled substance, in an excessive, improper, or inappropriate manner or quantity, or not in the course of the licensee’s professional practice;

(k) prescribing, dispensing, administering, or distributing an anabolic steroid or human growth hormone for other than a valid medical purpose;

(l) prescribing, ordering, dispensing, administering, selling, supplying, or giving any amphetamines or sympathomimetic amines, except as authorized by K.S.A. 2000 Supp. 65-2837a, and amendments thereto;

(m) failing to furnish the board, or its investigators or representatives, with any information legally requested by the board;

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

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

(p) assisting in the care or treatment of a patient without the consent of the patient, the attending physician, or the patient's legal representative;

(q) willfully betraying confidential information;

(r) committing conduct likely to deceive, defraud, or harm the public;

(s) allowing another person or organization to use the physician assistant's license to perform professional services;

(t) committing any act of sexual abuse, misconduct, or exploitation related to the licensee's professional practice;

(u) failing to keep written medical records that accurately describe the services rendered to the patient;

(v) using 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;

(w) performing unnecessary tests, examinations, or services that have no legitimate medical purpose; or

(x) delegating professional responsibilities to a person if the physician assistant knows or has reason to know that the person is not qualified by education, training, or experience to perform them. (Authorized by K.S.A. 2000 Supp. 65-28a03; implementing K.S.A. 2000 Supp. 65-28a05; effective, T-100-2-13-01, Feb. 13 2001; effective June 1, 2001.)

100-28a-9. Active practice request form; content. The active practice request form submitted by each physician assistant shall contain the following:

(a) The name and license number of the physician assistant;

(b) the name and license number of the supervising physician;

(c) the name and license number of each substitute supervising physician;

(d) information about each practice location, including hospitals and other facilities, which shall include the following:

(1) The street address and telephone number;

(2) a description of the type of medical services provided to patients;

(3) specification of whether the location is a different practice location and, if so, whether the physician assistant has spent at least 80 hours since being licensed under the direct supervision of a physician licensed in this state; and

(4) the name of each substitute supervising physician who shall provide supervision to the physician assistant at the practice location if the supervising physician is temporarily unavailable;

(e) the written agreement, which shall contain the following information:

(1) A description of the medical services and procedures that the physician assistant may perform at each practice location;

(2) a list of any medical services and procedures that the physician assistant is prohibited from performing;

(3) any types of supervision required for specified medical services and procedures;

(4) the prescription-only drugs, including controlled substances and professional samples, that the physician assistant is authorized to prescribe, administer, dispense, or distribute;

(5) any specific exceptions to the physician assistant's authority to prescribe, administer, dispense, or distribute prescription-only drugs, including controlled substances and professional samples;

(6) a description of the procedure for communication between the supervising physician and the physician assistant if the physician assistant is at a different practice location; and

(7) a description of the procedure for notifying a substitute supervising physician if the supervising physician is unavailable;

(f) an acknowledgment that the supervising physician or a substitute supervising physician shall be available for communication with the physician assistant at all times during which the physician assistant could reasonably be expected to provide professional services;

(g) an acknowledgment that a current copy of the active practice request form shall be maintained at each practice location and that any amendments to the active practice request form shall be provided to the board within 10 days of being made;

(h) confirmation that the supervising physician has established and implemented a method for the initial, periodic, and annual evaluation of the professional competency of the physician assistant required by K.A.R. 100-28a-10;

(i) confirmation that the medical services and procedures that the physician assistant is authorized to perform are within the clinical competence and customary practice of the supervising physician and all substitute supervising physicians; and

(j) the dated signatures of the physician assistant, supervising physician, and all substitute supervising physicians. (Authorized by and implementing K.S.A. 2015 Supp. 65-28a03 and 65-28a08; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended, T-100-12-10-15, Jan. 11, 2016; amended May 6, 2016.)

100-28a-9a. Active practice request form; requirements. (a) Each physician assistant who requests to engage in active practice on or after January 11, 2016 shall submit to the board an active practice request form that contains the information required by K.A.R. 100-28a-9.

(b) Each physician assistant actively practicing before January 11, 2016 shall submit to the board on or before July 1, 2016 an active practice request form that contains the information required by K.A.R. 100-28a-9.

(c) Each physician assistant shall submit to the board, on a board-provided form, any subsequent amendments to the information on that individual's active practice request form within 10 days of the amendment being made.

(d) Each physician assistant shall maintain a current copy of the active practice request form at each practice location. (Authorized by and implementing K.S.A. 2015 Supp. 65-28a03 and 65-28a08; effective, T-100-12-10-15, Jan. 11, 2016; effective May 6, 2016.)

100-28a-10. Supervising physician. (a) Each supervising physician shall meet all of the following requirements:

(1) Engage in the practice of medicine and surgery in Kansas;

(2) verify that the physician assistant has a current license issued by the board;

(3) at least annually, review, evaluate, and determine whether the physician assistant has performed patient services constituting the practice of medicine and surgery with professional competence and with reasonable skill and safety;

(4) at least annually, review the active practice request form required by K.A.R. 100-28a-9 and determine if any amendments are necessary. Each amendment shall be conveyed to the physician assistant, specified in all copies of the active practice request form, and provided to the board within 10 days of being made;

(5) report to the board any knowledge of disciplinary hearings, formal hearings, public or private censure, or other disciplinary action taken against the physician assistant by any state's licensure or registration authority or any professional association. The supervising physician shall report this information to the board within 10 days of receiving notice of the information;

(6) report to the board the termination of responsibility by the supervising physician or any litigation alleging conduct by the physician assistant that would constitute grounds for disciplinary action under the physician assistant licensure act. The supervising physician shall report this information to the board within 10 days of receiving notice of the information;

(7) arrange for a substitute supervising physician to provide supervision on each occasion when the supervising physician is temporarily absent, is unable to be immediately contacted by

telecommunication, or is otherwise unavailable at any time the physician assistant could reasonably be expected to provide professional services; and

(8) delegate to the physician assistant only those acts that constitute the practice of medicine and surgery and meet the following conditions:

(A) The supervising physician believes or has reason to believe that the acts can be competently performed by the physician assistant, based upon the physician assistant's background, training, capabilities, skill, and experience; and

(B) the acts are within the supervising physician's clinical competence and customary practice.

(b) The supervising physician shall develop and implement a written method for evaluating whether the physician assistant has performed patient services constituting the practice of medicine and surgery with professional competence and with reasonable skill and safety.

(1) During the first 30 days of the supervising physician-physician assistant supervisory relationship, the supervising physician shall review and authenticate all medical records of each patient evaluated or treated by the physician assistant within seven days of the date the physician assistant evaluated or treated the patient. The supervising physician shall authenticate each record by original signature or initials and shall record the date of the review. Electronically generated signatures shall be acceptable if reasonable measures have been taken to prevent unauthorized use of the electronically generated signature.

(2) After the first 30 days of the supervising physician-physician assistant supervisory relationship, the supervising physician shall document the periodic review and evaluation of the physician assistant's performance required by paragraph (a)(3), which may include the review of patient records. The supervising physician and the physician assistant shall sign the written review and evaluation and maintain a copy at each practice location, which shall be made available to the board upon request.

(c) Except as otherwise required by K.A.R. 100-28a-13, a supervising physician shall not be required to cosign orders or prescriptions written in a patient's medical record by a physician assistant to whom the supervising physician has delegated the performance of services constituting the practice of medicine and surgery. (Authorized by K.S.A. 2015 Supp. 65-28a03 and 65-28a08; implementing K.S.A. 2015 Supp. 65-28a02, 65-28a08, and 65-28a09; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended May 15, 2009; amended March 30, 2012; amended, T-100-12-10-15, Jan. 11, 2016; amended May 6, 2016.)

100-28a-11. Duty to communicate; emergency medical conditions. (a) Except as specified in subsection (b), each physician assistant shall communicate with the supervising physician or substitute supervising physician concerning a patient's condition if the physician assistant believes that the patient's condition may require either of the following:

(1) Any treatment that the physician assistant has not been authorized to perform; or

(2) any treatment that exceeds the physician assistant's competence.

(b) If a patient has an emergency medical condition requiring immediate treatment that the physician assistant has not been authorized to perform, the physician assistant shall communicate with the supervising physician or substitute supervising physician concerning the patient's emergency medical condition as soon as is clinically feasible. The physician assistant shall document that individual's communication with the supervising physician or substitute supervising physician in the patient's medical record. (Authorized by K.S.A. 2015 Supp. 65-28a03; implementing K.S.A. 2015 Supp. 65-28a08; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended, T-100-12-10-15, Jan. 11, 2016; amended May 6, 2016.)

100-28a-12. Substitute supervising physician. If a substitute supervising physician supervises a physician assistant, the substitute supervising physician shall meet the same requirements as those of the supervising physician. (Authorized by K.S.A. 2015 Supp. 65-28a02

and 65-28a03; implementing K.S.A. 2015 Supp. 65-28a02 and 65-28a09; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended, T-100-12-10-15, Jan. 11, 2016; amended May 6, 2016.)

100-28a-13. Prescription-only drugs. (a) Any physician assistant may administer, prescribe, distribute, or dispense a prescription-only drug pursuant to K.S.A. 65-28a08, and amendments thereto, as authorized by the written agreement required by K.A.R. 100-28a-9 and as authorized by this regulation.

(b) As used in this regulation, "emergency situation" shall have the meaning specified in K.A.R. 68-20-19.

(c) Any physician assistant may directly administer a prescription-only drug as follows:

(1) If directly ordered or authorized by the supervising physician or substitute supervising physician;

(2) if authorized by a written agreement between the supervising physician and the physician assistant; or

(3) if an emergency situation exists.

(d)(1) Any physician assistant may prescribe a schedule II controlled substance in the same manner as that in which the physician assistant may perform acts that constitute the practice of medicine and surgery as specified in K.A.R. 100-28a-6. Except as specified in paragraph (d)(2), each prescription for a schedule II controlled substance shall be in writing.

(2) Any physician assistant may, by oral or telephonic communication, authorize a schedule II controlled substance in an emergency situation. Within seven days after authorizing an emergency prescription order, the physician assistant shall cause a written prescription, completed in accordance with appropriate federal and state laws, to be delivered to the dispenser of the drug.

(e) Any physician assistant may orally, telephonically, electronically, or in writing prescribe a controlled substance listed in schedule III, IV, or V, or a prescription-only drug not listed in any schedule as a controlled substance in the same manner as that in which the physician assistant may perform acts that constitute the practice of medicine and surgery as specified in K.A.R. 100-28a-6.

(f) Each written prescription order by a physician assistant shall meet the following requirements:

(1) Contain the name, address, and telephone number of the supervising physician;

(2) contain the name, address, and telephone number of the physician assistant;

(3) be signed by the physician assistant with the letters "P.A." following the signature; and

(4) contain any DEA registration number issued to the physician assistant if a controlled substance is prescribed.

(g) Any physician assistant may distribute a prescription-only drug to a patient only if all of the following conditions are met:

(1) The drug is distributed under the same conditions as those in which a physician assistant may directly administer a prescription-only drug, as described in subsection (b).

(2) The drug has been provided to the physician assistant or the physician assistant's supervising physician or employer at no cost.

(3) The drug is commercially labeled and is distributed to the patient in the original prepackaged unit-dose container.

(4) The drug is distributed to the patient at no cost.

(h) Any physician assistant may dispense a prescription-only drug to a patient under the limited circumstances specified in K.S.A. 65-28a08, and amendments thereto, in the same manner as that in which the physician assistant may perform acts that constitute the practice of medicine and surgery specified in K.A.R. 100-28a-6.

(i) A physician assistant shall not administer, prescribe, distribute, or dispense a prescription-only drug for any quantity or strength in excess of the normal and customary practice of the supervising physician. (Authorized by K.S.A. 2015 Supp. 65-28a03 and 65-28a08;

implementing K.S.A. 2015 Supp. 65-28a08; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended, T-100-12-10-15, Jan. 11, 2016; amended May 6, 2016.)

100-28a-14. Different practice location. Any physician assistant may perform acts that constitute the practice of medicine and surgery at a different practice location if all of the following requirements are met:

(a) Before providing any services at the different practice location, the physician assistant shall have spent at least 80 hours since being licensed under the direct supervision of a physician licensed in this state.

(b) The supervising physician or substitute supervising physician shall remain available to provide guidance, direction, and coordination of the activities of the physician assistant. This availability may be provided by electronic means.

(c) The different practice location shall be listed on the active practice request form required by K.A.R. 100-28a-9.

(d) Written notice that the different practice location is staffed primarily by a physician assistant shall be posted in a location where the notice is likely to be seen by patients. (Authorized by K.S.A. 2015 Supp. 65-28a03 and 65-28a08; implementing K.S.A. 2015 Supp. 65-28a08; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended July 22, 2005; amended, T-100-12-10-15, Jan. 11, 2016; amended May 6, 2016.)

100-28a-15. Licensure; cancellation. (a) Except as specified in subsection (b), each physician assistant license issued by the board shall be cancelled on December 31 of each year.

(b) Each license issued or reinstated from October 1 through December 31 shall be cancelled on December 31 of the following year. (Authorized by and implementing K.S.A. 2015 Supp. 65-28a03; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended, T-100-12-10-15, Jan. 11, 2016; amended May 6, 2016.)

100-28a-16. Reinstatement; lapsed and revoked licenses. (a) Each applicant who has not been in active practice as a physician assistant in another state or jurisdiction and who desires to reinstate a license that has been lapsed for failure to renew shall submit proof of continuing medical education as follows:

(1) If the time since the license lapsed has been one year or less, no continuing medical education shall be required in addition to that which would have been necessary had the license been renewed before expiration.

(2) If the time since the license lapsed has been more than one year but less than five years, the applicant shall provide one of the following:

(A) Evidence of completion of a minimum of 50 hours of continuing education credit within 12 months before the date the application for reinstatement was submitted; or

(B) proof that the applicant has passed an examination approved by the board within 12 months before the date the application for reinstatement was submitted, or has successfully completed a continuing education program or other individually tailored program approved by the board.

(3) If the time since the license lapsed has been five years or more, the applicant shall provide proof of passage of an examination approved by the board within 12 months before the date the application for reinstatement was submitted, or proof of successful completion of a continuing education program or other individually tailored program approved by the board.

(b) Each applicant who has been in active practice as a physician assistant in another state or jurisdiction that requires a license, registration, or certification to practice and who desires to reinstate a license that has been lapsed for failure to renew

shall submit proof of the current license, registration, or certification and proof of compliance with the continuing medical education requirements of that state or jurisdiction.

(c) Each applicant seeking reinstatement of a revoked license shall successfully complete an individually tailored program approved by the board. (Authorized by and implementing K.S.A. 2000 Supp. 65-28a03; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001.)

100-28a-17. Number of physician assistants supervised; limitation for different practice location. (a) Except as otherwise specified in subsection (b), each supervising physician shall determine the number of physician assistants under the supervising physician's supervision. The supervising physician shall use professional judgment regarding that individual's ability to adequately supervise each physician assistant based upon the following factors:

(1) The supervising physician's ability to meet the requirements for supervision specified in K.A.R. 100-28a-10 for each physician assistant;

(2) the supervising physician's ability to provide the types of supervision that may be specified in the written agreement with each physician assistant;

(3) the specialty and setting of each practice location at which each physician assistant will provide services;

(4) the complexity of the patient population that each physician assistant will be treating; and

(5) the clinical experience and competency of each physician assistant.

(b)(1) A supervising physician shall not supervise more than a total of three physician assistants who provide services at a different practice location under K.A.R. 100-28a-14, regardless of the number of different practice locations, without the prior approval of the board. A supervising physician shall not under any circumstances supervise more than five physician assistants who provide services at a different practice location.

(2) The approval to supervise more than a total of three physician assistants who will provide services at a different practice location may be granted by the board if the supervising physician submits a signed request on a board-provided form that meets the following requirements:

(A) Verifies that the combined number of work hours of all the physician assistants who will provide services at a different practice location will not exceed 200 hours per week; and

(B) demonstrates that the supervising physician is able to adequately supervise each physician assistant under the supervising physician's supervision based on the factors specified in subsection (a). (Authorized by K.S.A. 2015 Supp. 65-28a03; implementing K.S.A. 2015 Supp. 65-28a08; effective July 22, 2005; amended, T-100-12-10-15, Jan. 11, 2016; amended May 6, 2016.)

100-28a-18. Physician assistant; ownership of corporation or company. (a) Licensed physician assistants shall not hold more than 49 percent of the total number of shares issued by a professional corporation that is organized to render the professional services of a physician, surgeon or doctor of medicine, or osteopathic physician or surgeon.

(b) Licensed physician assistants shall not contribute more than 49 percent of the total amount of capital to a professional liability company that is organized to render the professional services of a physician, surgeon or doctor of medicine, or osteopathic physician or surgeon. (Authorized by K.S.A. 17-2716 and K.S.A. 2004 Supp. 65-28a13; implementing K.S.A. 2004 Supp. 65-28a13; effective July 22, 2005.)

KANSAS STATE BOARD

OF

HEALING ARTS

KANSAS STATUTES ANNOTATED

AND

KANSAS ADMINISTRATIVE REGULATIONS

Relating to the practice of

Independent Practice of Midwifery

January 2020

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

Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b01. **Independent practice of midwifery act; citation.**
65-28b02. **Same; definitions.**
65-28b03. **Same; standards and requirements for licensure.**
65-28b04. **Same; expiration of license.**
65-28b05. **Same; fees.**
65-28b06. **Same; unlawful acts.**
65-28b07. **Same; rules and regulations; standards of care.**
65-28b08. **Same; revocation, suspension, limitation, censure or denial of license; grounds.**
65-28b09. **Same; advisory council.**
65-28b10. **Same; abortion not authorized.**

65-28b01
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b01. Independent practice of midwifery act; citation. The provisions of K.S.A. 65-28b01 through 65-28b10, and amendments thereto, shall be known and may be cited as the independent practice of midwifery act.
History: L. 2016, ch. 92, § 88, eff. July 1, 2016.

65-28b02
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b02. Same; definitions. As used in the independent practice of midwifery act:
(a) "Board" means the state board of healing arts.
(b) "Certified nurse-midwife" means an individual who:
(1) Is educated in the two disciplines of nursing and midwifery;
(2) is currently certified by a certifying board approved by the state board of nursing; and
(3) is currently licensed under the Kansas nurse practice act.
(c) "Independent practice of midwifery" means the provision of clinical services by a certified nurse-midwife without the requirement of a collaborative practice agreement with a person licensed to practice medicine and surgery when such clinical services are limited to those associated with a normal, uncomplicated pregnancy and delivery, including:
(1) The prescription of drugs and diagnostic tests;
(2) the performance of episiotomy or repair of a minor vaginal laceration;
(3) the initial care of the normal newborn; and
(4) family planning services, including treatment or referral of male partners for sexually-transmitted infections.

(d) The provisions of this section shall become effective on January 1, 2017.
History: L. 2016, ch. 92, § 89, eff. July 1, 2016.

65-28b03
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b03. Same; standards and requirements for licensure. (a) In order to obtain authorization to engage in the independent practice of midwifery, a certified nurse-midwife must meet the following requirements:

(1) Be licensed to practice professional nursing under the Kansas nurse practice act;

(2) have successfully completed a course of study in nurse-midwifery in a school of nurse-midwifery approved by the board;

(3) have successfully completed a national certification approved by the board;

(4) have successfully completed a refresher course as defined by rules and regulations of the board, if the individual has not been in active midwifery practice for five years immediately preceding the application;

(5) be authorized to perform the duties of a certified nurse-midwife by the state board of nursing;

(6) be licensed as an advanced practice registered nurse by the state board of nursing; and

(7) have paid all fees for licensure prescribed in K.S.A. 65-28b05, and amendments thereto.

(b) Upon application to the board by any certified nurse-midwife and upon satisfaction of the standards and requirements established under this act, the board shall grant an authorization to the applicant to engage in the independent practice of midwifery.

(c) A person whose licensure has been revoked may make written application to the board requesting reinstatement of the license in a manner prescribed by the board, which application shall be accompanied by the fee prescribed in K.S.A. 65-28b05, and amendments thereto.

(d) The provisions of this section shall become effective on January 1, 2017.
History: L. 2016, ch. 92, § 90, eff. July 1, 2016.

65-28b04
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b04. Same; expiration of license.

(a) Licenses issued under this act shall expire on the date of expiration established by rules and regulations of the board, unless renewed in the manner prescribed by the board. The request for renewal shall be accompanied by the fee prescribed in K.S.A. 65-28b05, and amendments thereto.

(b) At least 30 days before the expiration of a licensee's license, the board shall notify the licensee of the expiration, by mail, addressed to the licensee's last known mailing address. If the licensee fails to submit an application for renewal on a form provided by the board, or fails to pay the renewal fee by the date of expiration, the board shall give a second notice to the licensee that the license has expired and the license may be renewed only if the application for renewal, the renewal fee, and the late renewal fee are received by the board within the 30-day period

following the date of expiration 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.

(c) The board may require any licensee, as a condition of renewal, to submit with the application of renewal evidence of satisfactory completion of a program of continuing education as required by rules and regulations of the board.

(d) The provisions of this section shall become effective on January 1, 2017.

History: L. 2016, ch. 92, § 91, eff. July 1, 2016.

65-28b05
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b05. Same; fees.

(a) The board shall charge and collect, in advance, fees for certified nurse-midwives, as established by the board, not to exceed:

Application for license.....$100
License renewal.....$100
Late license renewal.....$100
License reinstatement fee.....$100
Revoked license fee.....$100
Certified copy of license.....$50
Verified copy of license.....$25

(b) 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 each 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 persons designated by the president.

(c) The provisions of this section shall become effective on January 1, 2017.

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

65-28b06
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b06. Same; unlawful acts.

(a) It shall be unlawful for a person to engage in the independent practice of midwifery without a collaborative practice agreement with a person licensed to practice medicine and surgery, unless such certified nurse-midwife holds a license from the state board of nursing and the board.

(b) The provisions of this section shall become effective on January 1, 2017.

History: L. 2016, ch. 92, § 93, eff. July 1, 2016.

65-28b07
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b07. Same; rules and regulations; standards of care.

(a) The board, in consultation with the state board of nursing, shall adopt rules and regulations pertaining to certified nurse-midwives engaging in the independent practice of midwifery and governing the ordering of tests, diagnostic services and prescribing of drugs and referral or transfer to physicians in the event of complications or emergencies. Such rules and regulations shall not be adopted until the state board of nursing and the board have consulted and concurred on the content of each rule and regulation. Such rules and regulations shall be adopted no later than January 1, 2017.

(b) A certified nurse midwife engaging in the independent practice of midwifery shall be subject to the provisions of the independent practice of midwifery act with respect to the ordering of tests, diagnostic services and prescribing of drugs, and shall not be subject to the provisions of K.S.A. 65-1130, and amendments thereto.

(c) The standards of care for certified nurse-midwives in the ordering of tests, diagnostic services and the prescribing of drugs shall be those standards which protect patients and shall be standards comparable to persons licensed to practice medicine and surgery providing the same services.

(d) The board is hereby authorized to solely adopt those rules and regulations necessary to administer the administrative provisions of this act.

History: L. 2016, ch. 92, § 94, eff. July 1, 2016.

65-28b08
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b08. Same; revocation, suspension, limitation, censure or denial of license; grounds.

(a) The board may deny, revoke, limit or suspend any license or authorization issued to a certified nurse-midwife to engage in the independent practice of midwifery that is issued by the board or applied for under this act, or may publicly censure a licensee or holder of a temporary permit or authorization, if the applicant or licensee is found after a hearing:

(1) To be guilty of fraud or deceit while engaging in the independent practice of midwifery or in procuring or attempting to procure a license to engage in the independent practice of midwifery;

(2) to have been found guilty of a felony or to have been found guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120, and amendments thereto, no license or authorization to practice and engage in the independent practice of midwifery shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to its repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

(3) to have committed an act of professional incompetence as defined in subsection (c);

(4) to be unable to practice the healing arts with reasonable skill and safety by reason of impairment due to 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 or release to any person or entity outside of a board proceeding. The provisions of this paragraph providing confidentiality of records shall expire on July 1, 2022, unless the legislature reviews and reenacts such provisions pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022;

(5) to be a person who has been adjudged in need of a guardian or conservator, or both, under the act for obtaining a guardian or conservator, or both, and who has not been restored to capacity under that act;

(6) to be guilty of unprofessional conduct as defined by rules and regulations of the board;

(7) to have willfully or repeatedly violated the provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act;

(8) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to have been publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country, or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph; or

(9) to have 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:

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

(B) 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; or

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

(b) No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state, except the crime of perjury as defined in K.S.A. 21-5903, and amendments thereto.

(c) As used in this section, “professional incompetency” means:

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

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

(3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to engage in the independent practice of midwifery.

(d) The board, upon request, shall receive from the Kansas bureau of investigation such criminal history record information relating to arrests and criminal convictions, as necessary, for

the purpose of determining initial and continuing qualifications of licensees and applicants for licensure by the board.

(e) The provisions of this section shall become effective on January 1, 2017.

History: L. 2016, ch. 92, § 95, eff. July 1, 2016.

65-28b09
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b09. Same; advisory council.

(a) There is hereby established a nurse-midwives council to advise the board in carrying out the provisions of this act. The council shall consist of seven members, all residents of the state of Kansas appointed as follows: Two members shall be licensees of the board, appointed by the board, who are licensed to practice medicine and surgery and whose specialty and customary practice includes obstetrics; one member shall be the president of the board or a board member designated by the president; and four members shall be licensed certified nurse-midwives appointed by the board of nursing.

(b) If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term, if any.

History: L. 2016, ch. 92, § 96, eff. July 1, 2016.

65-28b10
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b10. Same; abortion not authorized.

(a) Nothing in the independent practice of midwifery act should be construed to authorize a certified nurse-midwife engaging in the independent practice of midwifery under such act to perform, induce or prescribe drugs for an abortion.

(b) The provisions of this section shall become effective on January 1, 2017.

History: L. 2016, ch. 92, § 97, eff. July 1, 2016.

Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

100-28b-1. Definitions.
100-28b-5. License expiration and cancellation.
100-28b-15. Transport and transfer protocol requirements.
100-28b-16. Duty to consult, refer, transfer, and transport.
100-28b-17. Identifiable risks requiring immediate referral and transport of patient.
100-28b-18. Identifiable risks requiring immediate referral and transport of newborn.

100-28b-1. Definitions. As used in this article of the board's regulations, each of the following terms shall have the meaning specified in this regulation:

(a) "Abortion" has the meaning specified in K.S.A. 65-6701, and amendments thereto.

(b) "Antepartum" means occurring in the period that commences when a pregnant woman presents herself to a licensee during pregnancy and ends at the onset of labor.

(c) "Approved national certification" means certification as a certified nurse-midwife by the American midwifery certification board.

(d) "Birthing center" means a facility that provides delivery services for normal, uncomplicated pregnancies. This term shall not include a medical care facility as defined by K.S.A. 65-425, and amendments thereto.

(e) "Family planning services" means the provision of contraceptive methods, preconception health services, and sexually transmitted infection screening and treatment to patients.

(f) "Formal consult" means the process whereby a licensee formally requests a physician's written recommendations for the care and treatment of a patient's identifiable risks.

(g) "Home birth" means an attended birth at a private residence or a location other than a birthing center or hospital.

(h) "Hospital" has the meaning specified in K.S.A. 65-425, and amendments thereto.

(i) "Identifiable risk" means medical history or clinical signs or symptoms that could require clinical services other than those associated with a normal, uncomplicated pregnancy and a normal, uncomplicated delivery.

(j) "Informal consult" means the process whereby a licensee who maintains management responsibility for the patient's care informally requests the advice or opinion of a physician.

(k) "Initial care of a normal newborn" means the clinical services provided to a normal newborn during the first 28 days of life. This term shall include lactation services.

(l) "Intrapartum" means occurring in the period commencing with the onset of labor and ending after the delivery of the placenta.

(m) "Licensee" means an individual licensed by the board to engage in the independent practice of midwifery as defined in K.S.A. 65-28b02, and amendments thereto.

(n) "Minor vaginal laceration" means a tear that extends beyond the fourchette, perineal skin, and vaginal mucosa to perineal muscles and fascia, but not the anal sphincter.

(o) "Newborn" means an infant during the first 28 days of life after birth.

(p) "Normal newborn" means a newborn who has been clinically determined to have no complications or to be at low risk of developing complications.

(q) “Normal, uncomplicated delivery” means delivery of a singleton cephalic vaginal birth that has been clinically determined to be at low risk for complications.

(r) “Normal, uncomplicated pregnancy” means a pregnancy that is initially determined to be at a low risk for a poor pregnancy outcome and that remains at a low risk throughout the pregnancy.

(s) “Patient” means a woman to whom an independent certified nurse-midwife provides clinical services.

(t) “Physician” means an individual licensed to actively practice medicine and surgery or osteopathic medicine and surgery in Kansas.

(u) “Poor pregnancy outcome” means any outcome other than a live, healthy patient.

(v) “Postpartum” means occurring in the period commencing with the delivery of the placenta and ending six weeks after birth.

(w) “Referral” means the process whereby a licensee requests a physician to assume management responsibility for a patient’s care.

(x) “Transfer” means the process whereby a licensee or physician accepts management responsibility for a patient’s care.

(y) “Transport” means the process whereby a patient is moved from one location to another. (Authorized by K.S.A. 65-28b07(d); implementing K.S.A. 65-28b02 and 65-28b07(d); effective Jan. 10, 2020.)

100-28b-5. License expiration and cancellation.

(a) Each license to engage in the independent practice of midwifery issued within the seven-month period beginning June 1 and ending December 31 shall expire on September 30 of the following year and shall be cancelled on October 30 of that year, unless renewed.

(b) Each license to engage in the independent practice of midwifery issued within the five-month period beginning January 1 and ending May 31 shall expire on September 30 and shall be cancelled on October 30 of the same year, unless renewed. (Authorized by K.S.A. 65- 28b04 and 65-28b07(d); implementing K.S.A. 65-28b04; effective Jan. 10, 2020.)

100-28b-15. Transport and transfer protocol requirements. (a) Each licensee shall have a written protocol in place for each patient for the timely and safe transport to a hospital with an obstetrical unit and physician within a reasonable proximity of the planned location of labor and delivery. Each written protocol shall include the following:

(1) A plan for transporting the patient by emergency medical services;

(2) a plan for notification of the hospital and physician;

(3) a plan for communication of the patient’s medical history and present condition; and

(4) at least one of the following:

(A) A plan for transferring the patient to the hospital and a physician;

(B) evidence of a transfer agreement with the hospital and physician; or

(C) evidence that the licensee has admitting privileges at the specified hospital.

(b) Each licensee shall ensure that all staff members attending the patient’s labor and delivery have immediate access to a working telephone or another communication device and to all necessary information for transporting and transferring a patient in case of an emergency. (Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b02, 65-28b07; effective Jan. 10, 2020.)

100-28b-16. Duty to consult, refer, transfer, and transport.

(a) A licensee shall immediately informally consult, formally consult, refer, or transfer care of a patient to a physician, or transport the patient to a hospital if the patient's medical history or condition presents identifiable risks to the course of pregnancy, labor, delivery, or health of the patient.

(b) Any licensee may continue or resume providing clinical services to the patient if a physician has determined that the patient's medical history or condition has been resolved, or that the identifiable risks presented by the patient's medical history or condition are not likely to affect the course of pregnancy, labor, delivery, or health of the patient or newborn.

(c) A licensee shall immediately informally consult, formally consult, refer, or transfer care of a newborn to a physician, or transport the newborn to a hospital if at any time the newborn's condition presents identifiable risks to the health of the newborn.

(d) Any licensee may continue or resume providing clinical services to the newborn if a physician has determined that the newborn's condition has been resolved or that the identifiable risks presented by the newborn's condition are not likely to affect the health of the newborn. (Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b02, 65-28b07; effective Jan. 10, 2020.)

100-28b-17. Identifiable risks requiring immediate referral and transport of patient. Identifiable risks requiring the immediate referral and transport of a patient shall include the following:

(a) Maternal fever of more than 100.4 degrees Fahrenheit during labor, in the absence of environmental factors;

(b) suggestion of fetal jeopardy, including clinically significant frank bleeding before delivery, abnormal bleeding with or without abdominal pain, evidence of placental abruption, or detection of abnormal fetal heart tones;

(c) current spontaneous preterm labor;

(d) current preterm premature rupture of membranes;

(e) current preeclampsia;

(f) current hypertensive disease of pregnancy;

(g) continuous uncontrolled bleeding;

(h) postpartum bleeding that does not subside with the administration of oxytocin or other antihemorrhagic agent;

(i) delivery injuries to the bladder or bowel;

(j) grand mal seizure;

(k) uncontrolled vomiting;

(l) coughing or vomiting blood;

(m) severe chest pain; and

(n) sudden onset of shortness of breath and labored breathing. (Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b02, 65-28b07; effective Jan. 10, 2020.)

100-28b-18. Identifiable risks requiring immediate referral and transport of newborn. Identifiable risks requiring the immediate referral and transport of a newborn shall include the following:

(a) Respiratory rate greater than 80 or grunting, flaring, or retracting following delivery with meconium-stained fluid;

(b) central cyanosis or pallor for more than 10 minutes;

(c) Apgar score of six or less at five minutes of age;

(d) abnormal bleeding;

(e) more than eight hours of continuous postpartum evaluation;

(f) vesicular skin lesions;

(g) seizure-like activity;

(h) poor feeding effort due to lethargy or lack of interest for more than two hours immediately following birth;

(i) temperature less than 96.8 degrees Fahrenheit or greater than 100.4 degrees Fahrenheit documented more than 15 minutes apart;

(j) heart murmur lasting more than 24 hours immediately following birth;

(k) cardiac arrhythmia;

(l) congenital anomalies;

(m) failed critical congenital heart disease screening;

(n) birth injury;

(o) clinical evidence of prematurity, including low birth weight of less than 2,500 grams, smooth soles of feet, or immature genitalia;(p) jaundice in the first 24 hours after birth or significant jaundice at any time;

(q) no stool for more than 24 hours immediately following birth;

(r) no urine output for more than 24 hours; and

(s) development of persistent poor feeding effort at any time. (Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b02, 65-28b07; effective Jan. 10, 2020.)

KANSAS STATE BOARD

OF

HEALING ARTS

KANSAS STATUTES ANNOTATED

AND

KANSAS ADMINISTRATIVE REGULATIONS

Relating to the practice of

PHYSICAL THERAPY

May 2017

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.

Chaper 65 – PUBLIC HEALTH
ARTICLE 29 – PHYSICAL THERAPY

65-2901. Definitions.
65-2902. Repealed.
65-2903. Physical therapy advisory council; membership; qualifications.
65-2904. Same; terms; oath.
65-2905. Same; officers; executive director; powers and duties; quorum; records; employees; compensation and expenses.
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65-2901
Chaper 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2901. Definitions. As used in the physical therapy practice act:

a) "Physical therapy" means examining, evaluating and testing individuals with mechanical, anatomical, physiological and developmental impairments, functional limitations and disabilities or other health and movement-related conditions in order to determine a diagnosis solely for physical therapy, prognosis, plan of therapeutic intervention and to assess the ongoing

effects of physical therapy intervention. Physical therapy also includes alleviating impairments, functional limitations and disabilities by designing, implementing and modifying therapeutic interventions that may include, but are not limited to, therapeutic exercise; functional training in community or work integration or reintegration; manual therapy; dry needling; therapeutic massage; prescription, application and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic, protective and supportive devices and equipment; airway clearance techniques; integumentary protection and repair techniques; debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; patient-related instruction; reducing the risk of injury, impairments, functional limitations and disability, including the promotion and maintenance of fitness, health and quality of life in all age populations and engaging in administration, consultation, education and research. Physical therapy also includes the care and services provided by a physical therapist or a physical therapist assistant under the direction and supervision of a physical therapist who is licensed pursuant to the physical therapy practice act. Physical therapy does not include the use of roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, the practice of any branch of the healing arts and the making of a medical diagnosis.

(b) "Physical therapist" means a person who is licensed to practice physical therapy pursuant to the physical therapy practice act. Any person who successfully meets the requirements of K.S.A. 65-2906, and amendments thereto, shall be known and designated as a physical therapist and may designate or describe oneself, as appropriate, as a physical therapist, physiotherapist, licensed physical therapist, doctor of physical therapy, abbreviations thereof, or words similar thereto or use of the designated letters P.T., Ph. T., M.P.T., D.P.T. or L.P.T. Nothing in this section shall be construed to prohibit physical therapists licensed under K.S.A. 2016 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials recognized by the board which such licensee has earned. Each licensee when using the letters or term "Dr." or "Doctor" in conjunction with such licensee's professional practice, whether in any written or oral communication, shall identify oneself as a "physical therapist" or "doctor of physical therapy."

(c) "Physical therapist assistant" means a person who is certified pursuant to the physical therapy practice act and who works under the direction of a physical therapist, and who assists the physical therapist in selected components of physical therapy intervention. Any person who successfully meets the requirements of K.S.A. 65-2906, and amendments thereto, shall be known and designated as a physical therapist assistant, and may designate or describe oneself as a physical therapist assistant, certified physical therapist assistant, abbreviations thereof, or words similar thereto or use of the designated letters P.T.A., C.P.T.A. or P.T. Asst. Nothing in this section shall be construed to prohibit physical therapist assistants certified under K.S.A. 2016 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials which such physical therapist assistant has earned.

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

(e) "Council" means the physical therapy advisory council.

(f) "Dry needling" means a skilled intervention using a thin filiform needle to penetrate into or through the skin and stimulate underlying myofascial trigger points or muscular or connective tissues for the management of neuromuscular pain or movement impairments.

(g) "Physician" means a person licensed to practice medicine and surgery.

(h) "Recognized by the board" means an action taken by the board at an open meeting to recognize letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials, consistent with the provisions of this act, which a physical therapist may appropriately use to designate or describe oneself and which shall be published in the official minutes of the board.

History: L. 1963, ch. 318, § 1; L. 1973, ch. 253, § 1; L. 1983, ch. 215, § 1; L. 1988, ch. 246, § 19; L. 2003, ch. 128, § 1; L. 2004, ch. 61, § 1; L. 2007, ch. 177, § 19; L. 2011, ch. 114, § 19; L. 2016, ch. 92, § 32; July 1.

65-2902
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2902. Repealed.
History: L. 1963, ch. 318, § 2; Repealed, L. 2003, ch. 128, § 30; April 1, 2004.

65-2903
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2903. Physical therapy advisory council; membership; qualifications. There is hereby created a physical therapy advisory council to assist the board in carrying out the provisions of this law. The council shall consist of five members, citizens and residents of the state of Kansas, three of whom shall be physical therapists, one of whom shall be a physician licensed by the board to practice medicine and surgery and one of whom shall be a member of such board.

History: L. 1963, ch. 318, § 3; L. 1973, ch. 253, § 2; L. 1978, ch. 308, § 52; L. 1981, ch. 299, § 50; L. 1983, ch. 215, § 2; L. 1987, ch. 240, § 15; L. 2003, ch. 128, § 2; Apr. 1, 2004.

65-2904
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2904. Same; terms; oath. The council shall be appointed as follows: The board shall appoint one physician licensed to practice medicine and surgery and one member of the board, and the governor shall appoint three physical therapists who are duly licensed physical therapists who have at least three years' experience in physical therapy immediately preceding the appointment and are actively engaged, in this state, in physical therapy. The foregoing appointees shall constitute the council. Except as otherwise provided in this section, the members appointed in accordance with this section shall be appointed for terms of four years and shall serve until their successors are appointed and qualify. Members serving on the examining committee for physical therapy on the effective date of this act shall be members of the council and shall serve on the council until the conclusion of the terms for which they were appointed to the examining committee for physical therapy and until their successors are appointed and qualified. Each member of the council shall take an oath as required by law for state officers. No physical therapist member appointed by the governor shall be appointed for more than two successive four-year terms commencing on or after that date.

History: L. 1963, ch. 318, § 4; L. 1973, ch. 253, §3; L. 1983, ch. 215, § 3; L. 1987, ch. 240, § 16; L. 2003, ch. 128, § 3; Apr. 1, 2004.

65-2905
Chapter 65 – PUBLIC HEALTH

65-2905. Same; officers; executive director; powers and duties; quorum; records; employees; compensation and expenses.

(a) The physical therapy advisory council provided for in this act shall elect from their members a president and a vice-president, who shall serve for one year or until their successors are elected and qualified. The executive director of the board shall act as secretary of the council.

(b) The council shall serve in an advisory capacity to the board in matters pertaining to physical therapy. The board may adopt reasonable rules and regulations as may be found necessary for the performance of its duties. As to any matters coming under its jurisdiction, the council while in session may take testimony and any member may administer oaths in the taking of such testimony.

(c) A simple majority of the council shall constitute a quorum for the transaction of business. The secretary shall keep a record of all procedures of the council.

(d) The board may appoint and fix the compensation of such employees as may be necessary to assist the council, and the board shall have the power to employ such expert assistance as it may deem necessary to carry out the purposes of this act. Members of the council attending meetings of such council, or attending a subcommittee meeting thereof authorized by such council, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223 and amendments thereto.

History: L. 1963, ch. 318, § 5; L. 1973, ch. 253, §4; L. 1974, ch. 348, § 28; L. 1983, ch. 215, § 4; L. 1987, ch. 240, § 17; L. 2003, ch. 128, § 4; Apr. 1, 2004.

65-2906
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2906. Duties of board; qualifications of applicants; form of application; approval of schools.

(a) The board, with the advice and assistance of the council, shall pass upon the qualifications of all applicants for licensure or certification and duly license or certify those applicants who meet the qualifications established by this act.

(b) An applicant applying for licensure as a physical therapist or for a certificate as a physical therapist assistant shall file a written application on forms provided by the board, showing to the satisfaction of the board that the applicant meets the following requirements:

(1) The applicant is of legal age;

(2) the applicant has successfully completed the academic requirements of an educational program in physical therapy approved by the board which is appropriate for the certification or licensure of the applicant or, if the applicant attended a program not approved by the board, the applicant shall present an evaluation by an entity approved by the board showing that applicant's educational program met the criteria a school must satisfy to be approved by the board;

(3) the applicant has passed an examination required by the board which is appropriate for the certification or licensure of the applicant to test the applicant's knowledge of the basic and clinical sciences relating to physical therapy theory and practice; and

(4) the applicant has paid to the board all applicable fees established under K.S.A. 65-2911 and amendments thereto.

(c) The board shall adopt rules and regulations establishing the criteria which a school shall satisfy in order to be approved by the board for purposes of subsection (b). 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 the board for approval and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the school to be considered for approval. The board may 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. 1963, ch. 318, § 6; L. 1972, ch. 237, § 1; L. 1973, ch. 253, § 5; L. 1974, ch. 256, § 1; L. 1983, ch. 215, § 5; L. 1983, ch. 213, § 10; L. 1988, ch. 243, § 10; L. 1994, ch. 134, § 1; L. 2003, ch. 128, § 5; Apr. 1, 2004.

65-2907
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65-2907. Repealed.

History: L. 1963, ch. 318, §§ 7, 8; L. 1973, ch. 253, §§ 6, 7; L. 1983, ch. 215, §§ 6, 7; Repealed, L. 2003, ch. 128, § 30; April 1, 2004.

65-2908
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2908. Repealed.

History: L. 1963, ch. 318, §§ 7, 8; L. 1973, ch. 253, §§ 6, 7; L. 1983, ch. 215, §§ 6, 7; Repealed, L. 2003, ch. 128, § 30; April 1, 2004.

65-2909
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2909. Examinations; when not required; fees; temporary permits.

(a) The board may issue a license in physical therapy without examination to an applicant who presents evidence satisfactory to the board of having passed the examination in physical therapy approved by the board or an examination before a lawfully authorized examining board in physical therapy of another state, District of Columbia, territory or foreign country, if the standards for licensure in physical therapy in such other state, district, territory or foreign country are determined by the board to be as high as those of this state. At the time of making such application, the applicant shall pay to the board a fee as prescribed, no part of which shall be returned.

(b) The board may issue a certificate as a physical therapist assistant without examination therein to an applicant who presents evidence satisfactory to the board of having passed an examination as a physical therapist assistant approved by the board or an examination before a lawfully authorized examining board in physical therapy of another state, District of Columbia, territory or foreign country, if the standards for certification in physical therapy in such other state, District of Columbia, territory or foreign country are determined by the board to be as high as those of this state. At the time of making such application, the applicant shall pay to the board a fee as prescribed, no part of which shall be returned.

(c) The board may issue a temporary permit to an applicant for licensure as a physical therapist or an applicant for certification as a physical therapist assistant who applies for a temporary permit on a form provided by the board, who meets the requirements for licensure as a physical therapist or for certification as a physical therapist assistant or who meets all of the requirements for licensure or certification except examination and who pays to the board the temporary permit fee as required under K.S.A. 65-2911 and amendments thereto. Such temporary permit shall expire three months from the date of issue or on the date that the board approves the application for licensure or certification, whichever occurs first. No more than one such temporary permit shall be granted to any one person.

History: L. 1963, ch. 318, § 9; L. 1973, ch. 253, §8; L. 1983, ch. 215, § 8; L. 2003, ch. 128, § 6; Apr. 1, 2004.

65-2910
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2910. Renewal of license or certification; renewal requirements; expiration notice; fees; cancellation; reinstatement; inactive license; exempt license; federally active license.

(a) The license of every licensed physical therapist and the certification of every certified physical therapist assistant shall expire 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 or certificate is renewed for a period of time of less than one year, the board may prorate the amount of the fee established under K.S.A. 65-2911 and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the renewal fee established under K.S.A. 65-2911 and amendments thereto which shall be paid not later than the expiration date of the license or certificate.

(b) The board shall require every licensed physical therapist or certified physical therapist assistant as a condition of renewal to submit with the application for a renewal evidence of satisfactory completion of a program of continuing education required by the board. The board shall establish the requirements for each such program of continuing education by rules and regulations. In establishing such requirements the board shall consider any existing programs of continuing education currently being offered to licensed physical therapists or certified physical therapist assistants.

(c) At least 30 days before the expiration of the license of a physical therapist or the certificate of a physical therapist assistant, the board shall notify the licensee or certificate holder of the expiration by mail addressed to the licensee's last mailing address as noted upon the office records. If the licensee or certificate holder fails to pay the renewal fee by the date of expiration, the licensee or certificate holder shall be given a second notice that the license or certificate has expired and the license or certificate may be renewed only if the renewal fee and the late renewal fee are received by the board within the thirty-day period following the date of expiration and that, if both fees are not received within the thirty-day period, the license or certificate shall be canceled for failure to renew and shall be reissued only after the physical therapist or physical therapist assistant has been reinstated under subsection (d).

(d) Any licensee or certificate holder who allows the license or certificate to be canceled by failing to renew may be reinstated upon recommendation of the board, upon payment of the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable reeducation and continuing education requirements established by the

board. The board shall adopt rules and regulations establishing appropriate reeducation and continuing education requirements for reinstatement of persons whose licenses or certificates have been canceled for failure to renew.

(e) (1) There is hereby created the designation of inactive license. The board is authorized to issue an inactive license to any physical therapist who makes written application for a license as a physical therapist on a form provided by the board and remits the fee established pursuant to K.S.A. 65-2911, and amendments thereto. The board may issue an inactive license only to a person who meets all the requirements for a license to practice as a physical therapist and who does not actively practice as a physical therapist in this state. An inactive license shall not entitle the holder to render professional services as a physical therapist. The provisions of subsections (c) and (d) relating to expiration, renewal and reinstatement of a license shall be applicable to an inactive license issued under this subsection. Each inactive licensee may apply to engage in active practice by providing to the board proof that a policy of professional liability insurance will be maintained in compliance with K.S.A. 2011 Supp. 65-2920, and amendments thereto, and rules and regulations adopted by the board.

(2) For the licensee whose license has been inactive 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 physical therapy within Kansas. Any licensee whose license has been inactive for more than two years 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) (1) 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. 65-2911, and amendments thereto. The board may issue an exempt license to a person who is not regularly engaged in the practice of physical therapy in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder to all privileges attendant to the practice of physical therapy 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 physical therapy act, except as otherwise provided in this subsection. The holder of an exempt license shall be required to submit evidence of satisfactory completion of a program of continuing education required by this section. Each exempt licensee may apply for a license to regularly engage in the practice of physical therapy 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. 65-2911, and amendments thereto.

(2) 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 physical therapy within Kansas. Any licensee whose license has been exempt for more than two years and who has not been in the active practice of physical therapy 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.

(3) Nothing in this subsection shall be construed to prohibit a person holding an exempt license from serving as a paid employee or unpaid volunteer of: (A) A local health department as defined by K.S.A. 65-241, and amendments thereto, or (B) an indigent health care clinic as defined by K.S.A. 75-6102, and amendments thereto.

4) A person who practices under an exempt license shall not be deemed to be rendering professional service as a physical therapist in this state for the purposes of K.S.A. 2011 Supp. 65-2920, and amendments thereto.

(g) (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. 65-2911, 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 physical therapy in Kansas and who practices that branch of physical therapy 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 licenses under subsection (f), except that the scope of practice of a federally active licensee shall be limited to providing direct patient care services gratuitously or providing supervision, direction or consultation for no compensation except that nothing in this subsection (g)(1) shall prohibit a person licensed to practice physical therapy issued a federally active license from receiving payment for subsistence allowances or actual and necessary expenses incurred in providing such services; and rendering professional services as a charitable health care provider as defined in K.S.A. 75-6102, and amendments thereto.

(2) The provisions of subsections (a), (b), and (d) of this section relating to continuing education, expiration and renewal 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 physical therapist in this state for the purposes of K.S.A. 2011 Supp. 65-2920, and amendments thereto.

History: L. 1963, ch. 318, § 10; L. 1973, ch. 253,§ 9; L. 1976, ch. 274, § 4; L. 1983, ch. 215, § 9; L. 1992, ch. 253, § 5; L. 2003, ch. 128, § 7; L. 2004, ch. 117, § 18; L. 2010, ch. 126, § 15; July 1.

65-2911
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2911. Rules and regulations; record of proceedings; roster of persons licensed or certified; fee limitations; examination fees; disposition of moneys; healing arts fee fund.

(a) The board may adopt such rules and regulations as necessary to carry out the purposes of this act. The executive director of the board shall keep a record of all proceedings under this act and a roster of all persons licensed or certified under the act. The roster shall show the name, address, date and number of the original license or certificate, and the renewal thereof.

(b) (1) The board shall charge and collect in advance fees provided for in this act as fixed by the board by rules and regulations, subject to the following limitations:

Application based upon certificate of prior examination, not more than	$80
Application based on examination, not more than	100
Exempt license fee, not more than	80
Annual renewal fee, not more than	70
Exempt license renewal fee, not more than	70
Late renewal fee, not more than	75
Reinstatement fee, not more than	80

Certified copy of license or certificate, not more than	15
Duplicate certificate	15
Temporary permit	25
Written verification of license	25

(2) The board shall charge and collect in advance fees for any examination administered by the board under article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, as fixed by the board by rules and regulations in an amount equal to the cost to the board of the examination. If the examination is not administered by the board, the board may require that fees paid for any examination under article 29 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto be paid directly to the examination service by the person taking the examination.

(3) The fees fixed by the board by rules and regulations under article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and in effect immediately prior to the effective date of this act shall continue in effect until different fees are fixed by the board by rules and regulations as provided under this section.

(c) The board shall remit all moneys received by or for it 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 such 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 of the board.

History: L. 1963, ch. 318, § 11; L. 1973, ch. 309,§ 24; L. 1983, ch. 215, § 10; L. 1987, ch. 240, § 18; L. 2001, ch. 5, § 241; L. 2003, ch. 128, § 8; L. 2010, ch. 126, § 16; L. 2011, ch. 53, § 33; July 1.

65-2912
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2912. Grounds for refusal, suspension, revocation or limitation of license or certificate; censure; hearing procedure.

(a) The board may refuse to grant a license to any physical therapist or a certificate to any physical therapist assistant, or may suspend or revoke the license of any licensed physical therapist or certificate of any certified physical therapist assistant, or may limit the license of any licensed physical therapist or certificate of any certified physical therapist assistant or may censure a licensed physical therapist or certified physical therapist assistant for any of the following grounds:

(1) Addiction to or distribution of intoxicating liquors or drugs for other than lawful purposes;

(2) conviction of a felony if the board determines, after investigation, that the physical therapist or physical therapist assistant has not been sufficiently rehabilitated to warrant the public trust;

(3) obtaining or attempting to obtain licensure or certification by fraud or deception;

(4) finding by a court of competent jurisdiction that the physical therapist or physical therapist assistant is a disabled person and has not thereafter been restored to legal capacity;

(5) unprofessional conduct as defined by rules and regulations adopted by the board;

(6) the treatment or attempt to treat ailments or other health conditions of human beings other than by physical therapy and as authorized by this act;

(7) failure to refer patients to other health care providers if symptoms are present for which physical therapy treatment is inadvisable or if symptoms indicate conditions for which treatment is outside the scope of knowledge of the licensed physical therapist;

(8) evaluating or treating patients in a manner not consistent with K.S.A. 2011 Supp. 65-2921 and amendments thereto; and

(9) knowingly submitting any misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement.

(b) All proceedings pursuant to article 29 of chapter 65 of the Kansas Statutes Annotated, and acts amendatory of the provisions thereof or supplemental thereto, shall be conducted in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act.

History: L. 1963, ch. 318, § 12; L. 1965, ch. 369, § 6; L. 1973, ch. 253, § 10; L. 1983, ch. 215, § 11; L. 1984, ch. 313,§ 125; L. 1986, ch. 234, § 7; L. 1988, ch. 246, § 20; L. 2003, ch. 128, § 9; L. 2004, ch. 61, § 2; L. 2007, ch. 177, § 20; L. 2010, ch. 17, § 141; July 1.

65-2913
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2913. Representation as physical therapist or physical therapist assistant; prohibitions; exceptions; construction of act. (a) It shall be unlawful for any person who is not licensed under the physical therapy practice act as a physical therapist or whose license has been suspended or revoked in any manner to represent oneself as a physical therapist or to use in connection with such person's name the words physical therapist, physiotherapist, licensed physical therapist or doctor of physical therapy or use the abbreviations P.T., Ph. T., M.P.T., D.P.T. or L.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist. A violation of this subsection shall constitute a class B nonperson misdemeanor. Nothing in this section shall be construed to prohibit physical therapists licensed under K.S.A. 2016 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials recognized by the board which such licensee has earned. Each licensee when using the letters or term "Dr." or "Doctor" in conjunction with such licensee's professional practice, whether in any written or oral communication, shall identify oneself as a "physical therapist" or "doctor of physical therapy."

(b) Any person who, in any manner, represents oneself as a physical therapist assistant, or who uses in connection with such person's name the words or letters physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist assistant, without a valid existing certificate as a physical therapist assistant issued to such person pursuant to the physical therapy practice act shall be guilty of a class B nonperson misdemeanor. Nothing in this section shall be construed to prohibit physical therapist assistants certified under K.S.A. 2016 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials which such physical therapist assistant has earned.

(c) Nothing in this act is intended to limit, preclude or otherwise interfere with the practices of other health care providers formally trained and practicing their profession. The provisions of the

physical therapy practice act shall not apply to the following individuals so long as they do not hold themselves out in a manner prohibited under subsection (a) or (b):

(1) Persons rendering assistance in the case of an emergency;

(2) members of any church practicing their religious tenets;

(3) persons whose services are performed pursuant to the delegation of and under the supervision of a physical therapist who is licensed under this act;

(4) health care providers in the United States armed forces, public health services, federal facilities and coast guard or other military service when acting in the line of duty in this state;

(5) licensees under the healing arts act, and practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensee under K.S.A. 65-2872(g), and amendments thereto;

(6) dentists practicing their professions, when licensed and practicing in accordance with the provisions of law;

(7) nurses practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensed nurse under K.S.A. 65-1124(m), and amendments thereto;

(8) health care providers who have been formally trained and are practicing in accordance with their training or have received specific training in one or more functions included in this act pursuant to established educational protocols or both;

(9) students while in actual attendance in an accredited health care educational program and under the supervision of a qualified instructor;

(10) self-care by a patient or gratuitous care by a friend or family member;

(11) optometrists practicing their profession when licensed and practicing in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(12) podiatrists practicing their profession when licensed and practicing in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(13) occupational therapists practicing their profession when licensed and practicing in accordance with the occupational therapy practice act and occupational therapy assistants practicing their profession when licensed and practicing in accordance with the occupational therapy practice act;

(14) respiratory therapists practicing their profession when licensed and practicing in accordance with the respiratory therapy practice act;

(15) physician assistants practicing their profession when licensed and practicing in accordance with the physician assistant licensure act;

(16) persons practicing corrective therapy in accordance with their training in corrective therapy;

(17) athletic trainers practicing their profession when licensed and practicing in accordance with the athletic trainers licensure act;

(18) persons who massage for the purpose of relaxation, muscle conditioning or figure improvement, so long as no drugs are used and such persons do not hold themselves out to be physicians or healers;

(19) barbers practicing their profession when licensed and practicing in accordance with the provisions of article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(20) cosmetologists practicing their profession when licensed and practicing in accordance with the provisions of article 19 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(21) attendants practicing their profession when certified and practicing in accordance with the provisions of article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(22) naturopathic doctors practicing their profession when licensed and practicing in accordance with the naturopathic doctor licensure act; and

(23) acupuncturists practicing their profession when licensed and practicing in accordance with the acupuncture practice act.

(d) Any patient monitoring, assessment or other procedures designed to evaluate the effectiveness of prescribed physical therapy must be performed by or pursuant to the delegation of a licensed physical therapist or other health care provider.

(e) Nothing in this act shall be construed to permit the practice of medicine and surgery. No statute granting authority to licensees of the state board of healing arts shall be construed to confer authority upon physical therapists to engage in any activity not conferred by the physical therapy practice act.

History: L. 1963, ch. 318, § 13; L. 1973, ch. 253, § 11; L. 1983, ch. 215, § 12; L. 1994, ch. 134, § 2; L. 2003, ch. 128, § 10; L. 2004, ch. 24, § 12; L. 2010, ch. 126, § 17; L. 2011, ch. 114, § 20; L. 2016, ch. 92, § 33; July 1.

65-2914
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2914. Fraud or deception in application for license; scope of authorized treatment.

(a) No person shall employ fraud or deception in applying for or securing a license as a physical therapist.

(b) A person licensed under this act as a physical therapist shall not treat ailments or other health conditions of human beings other than by physical therapy unless duly licensed or registered to provide such treatment under the laws of this state.

(c) A person certified under this act as a physical therapist assistant shall not treat ailments or other health conditions of human beings except under the direction of a physical therapist duly licensed under this act. The word "direction" as used in this subsection (c) shall mean that the physical therapist shall see all patients initially and evaluate them periodically except in those cases in a hospital setting when the physical therapist is not immediately available, the physical therapist assistant may initiate patient care after telephone contact with the physical therapist for documented instruction. The physical therapist must then evaluate the patient and establish a plan of treatment as soon as possible with a minimum weekly review.

(d) Any person violating the provisions of this section shall be guilty of a class B misdemeanor.

History: L. 1963, ch. 318, § 14; L. 1973, ch. 253, § 12; L. 1983, ch. 215, § 13; L. 1990, ch. 228, § 1; L. 2003, ch. 128, § 11; Apr. 1, 2004.

65-2915
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2915. Repealed.

History: L. 1963, ch. 318, § 15; L. 1983, ch. 215, § 14; Repealed, L. 2003, ch. 128, § 30; April 1, 2004.

65-2916
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2916. Penalties for violations of act; injunctive relief.

(a) Any violation of the provisions of this act shall constitute a class B misdemeanor.

(b) When it appears to the board that any person is violating any of the provisions of article 29 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto, the board may bring an action in the name of the state in a court of competent jurisdiction for an injunction against such violation without regard to whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.

(c) The board, in addition to any other penalty prescribed under the provisions of article 29 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto, may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for a violation of the provisions of article 29 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto 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.

History: L. 1963, ch. 318, § 16; L. 1973, ch. 253,§ 13; L. 2003, ch. 128, § 12; Apr. 1, 2004.

65-2917
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2917. Invalidity of part. If any provisions of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

History: L. 1963, ch. 318, § 17; June 30.

65-2918
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2918. Physical therapists and physical therapist assistants practicing in accordance with law not subject to healing arts act. Physical therapists and physical therapist assistants practicing their profession, when licensed or certified and practicing under and in accordance with the provisions of article 29 of chapter 65 of the Kansas Statutes Annotated, and acts amendatory of the provisions thereof or supplemental thereto, shall not be construed to be practicing the healing arts or be subject to the healing arts act.

History: L. 1983, ch. 215, § 15; L. 2003, ch. 128, § 13; Apr. 1, 2004.

65-2919
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2919. Person holding registration as physical therapist deemed to be licensed physical therapist. Any person holding a valid registration as a physical therapist immediately prior to the effective date of this act which has been issued by the board shall be deemed to be a licensed physical therapist for the purposes of this act and article 29 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto and shall be subject to the provisions of this act and the provisions of such article and chapter of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto.

History: L. 1983, ch. 215, § 16; L. 2003, ch. 128, § 14; Apr. 1, 2004.

65-2920
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2920. Professional liability insurance coverage required as condition to practice physical therapy. Professional liability insurance coverage shall be maintained in effect by each licensed physical therapist actively practicing in this state as a condition to rendering professional services as a physical therapist in this state. The board shall fix by rules and regulations the minimum level of coverage for such professional liability insurance.

History: L. 2003, ch. 128, § 29; L. 2004, ch. 117, § 25; July 1.

65-2921
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2921. Evaluation and treatment by physical therapists; when referral is required; exceptions.

(a) Except as otherwise provided in subsection (d), a physical therapist may evaluate and initiate physical therapy treatment on a patient without referral from a licensed health care practitioner. If treating a patient without a referral from a licensed health care practitioner and the patient is not progressing toward documented treatment goals as demonstrated by objective, measurable or functional improvement, or any combination thereof, after 10 patient visits or in a period of 15 business days from the initial treatment visits following the initial evaluation visit, the physical therapist shall obtain a referral from an appropriate licensed health care practitioner prior to continuing treatment.

(b) Physical therapists may provide, without a referral, services to: (1) Employees solely for the purpose of education and instruction related to workplace injury prevention; or (2) the public for the purpose of fitness, health promotion and education.

(c) Physical therapists may provide services without a referral to special education students who need physical therapy services to fulfill the provisions of their individualized education plan (IEP) or individualized family service plan (IFSP).

(d) Nothing in this section shall be construed to prevent a hospital or ambulatory surgical center from requiring a physician order or referral for physical therapy services for a patient currently being treated in such facility.

(e) When a patient self-refers to a physical therapist pursuant to this section, the physical therapist, prior to commencing treatment, shall provide written notice to the patient that a physical therapy diagnosis is not a medical diagnosis by a physician.

(f) Physical therapists shall perform wound debridement services only after approval by a person licenses to practice medicine and surgery or other licensed health care practitioner in appropriately related cases.

(g) As used in this section, "licensed health care practitioner" means a person licensed to practice medicine and surgery, a licensed podiatrist, a licensed physician assistant or a licensed advanced practice registered nurse working pursuant to the order or direction of a person licensed to practice medicine and surgery, a licensed chiropractor, a licensed dentist or licensed optometrist in appropriately related cases.

History: L. 2007, ch. 177, § 21; L. 2013, ch. 4, § 1; July 1.

65-2922
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2922. Title of the act. The provisions of K.S.A. 65-2901 through 65-2921, and amendments thereto, shall be known and may be cited as the physical therapy practice act.

History: L. 2007, ch. 177, § 22; May 17.

65-2923
Chapter 65 – PUBLIC HEALTH
Article 29 – PHYSICAL THERAPY

65-2923. Dry needling; requirements to practice; rules and regulations. (a) The board shall adopt rules and regulations establishing minimum education and training requirements for the practice of dry needling by a licensed physical therapist.

(b) This section shall be part of and supplemental to the physical therapy practice act.

History: L. 2016, ch. 92, § 31; July 1.

ARTICLE 29. – PHYSICAL THERAPY

100-29-1. Applications.
100-29-2. Approval of physical therapy programs.
100-29-3. Requirements for physical therapists and physical therapist assistants from nonapproved schools.
100-29-3a. Examination of written and oral English communication.
100-29-4. Examination.
100-29-5. Revoked. (Authorized by and implementing K.S.A. 65-2911; effective March 21, 1997; revoked May 26, 2006.)
100-29-6. Lost or destroyed certificates; change of name; new certificates.
100-29-7. Fees.
100-29-8. License and certificate renewal; expiration date; notification of supervision.
100-29-9. License and certificate renewal; continuing education.
100-29-10. Canceled licenses and certificates; reinstatement.
100-29-11. Revoked. (Authorized by K.S.A. 65-2903 and 65-2911; implementing K.S.A. 65-2912; effective March 21, 1997; revoked Nov. 27, 2006.)
100-29-12. Unprofessional conduct.
100-29-13. Notification to board.
100-29-14. Revoked. (Authorized by K.S.A. 65-2911; implementing K.S.A. 1996 Supp. 65-2906; effective March 21, 1997; revoked July 14, 2006.)
100-29-15. Professional liability insurance.
100-29-16. Supervision of physical therapist assistants and support personnel.
100-29-18. Dry needling; education and practice requirements.
100-29-19. Dry needing; informed consent.
100-29-20. Dry needling; recordkeeping.
100-29-21. Dry needling; board requests for documentation.

100-29-1. Applications. (a) Each applicant for licensure as a physical therapist or certification as a physical therapist assistant shall submit a completed application on a form provided by the board. The application shall include the following information in legible writing:

(1) The applicant's full name;

(2) the applicant's social security number, driver's license number, nondriver identification number, or individual tax identification number if the applicant is advised that providing a social security number is voluntary pursuant to K.S.A. 74-139 and 74-148, and amendments thereto, and that if the social security number is provided, the agency may provide this number to the Kansas department of social and rehabilitation services for child support enforcement purposes and to the Kansas department of revenue's director of taxation;

(3) the applicant's mailing address. If the applicant's mailing address is different from the applicant's residential address, the applicant shall also provide the residential address;

(4) the applicant's daytime telephone number;

(5) the applicant's date and place of birth;

(6) the names of all educational programs recognized under K.A.R. 100-29-2 that the applicant attended, including the program from which the applicant graduated, the degree awarded to the applicant, and the date of graduation;

(7) information regarding any licenses, registrations, or certifications issued to the applicant to practice any healthcare profession;

(8) information regarding any prior acts specified in K.S.A. 65-2912, and amendments thereto, that could constitute grounds for denial of the application;

(9) a notarized release authorizing the board to receive any relevant information, files, or records requested by the board in connection with the application; and

(10) the number of times the applicant has taken the examination required by the board for licensure or certification and the date that the applicant passed the examination.

(b) Each applicant shall submit the following with the application:

(1) The fee required by K.A.R. 100-29-7;

(2) an official transcript that specifies the degree awarded from an educational program recognized by the board under K.A.R. 100-29-2;

(3) a verification on a form provided by the board of each license, registration, or certification issued to the applicant by any state or the District of Columbia relating to any healthcare profession;

(4) a current photograph, three by four inches in size, of the applicant's head and shoulders taken within 90 days before the date the application is received by the board; and

(5) evidence provided directly to the board from the testing entity recognized and approved under K.A.R. 100-29-4 that the applicant has passed the examination.

(c) The applicant shall sign the application under oath and have the application notarized.

(d) The physical therapy advisory council shall consider the application from each person who has not been engaged in an educational program recognized by the board and has not engaged in the practice of physical therapy during the five years preceding the date of the application. The council shall then submit its written recommendation to the board. (Authorized by K.S.A. 2009 Supp. 65-2911; implementing K.S.A. 2009 Supp. 65-2903, 65-2906, and 65-2912; effective March 21, 1997; amended May 26, 2006; amended May 14, 2010.)

100-29-2. Approval of physical therapy programs. (a) An educational program for licensure as a physical therapist shall be recognized by the board if the program meets the ''evaluative criteria for accreditation of education programs for the preparation of physical therapists,'' revised April 2005 by the commission on accreditation in physical therapy education and hereby adopted by reference.

(b) An educational program for certification as a physical therapist assistant shall be recognized by the board if the program meets the ''evaluative criteria for accreditation of education programs for the preparation of physical therapy assistants,'' adopted November 1, 2000 by the commission on accreditation in physical therapy education and hereby adopted by reference. (Authorized by K.S.A. 2005 Supp. 65-2911; implementing K.S.A. 2005 Supp. 65-2906; effective March 21, 1997; amended July 14, 2006.)

100-29-3. Requirements for physical therapists and physical therapist assistants from nonapproved schools. (a) Each person who received training from a nonapproved school and who applies for licensure as a physical therapist or certification as a physical therapist assistant shall submit with the application an evaluation prepared for the state of Kansas by a board-approved credentialing agency.

(b) If the evaluation shows that the applicant's educational program did not meet the criteria that a school is required to satisfy to be approved by the board, the applicant may be required by the board, with the advice of the physical therapy advisory council, to perform one of the following:

(1) Complete college courses in the areas that did not meet the required criteria with a grade average of at least ''B'' or its equivalent; or

(2) apply college-level examination program scores towards semester credit hours for

the courses specified by the board. (Authorized by K.S.A. 2004 Supp. 65-2911; implementing K.S.A. 2004 Supp. 65-2906; effective March 21, 1997; amended May 26, 2006.)

100-29-3a. Examination of written and oral English communication. (a) For each applicant who received training in a school at which English was not the language of instruction, the examinations required and approved by the board to demonstrate the ability to communicate in written and oral English shall be the test of English as a foreign language (TOEFL), the test of written English (TWE), and the test of spoken English (TSE), as developed and administered by the educational testing service (ETS).

(b) To successfully pass the test of English as a foreign language, each applicant who is required to take this examination shall attain a score of at least 24 in writing, 26 in speaking, 21 in reading, and 18 in listening.

(c) To successfully pass the test of spoken English, each applicant who is required to take this examination shall attain a score of at least 5.0.

(d) To successfully pass the test of written English, each applicant who is required to take this examination shall attain a score of at least 4.5. (Authorized by K.S.A. 2008 Supp. 65-2911; implementing K.S.A. 2008 Supp. 65-2906 and 65-2909; effective Sept. 11, 1998; amended Jan. 4, 2010.)

100-29-4. Examination. (a) The examination required and approved by the board for licensure as a physical therapist shall be the physical therapist examination developed by the federation of state boards of physical therapy.

(b) The examination required and approved by the board for certification as a physical therapist assistant shall be the physical therapist assistant examination developed by the federation of state boards of physical therapy.

(c) To pass the examination for licensure or certification, each physical therapist and physical therapist assistant shall attain a criterion-referenced scaled score of at least 600 on a scale ranging from 200 to 800.

(d) Each applicant who fails to pass the examination after three attempts shall submit evidence of completion of additional education approved by the board before being allowed to take the examination an additional time. (Authorized by K.S.A. 2005 Supp. 65-2911; implementing K.S.A. 2005 Supp. 65-2906; effective March 21, 1997; amended July 14, 2006.)

100-29-5. Revoked. (Authorized by and implementing K.S.A. 65-2911; effective March 21, 1997; revoked May 26, 2006.)

100-29-6. Lost or destroyed certificates; change of name; new certificates. (a) If a certificate of licensure or certification is lost or destroyed, the licensed or certified person may request a duplicate certificate. Each request shall be submitted in writing, shall include the number of the original certificate, and shall be accompanied by the fee specified in K.A.R. 100-29-7.

(b) If the name of a licensed or certified person is changed, the licensed or certified person shall send the name change to the board within 30 days of the change. This notification shall be submitted in writing, shall be accompanied by an attested document of the change of name, shall include the number of the original certificate, and shall be accompanied by the fee required for a duplicate certificate specified in K.A.R. 100-29-7. The licensed or certified person shall surrender the original certificate to the board. (Authorized by and implementing K.S.A. 2004 Supp. 65-2911; effective March 21, 1997; amended May 26, 2006.)

100-29-7. Fees. The following fees shall be collected by the board:

(a) Application based upon certificate of prior examination $80.00

(b) Application based on examination $80.00
(c) Annual renewal:
(1) Paper renewal $70.00
(2) On-line renewal $67.00
(d) Late renewal:
(1) Paper late renewal $5.00
(2) On-line late renewal $5.00
(e) Reinstatement $80.00
(f) Certified copy $15.00
(g) Duplicate certificate $15.00
(h) Temporary permit $25.00
(Authorized by K.S.A. 2006 Supp. 65-2911; implementing K.S.A. 2006 Supp. 65-2910 and K.S.A. 2006 Supp. 65-2911; effective March 21, 1997; amended May 1, 1998; amended Sept. 29, 2000; amended Nov. 15, 2002; amended Nov. 19, 2004; amended March 7, 2008.)

100-29-8. License and certificate renewal; expiration date; notification of supervision. (a) The license of each physical therapist and the certificate of each physical therapist assistant shall expire on December 31 of each year.

(b) At the time of license renewal, the physical therapist shall provide the name and certificate number of each physical therapist assistant who is working under the direction of the physical therapist on a form provided by the board.

(c) At the time of a renewal of certification, the physical therapist assistant shall provide, on a form furnished by the board, the name and license number of the physical therapist who is supervising the assistant. (Authorized by K.S.A. 2004 Supp. 65-2911; implementing K.S.A. 2004 Supp. 65-2910; effective March 21, 1997; amended May 26, 2006.)

K.A.R. 100-29-9. License and certificate renewal; continuing education. (a)(1)(A) As a condition of renewal for each odd-numbered year, each licensed physical therapist or certified physical therapist assistant shall submit, in addition to the annual application for renewal of licensure or certification, evidence of satisfactory completion within the preceding two-year period of at least 40 contact hours of continuing education for a licensed physical therapist and at least 20 contact hours of continuing education for a certified physical therapist assistant.

(B) Evidence of satisfactory completion of a program of continuing education shall not be required to be submitted with the application for renewal of licensure or certification in even-numbered years.

(2) A contact hour shall consist of 60 minutes of activity pertaining to the practice of physical therapy.

(3) Meals and breaks shall not be included in the contact hour calculation.

(b) Any applicant for renewal who cannot meet the requirements of paragraph (a)(1)(A) may request an extension from the board to submit evidence of continuing education. The request shall include a plan for completion of the continuing education requirements within the requested extension period. An extension of up to six months may be granted by the board for a substantiated medical condition, natural disaster, death of a spouse or an immediate family member, or any other compelling reason that in the judgment of the board renders the licensee incapable of meeting the requirements of paragraph (a)(1)(A).

(c) A physical therapist initially licensed or physical therapist assistant initially certified within one year of a renewal date in an odd-numbered year shall not be required to submit evidence of satisfactory completion of a program of continuing education required by paragraph (a)(1)(A) for that first renewal period. Each physical therapist or physical therapist assistant initially licensed or certified or whose license or certificate has been reinstated for more than one year but less than two years from a renewal date in an odd-numbered year shall be required to submit evidence of

satisfactory completion of at least half of the contact hours of continuing education required by paragraph (a)(1)(A).

(d) All continuing education activities shall be related to the practice of physical therapy.

(e) All continuing education activities shall pertain to the following:

(1) Clinical skills;

(2) administration and management techniques;

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

(4) research projects with peer-reviewed, published results;

(5) legislative issues involving the profession;

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

(7) documentation, reimbursement, cost-effectiveness, and regulatory compliance; and

(8) problem solving, critical thinking, and ethics.

(f) The following shall qualify as continuing education activities:

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

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

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

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

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

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

(7) College or university courses. "College or university course" shall mean a course at the college or university level directly related to the practice of physical therapy. Ten contact hours shall be given for each semester credit hour for which the student received a grade of at least C or its equivalent or a "pass" in a pass/fail course that is documented in an official transcript.

(8) Administrative training. "Administrative training" shall mean a presentation that enhances the knowledge of a physical therapist or physical therapist assistant on the topic of quality assurance, risk management, reimbursement, hospital and statutory requirements, or claim procedures. One contact hour shall be awarded for each hour of administrative training.

(9) Self-instruction. "Self-instruction" shall mean the following:

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

(B) completion of a home study, correspondence, audio, video, or internet course for which a printed verification of successful completion is provided by the person or organization offering the course. One contact hour shall be awarded for each hour of coursework for each completed course. A maximum of 10 contact hours shall be awarded for each course; and

(C) passage of a specialty certification examination approved by the board. Forty contact hours shall be awarded for passage of a specialty certification examination.

(10) Professional publications. Contact hours for writing a professional publication shall be allotted as follows:

(A) Original paper	single author	20
	senior author	15

	coauthor	8
(B) Review paper or case report		
	single author	15
	coauthor	8
(C) Abstract or book review		8
(D) Publication of a book		20

(11) Physical therapy residency or fellowship program. "Physical therapy residency or fellowship program" shall mean a post-professional program that is directly related to the practice of physical therapy and requires at least 1,000 combined hours of instruction and clinical practice for completion. Forty contact hours shall be awarded for successful completion of a physical therapy residency or fellowship program.

(12) Elected delegate. "Elected delegate" shall mean an elected delegate in a national assembly of delegates with the objective to create policy related to the practice of physical therapy. Ten contact hours shall be awarded for serving one term as an elected delegate.

(13) Supervision of a student. "Supervision of a student" shall mean clinical instruction and evaluation of a physical therapist student or physical therapist assistant student in a clinical setting. One contact hour shall be awarded for each documented 40 hours of providing supervision of a student. A maximum of three contact hours shall be awarded in each two-year continuing education period.

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

(15) Physical therapy jurisprudence examination. "Physical therapy jurisprudence examination" shall mean the board physical therapy jurisprudence examination. One contact hour shall be awarded for completion of the physical therapy jurisprudence examination with a score of at least 88 percent correct.

(g) No contact hours shall be awarded for any repeated continuing education activity on the same topic within a two-year continuing education period.

(h) To provide evidence of satisfactory completion of continuing education activities, each licensed physical therapist and each certified physical therapist assistant shall submit the following to the board:

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

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

(3) one copy of any peer-reviewed professional publication. (Authorized by K.S.A. 2015 Supp. 65-2910 and 65-2911; implementing K.S.A. 2015 Supp. 65-2910; effective March 21, 1997; amended Nov. 14, 2003; amended May 26, 2006; amended May 13, 2016.)

100-29-10. Canceled licenses and certificates; reinstatement. (a) Each physical therapist and physical therapist assistant desiring to reinstate a canceled license or certificate shall meet the following requirements:

(1) Submit a completed written application on a form prescribed by the board;

(2) pay the reinstatement fee established by the board, no part of which shall be refunded; and

(3) submit proof of satisfactory completion of a program of continuing education as specified in subsection (b).

(b)(1) If the license of a physical therapist has been canceled for less than five years, the applicant shall complete the continuing education that was required at the time the license was canceled and a minimum of an additional 10 contact hours for each six months since the date

the license was canceled.

(2) If the certification of a physical therapist assistant has been canceled for less than five years, the applicant shall complete the continuing education that was required at the time the certification was canceled and a minimum of an additional five contact hours for each six months since the date the certification was canceled.

(3) If the license or certificate has been canceled for five years or more, the applicant shall be required to complete an individually tailored continuing education program approved by the board.

(4) If the applicant has been in active practice in another state or the District of Columbia since the date on which the Kansas license or certificate was canceled, the applicant shall submit proof of a current license, registration, or certification, and proof of compliance with the continuing education requirements of that jurisdiction. (Authorized by K.S.A. 2004 Supp. 65-2910 and K.S.A. 2004 Supp. 65-2911; implementing K.S.A. 2004 Supp. 65-2910; effective March 21, 1997; amended Nov. 14, 2003; amended May 26, 2006.)

100-29-11. Revoked. (Authorized by K.S.A. 65-2903 and 65-2911; implementing K.S.A. 65-2912; effective March 21, 1997; revoked Nov. 27, 2006.)

100-29-12. Unprofessional conduct. (a) ‘‘Unprofessional conduct’’ means any of the following:

(1) Engaging in physical therapy using either of the following means:

(A) A false or assumed name; or

(B) impersonating another person licensed as a physical therapist or certified as a physical therapist assistant;

(2) practicing physical therapy without reasonable skill and safety because of any of the following:

(A) Illness;

(B) alcoholism;

(C) use of drugs, controlled substances, chemicals, or any other type of material; or

(D) any mental or physical condition that impairs judgment or ability to provide care;

(3) having a physical therapist or physical therapist assistant license, registration, or certification revoked, suspended, or limited by the proper regulatory authority of another state, territory, or country, or the District of Columbia for acts or conduct that would constitute grounds for disciplinary action under K.S.A. 65-2912 and amendments thereto;

(4) having a physical therapist or physical therapist assistant application denied by the proper regulatory authority of another state, territory, or country, or the District of Columbia for acts or conduct that would constitute grounds for disciplinary action under K.S.A. 65-2912 and amendments thereto;

(5) cheating or attempting to subvert the validity of the examination required for licensure or certification;

(6) failing to provide adequate supervision to a physical therapist assistant or other person who performs services pursuant to delegation by a physical therapist;

(7) failing to furnish to the board, its investigators , or representatives any information legally requested by the board;

(8) being sanctioned or disciplined by a peer review committee or medical care facility for acts or conduct that would constitute unprofessional conduct under this regulation;

(9) surrendering a license, registration, or certification to practice physical therapy in another state while disciplinary proceedings are pending for acts or conduct that would constitute grounds for denial, refusal to renew, suspension, or revocation under K.S.A. 65-2912 and amendments thereto;

(10) committing 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;

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

(12) engaging in a pattern of practice or other conduct that demonstrates a manifest incapacity or incompetence to practice physical therapy;

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

(14) providing physical therapy to a patient or client without the consent of the patient or client or the patient's or client's legal representative;

(15) willfully betraying confidential information provided by the patient or client;

(16) advertising a guarantee of any professional service relating to physical therapy;

(17) using any advertisement that is false, misleading, or deceptive in any material respect;

(18) committing conduct likely to deceive, defraud, or harm the public;

(19) making a false or misleading statement regarding the license or certificate holder's skill;

(20) committing any act of sexual abuse, misconduct, or exploitation relating to the professional practice of physical therapy;

(21) obtaining any fee by fraud, deceit, or misrepresentation;

(22) failing to maintain adequate written records detailing the course of treatment of the patient or client;

(23) delegating physical therapy to a person who the license or certificate holder knows or has reason to know is not qualified by training or experience to perform the physical therapy;

(24) referring a patient or client to a health care entity for services if the license or certificate holder has a significant investment interest in the health care entity, unless the patient or client is informed of the following in writing:

(A) The significant investment interest; and

(B) the fact that the patient or client can obtain the services elsewhere;

(25) performing tests, examinations, or services that have no legitimate purpose;

(26) violating any regulations adopted by the board relating to the practice of physical therapy;

(27) 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 a professional partnership, professional corporation, limited liability company, or similar business entity;

(28) practicing or offering to practice beyond the scope of the legal practice of physical therapy;

(29) charging excessive fees for services performed;

(30) aiding and abetting a person who is not licensed or certified in the performance of activities requiring a license or certificate; or

(31) providing treatment unwarranted by the condition of the patient or continuing treatment beyond the merit of reasonable benefit.

(b) Each physical therapist and physical therapist assistant shall maintain an adequate record for each patient or client for whom the physical therapist or physical therapist assistant performs a professional service. Each record shall meet the following criteria:

(1) Be legible;

(2) identify the patient or client; and

(3) contain an evaluation, a diagnosis, a plan of care, and a treatment and discharge plan.

(c) As used in this regulation, ''health care entity'' and ''significant investment interest'' shall have the meanings ascribed to them in K.S.A. 65-2837 and amendments thereto.

(Authorized by K.S.A. 2004 Supp. 65-2911; implementing K.S.A. 2004 Supp. 65-2912; effective March 21, 1997; amended May 26, 2006.)

100-29-13. Notification to board. (a) Before a physical therapist allows a physical therapist assistant to work under the physical therapist's direction, the physical therapist shall inform the board of the following:

(1) The name of each physical therapist assistant who intends to work under the direction of that physical therapist; and

(2) the physical therapist assistant's practice address.

(b) Each physical therapist and each physical therapist assistant shall inform the board in writing within 30 days of any changes in the mailing, residence, or practice address.
(Authorized by K.S.A. 2004 Supp. 65-2911; implementing K.S.A. 2004 Supp. 65-2901; effective March 21, 1997; amended May 26, 2006.)

100-29-14. Revoked. (Authorized by K.S.A. 65-2911; implementing K.S.A. 1996 Supp. 65-2906; effective March 21, 1997; revoked July 14, 2006.)

100-29-15. Professional liability insurance. (a) Each person licensed by the board as a physical therapist shall, before rendering professional services within the state, submit to the board evidence that the person is maintaining the professional liability insurance coverage required by K.S.A. 65-2920 and amendments thereto, for which the limit of the insurer's liability shall be not less than $100,000 per claim, subject to an annual aggregate of not less than $300,000 for all claims made during the period of coverage.

(b) Each person licensed by the board as a physical therapist and rendering professional services in this state shall submit, with the annual application for renewal of the license, evidence that the person is maintaining the professional liability insurance coverage specified in subsection (a). (Authorized by K.S.A. 2004 Supp. 65-2911; implementing K.S.A. 2004 Supp. 65-2920; effective May 26, 2006.)

K.A.R. 100-29-16. Supervision of physical therapist assistants and support personnel. (a) Each physical therapist shall be responsible for the following:

(1) The physical therapy services provided to a patient or client by any physical therapist assistant working under the direction of the physical therapist; and

(2) the tasks relating to the physical therapy services provided to a patient or client by any support personnel working under the personal supervision of the physical therapist or by the physical therapist assistant acting under the direction of the physical therapist.

(b) Each physical therapist and each physical therapist assistant acting under the direction of a physical therapist shall provide personal supervision of the support personnel during any session in which support personnel are utilized to carry out a task.

(1) "Personal supervision" shall mean oversight by a physical therapist or by a physical therapist assistant acting under the direction of the physical therapist who is on-site and immediately available to the support personnel.

(2) "Support personnel" shall mean any person other than a physical therapist or physical therapist assistant. Support personnel may be designated as or describe themselves as physical therapy aides, physical therapy technicians, physical therapy paraprofessionals, rehabilitation aides, or rehabilitation technicians.

(3) "Task" shall mean an activity that does not require the formal education or training of a physical therapist or a physical therapist assistant.

(c) The determination by the physical therapist to utilize a physical therapist assistant for selected components of physical therapy interventions shall require the education, expertise, and professional judgment of the physical therapist. Before delegating an intervention by a physical therapist to a physical

therapist assistant and before delegating a designated task to support personnel, the physical therapist shall consider the following:

(1) The education, training, experience, and skill level of the physical therapist assistant;

(2) the complexity and acuteness of the patient's or client's condition or health status;

(3) the predictability of the consequences;

(4) the setting in which the care is being delivered to the patient or client; and

(5) the frequency of reexamination of the patient or client.

(d) Pursuant to K.S.A. 65-2914 and amendments thereto, if patient care is initiated by a physical therapist assistant in a hospital setting because the physical therapist is not immediately available, "minimum weekly review" shall mean that the physical therapist shall evaluate the patient and determine a plan of treatment within seven days of the initiation of treatment by the physical therapist assistant.

(e) Only a physical therapist may perform any of the following:

(1) Interpretation of a referral;

(2) performance and documentation of an initial examination, testing, evaluation, diagnosis, and prognosis;

(3) development or modification of a plan of care that is based on a reexamination of the patient or client that includes the physical therapy goals for intervention;

(4) determination of the qualifications of support personnel performing an assigned task;

(5) delegation of and instruction about the service to be rendered by the physical therapist assistant;

(6) timely review of documentation, reexamination of the patient or client, and revision of the plan of care when indicated;

(7) establishment and documentation of the discharge plan and discharge summary; and

(8) oversight of all documentation for services, including documents for billing, rendered to each patient or client under the care of the physical therapist.

(f) In all practice settings, the performance of selected interventions by the physical therapist assistant and the delegation of designated tasks to support personnel shall be consistent with the safe and legal practice of physical therapy and shall be based on the following factors:

(1) The complexity and acuteness of the patient's or client's condition or health status;

(2) the physical therapist's proximity and accessibility to the patient or client;

(3) the supervision available for all emergencies or critical events;

(4) the type of setting in which the physical therapy intervention is provided;

(5) the ability of the physical therapist assistant to perform the selected interventions or the support personnel to perform designated tasks; and

(6) an assessment by the physical therapist of the ability of the support personnel to perform designated tasks.

(g) Except as specified in this subsection, a physical therapist shall not have more than four physical therapist assistants working concurrently under the direction of that physical therapist. A request by a physical therapist to supervise additional physical therapist assistants may be granted by the board if it finds that significant hardship to the health and welfare of the community will occur if the physical therapist's request to supervise more than four physical therapist assistants is not granted.

(h) Each physical therapist wishing to provide personal supervision to more than four physical therapist assistants in a clinic or hospital setting shall provide a written and signed request to the physical therapy advisory council with the following information:

(1) The name of each physical therapist assistant to whom the physical therapist proposes to provide personal supervision;

(2) the reason for the request; and

(3) a written statement from the clinic or hospital director documenting the hardship and the plan for alleviating future staffing shortages of physical therapists.

(i) The physical therapy advisory council shall review each request granted by the board pursuant to subsection (g) at least every six months to determine whether a significant hardship to the health and welfare of the community will exist if the request is no longer granted. The physical therapy advisory council shall prepare and submit a written recommendation of each review to the board. A determination

of whether the exemption should be renewed for another six-month period shall be made by the board at the recommendation of the physical therapy advisory council.

(j) Failure to meet the requirements of this regulation shall constitute unprofessional conduct. (Authorized by K.S.A. 2015 Supp. 65-2905 and 65-2911; implementing K.S.A. 2015 Supp. 65-2912 and 65-2914; effective July 14, 2006; amended July 17, 2009; amended May 13, 2016.)

K.A.R. 100-29-18. Dry needling; education and practice requirements. (a) Dry needling shall be performed only by a physical therapist who is competent by education and training to perform dry needling as specified in this regulation. Online study and self-study for dry needling instruction shall not be considered appropriate training.

(b) Each physical therapist who does not obtain dry needling education and training as part of that individual's graduate or postgraduate education shall be required to successfully complete a dry needling course approved by the board in order to perform dry needling. Each dry needling course shall include a practical examination and a written examination.

(c) Each dry needling course shall include the following components:

(1) Anatomical review for safety and effectiveness;

(2) indications and contraindications for dry needling;

(3) evidence-based instruction on the theory of dry needling practice;

(4) sterile needle procedures, which shall include the standards of one of the following:

(A) The U.S. centers for disease control and prevention; or

(B) the U.S. occupational safety and health administration;

(5) blood-borne pathogens;

(6) postintervention care, including an adverse response or emergency; and

(7) an assessment of the physical therapist's dry needling technique and psychomotor skills.

(d) Each dry needling course shall be taught by a licensed healthcare provider who meets the following requirements:

(1) Has a scope of practice that includes dry needling;

(2) meets the regulatory minimum educational standard in that individual's respective state or jurisdiction;

(3) has not been disciplined by any state or jurisdictional licensing agency for any act that would be a violation of the physical therapy practice act or the healing arts act; and

(4) has performed dry needling for at least two years.

(e) Each physical therapist taking a dry needling course shall be required to obtain a passing score on all written and practical examinations given in the dry needling course. Each physical therapist shall obtain a certificate or other documentation from the provider of the dry needling course specifying what anatomical regions were covered in the dry needling course and that the physical therapist passed all examinations.

(f) Each dry needling course shall provide sufficient instruction to ensure that each student is able to demonstrate minimum adequate competency in the following:

(1) Current dry needling techniques;

(2) management of dry needling equipment and supplies;

(3) accurate point selection;

(4) accurate positioning of the patient and the education of the patient regarding the amount of movement allowed while needles are inserted;

(5) supervision and monitoring of the patient during treatment;

(6) communication with the patient, including informed consent; and

(7) clinically appropriate patient selection, including consideration of the following:

(A) The patient's contraindications for dry needling;

(B) the patient's ability to understand the treatment and the expected outcome; and

(C) the patient's ability to comply with treatment requirements.

(g) After completion of a board-approved dry needling course, each physical therapist shall be required to complete 200 patient treatment sessions of dry needling before taking each successive

course in dry needling. Each physical therapist shall complete all foundation-level courses before proceeding to an advanced-level course.

(h) Dry needling shall be performed solely for conditions that fall under the physical therapy scope of practice pursuant to K.S.A. 65-2901, and amendments thereto. Each physical therapist performing dry needling shall perform dry needling only in the anatomical region of training completed by the physical therapist. Each physical therapist who performs dry needling shall do so in a manner consistent with generally acceptable standards of practice.

(i) A physical therapist shall not delegate dry needling. (Authorized by K.S.A. 2016 Supp. 65-2911 and 65-2923; implementing K.S.A. 2016 Supp. 65-2901; effective May 12, 2017.)

K.A.R. 100-29-19. Dry needing; informed consent. (a) Each physical therapist who performs dry needling shall obtain written informed consent from each patient before performing dry needling on the patient. A separate informed consent shall be required for each anatomical region treated by the physical therapist.

(b) The informed consent shall include the following:

(1) The patient's signature;

(2) the risks and benefits of dry needling;

(3) the diagnosis for which the physical therapist is performing dry needling;

(4) each anatomical region of training completed by the physical therapist; and

(5) a statement that the procedure being performed is dry needling as defined by the physical therapy practice act, K.S.A. 65-2901 and amendments thereto.

(c) The informed consent shall be maintained in the patient's treatment record. (Authorized K.S.A. 2016 Supp. 65-2911; implementing K.S.A. 2016 Supp. 65-2901; effective May 12, 2017.)

K.A.R. 100-29-20. Dry needling; recordkeeping. Each physical therapist who performs dry needling shall maintain a specific procedure note in each patient's record for each dry needling session. The procedure note shall include the following for each session:

(a) The anatomical region treated;

(b) the manner in which the patient tolerated the treatment; and

(c) the clinical outcome of the treatment. (Authorized by K.S.A. 2016 Supp. 65-2911; implementing K.S.A. 2016 Supp. 65-2901 and 65-2912; effective May 12, 2017.)

K.A.R. 100-29-21. Dry needling; board requests for documentation. Each physical therapist who performs dry needling shall be required to produce documentation demonstrating that the individual meets the requirements of K.A.R. 100-29-18, upon request by the board or a designee of the board. Failure of any physical therapist to provide this documentation shall be deemed prima facie evidence that the physical therapist has engaged in unprofessional conduct. (Authorized by K.S.A. 2016 Supp. 65-2911; implementing K.S.A. 2016 Supp. 65-2901 and 65-2912; effective May 12, 2017.)

KANSAS STATE BOARD

OF

HEALING ARTS

KANSAS STATUTES ANNOTATED

AND

KANSAS ADMINISTRATIVE REGULATIONS

Relating to the dispensing of

CONTACT LENSES

February 2013

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.

Chapter 65 – PUBLIC HEALTH
ARTICLE 49 – HEALTH CARE PROVIDERS

65-4965. Citation of act.
65-4966. Patient entitled to receive copy of contact lens prescription; disclosures; prescription limitations.
65-4967. Definition of person dispensing contact lenses for purposes of section; persons mailing or delivering contact lenses to patients in Kansas; registration requirements; fees; temporary suspension or limitation of registration; emergency proceedings; moneys remitted to state board of healing arts.
65-4968. Revocation of registration or license for failure to comply with requirements of act; civil fines for violations; disposition of moneys; injunction remedy for violations; enforcement of act.
65-4969. Contact lens advisory council established; membership on council; expenses of members.
65-4970. Access to health care records; definitions. (repealed effective July 2011)
65-4971. Same; copies of health care records; authorization; health care provider withholding; fees. (repealed effective July 2011)
65-4972. Same; enforcement. (repealed effective July 2011)
65-4973. Same; state board of healing arts; adoption of rules and regulations. (repealed effective July 2011)

65-4965
Chapter 65 – PUBLIC HEALTH
Article 49 – HEALTH CARE PROVIDERS

65-4965. Citation of act. K.S.A. 65-4965 to 65-4968, inclusive, and amendments thereto, shall be known as the patient's contact lens prescription release act.

History: L. 2002, ch. 113, § 1; Jan. 1, 2003.

65-4965
Chapter 65 – PUBLIC HEALTH
Article 49 – HEALTH CARE PROVIDERS

65-4966. Patient entitled to receive copy of contact lens prescription; disclosures; prescription limitations. Each patient shall be entitled to receive a copy of such patient's contact lens prescription once the same prescription has been determined and the adaptation period has been completed. Any prescription for a specific brand of contact lenses available only from the licensed optometrist or person licensed to practice medicine and surgery, but which are generally marketed under an alternate brand, must disclose the name of the manufacturer and the trade name of the alternate brand. No contact lens prescription may be limited by an expiration date or otherwise to a period of less than 12 months from either the date the prescription is first determined or the last date of the contact lens evaluation by a licensed optometrist or a person licensed to practice medicine and surgery, whichever date is later, unless a health related reason for the limitation is noted in the patient's medical record.

History: L. 2002, ch. 113, § 3; Jan. 1, 2003.

65-4967. Definition of person dispensing contact lenses for purposes of section; persons mailing or delivering contact lenses to patients in Kansas; registration requirements; fees; temporary suspension or limitation of registration; emergency proceedings; moneys remitted to state board of healing arts.

(a) For purposes of this section a person dispensing contact lenses means a person or entity not licensed under K.S.A. 65-1505, and amendments thereto, or licensed to practice medicine and surgery in Kansas who mails or delivers, using commercial courier or overnight or other delivery services, contact lenses to patients in Kansas pursuant to a contact lens prescription which such person or entity did not determine.

(b) No person dispensing contact lenses as defined under subsection (a) may dispense contact lenses to Kansas residents unless such person meets the criteria of this section, is registered under this section and pays the annual registration fee set by the state board of healing arts. Registration fees shall not exceed the annual fee for an initial or renewal permit to practice optometry in this state as provided in K.S.A. 65-1505, and amendments thereto.

(c) Approval of the registration for dispensing contact lenses shall be provided by the state board of healing arts upon certification by the person dispensing the contact lenses that such person:

(1) Is licensed or registered to dispense contact lenses in the state where the dispensing facility is located, if required to be licensed or registered in such state;

(2) provides the location, names and titles of all principal corporate officers and of the individual who is responsible for overseeing the dispensing of contact lenses in Kansas;

(3) complies with directions and appropriate requests for information from the regulating agency of each state where such person is licensed or registered;

(4) will respond directly and within a reasonable period of time, not to exceed 15 days, to all communications from the state board of healing arts concerning the dispensing of contact lenses in Kansas;

(5) maintains records of contact lenses and their corresponding valid, unexpired prescription dispensed in Kansas;

(6) agrees to cooperate with the state board of healing arts in providing information to the regulatory agency of any state where it is licensed or registered concerning matters related to the dispensing of contact lenses in Kansas;

(7) provides a toll-free telephone service for responding to questions and complaints from individuals in Kansas during such person's regular hours of operation and agrees to (a) include the toll-free number in literature provided with contact lenses and (b) refer all questions relating to eye care for the lenses prescribed to the licensee who determined the contact lens prescription;

(8) provides the following, or substantially equivalent, written notification to the patient whenever contact lenses are supplied:

WARNING: IF YOU ARE HAVING ANY OF THE FOLLOWING SYMPTOMS, REMOVE YOUR LENSES IMMEDIATELY AND CONSULT YOUR EYE CARE PRACTITIONER BEFORE WEARING YOUR LENSES AGAIN: UNEXPLAINED EYE DISCOMFORT, WATERING, VISION CHANGE OR REDNESS;

(9) fills contact lens prescriptions according to the strict directions of a person licensed to practice optometry or person licensed to practice medicine and surgery in Kansas, without any deviation or substitution of lenses; and

(10) consents in writing to the personal and subject matter jurisdiction of the district courts of this state and the state board of healing arts for actions arising out of this act.

(d) The state board of healing arts may temporarily suspend or temporarily limit the registration of any person dispensing contact lenses to Kansas residents in accordance with the emergency adjudicative proceedings under the Kansas administrative procedure act if the board determines that there is cause to believe that any of the requirements of subsection (c) and that the registrant's continued dispensing of contact lenses to Kansas residents would constitute an imminent danger to the public health and safety.

(e) The state board of healing arts shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the healing arts fee fund.

History: L. 2002, ch. 113, § 4; L. 2008, ch. 75, § 3; L. 2010, ch. 27, § 1; July 1.

65-4968
Chapter 65 – PUBLIC HEALTH
Article 49 – HEALTH CARE PROVIDERS

65-4968. Revocation of registration or license for failure to comply with requirements of act; civil fines for violations; disposition of moneys; injunction remedy for violations; enforcement of act.

(a) The board of examiners in optometry may revoke the license of any person who is licensed by the board of examiners in optometry and who is dispensing contact lenses in Kansas under this act for failure to comply with the requirements set forth in the patient's contact lens prescription release act. The state board of healing arts may revoke the registration or license of any person who is registered under K.S.A. 65-4967, and amendments thereto, or licensed by the state board of healing arts and who is dispensing contact lenses in Kansas under this act for failure to comply with the requirements of the patient's contact lens prescription release act.

(b) (1) Upon a finding of any violation of the patient's contact lens prescription release act, in lieu of or in addition to any other action, the board of examiners in optometry for persons licensed by the board of examiners in optometry or the state board of healing arts for persons subject to the provisions of K.S.A. 65-4967, and amendments thereto, registered under K.S.A. 65-4967, and amendments thereto, or licensed by the state board of healing arts to practice medicine and surgery may assess a civil fine not in excess of $10,000 against such person dispensing contact lenses under this act.

(2) The board of examiners in optometry shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance the state treasurer shall deposit the entire amount in the state treasury. The state treasurer shall then deposit into the optometry fee fund an amount from such deposits equal to the board's actual costs, including attorney fees, related to fine assessment and enforcement as certified by the president of the board. All expenditures from such funds 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 designated by the president.

(3) The state board of healing arts shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance the state treasurer shall deposit the entire amount in the state treasury. The state treasurer shall then deposit into the healing arts fee fund an amount from such deposits equal to the board's actual costs, including attorney fees, related to fine assessment and enforcement as certified by the president of the board. All expenditures from such funds 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 designated by the president.

(c) If a person dispensing contact lenses is operating in violation of the patient's contact lens prescription release act, for persons licensed by the board of examiners in optometry, the board of examiners in optometry or the attorney general may commence an action to enjoin such person from further violations. If a person dispensing contact lenses who is subject to the provisions of K.S.A. 65-4967, and amendments thereto, is registered under K.S.A. 65-4967, and amendments thereto, or is licensed by the state board of healing arts, is operating in violation of the patient's contact lens prescription release act, the state board of healing arts or the attorney general may commence an action in the name of the state of Kansas to enjoin such person from further violations or from mailing, shipping or otherwise delivering contact lenses in Kansas.

(d) The board of examiners in optometry shall administer and enforce the provisions of the patient's contact lens prescription release act for persons licensed by the board of examiners in optometry, and the state board of healing arts shall administer and enforce the provisions of the patient's contact lens prescription release act for persons subject to the provisions of K.S.A. 65-4967, and amendments thereto, registered under K.S.A. 65-4967, and amendments thereto, or licensed by the state board of healing arts, and each such board is hereby granted such specific powers as are necessary for the purpose of administering and enforcing such law, including adopting rules and regulations, which rules and regulations shall not be inconsistent with the provisions of the law being enforced.

History: L. 2002, ch. 113, § 5; Jan. 1, 2003.

65-4969
Chapter 65 – PUBLIC HEALTH
Article 49 – HEALTH CARE PROVIDERS

65-4969. Contact lens advisory council established; membership on council; expenses of members.

(a) There is hereby established a contact lens advisory council to advise the state board of healing arts in carrying out the provisions of the patient's contact lens prescription release act. The council shall consist of three members, all residents of the state of Kansas appointed by the state board of healing arts as follows: One member shall be a person licensed to practice medicine and surgery who specializes in ophthalmology, one member shall be a licensed optometrist and one member shall be a person dispensing contact lenses as defined in the patient's contact lens prescription release act.

(b) If a vacancy occurs on the council, the state board of healing arts shall appoint a person of like qualifications to fill the vacant position for the unexpired term, if any. The members appointed shall serve at the pleasure of the state board of healing arts.

(c) Members of the council attending meetings of the council, or attending a subcommittee meeting thereof authorized by the council, shall be paid amounts

provided in subsection (e) of K.S.A. 75-3223 and amendments thereto from the healing arts fee fund.

History: L. 2002, ch. 113, § 6; Jan. 1, 2003.

65-4970
Chapter 65 – PUBLIC HEALTH
Article 49 – HEALTH CARE PROVIDERS

65-4970. Access to health care records; definitions. (repealed effective July 2011)

65-4971
Chapter 65 – PUBLIC HEALTH
Article 49 – HEALTH CARE PROVIDERS

65-4971. Same; copies of health care records; authorization; health care provider withholding; fees. (repealed effective July 2011)

65-4972
Chapter 65 – PUBLIC HEALTH
Article 49 – HEALTH CARE PROVIDERS

65-4972. Same; enforcement. (repealed effective July 2011)

65-4973
Chapter 65 – PUBLIC HEALTH
Article 49 – HEALTH CARE PROVIDERS

65-4973. Same; state board of healing arts; adoption of rules and regulations. (repealed effective July 2011)

ARTICLE 75. – CONTACT LENSES

100-75-1. Fees.

Article 75.—CONTACT LENSES

100-75-1. Fees. The following fees shall be collected by the board:
(a) Application for registration $150.00
(b) Annual renewal $150.00
(Authorized by K.S.A. 65-4968; implementing K.S.A. 65-4967; effective, T-100-1-2-03, Jan. 2, 2003; effective May 23, 2003.)

KANSAS STATE BOARD

OF

HEALING ARTS

KANSAS STATUTES ANNOTATED

AND

KANSAS ADMINISTRATIVE REGULATIONS

Relating to the practice of

OCCUPATIONAL THERAPY

May 2016

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.

Chapter 65 – PUBLIC HEALTH
ARTICLE 54. – OCCUPATIONAL THERAPY

65-5401. Citation of act. K.S.A.
65-5402. Definitions.
65-5403. Administration of act by state board of healing arts.
65-5404. Occupational therapist council established; appointment of members; compensation.
65-5405. Duties of board.
65-5406. Application for licensure; requirements.
65-5407. Examinations.
65-5408. Waiver of examination and other requirements; when waived; temporary license.
65-5409. Fees.
65-5410. Denial, revocation, limitation or suspension of license or refusal to renew license; unprofessional conduct; procedure; reinstatement; penalties.
65-5411. Foreign trained occupational therapists and occupational therapy assistants; requirements.
65-5412. Expiration of license; renewal; suspension; reinstatement; fees.
65-5413. Moneys received by board; disposition; healing arts fee fund.
65-5414. Representation as occupational therapist or occupational therapy assistant; prohibitions; misdemeanor.
65-5415. Injunction.
65-5416. State agency adjudicative proceedings and judicial review; conduct.
65-5417. Invalidity of part.
65-5418. Construction of occupational therapy practice act and practice of occupational therapy.
65-5419. Supervision of persons providing supportive services; supervision requirements.
65-5420. Registration deemed to be licensure on effective day of act.
65-5421. Licensed occupational therapist ownership limitations in professional corporations.

65-5401
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5401. Citation of act. K.S.A. 65-5401 to 65-5417, inclusive, shall be known and may be cited as the occupational therapy practice act.

History: L. 1986, ch. 323, § 1; July 1.

65-5402. Definitions. As used in K.S.A. 65-5401 to 65-5417, inclusive, and K.S.A. 65-5418 to 65-5420, inclusive, and amendments thereto:

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

(b) "Practice of occupational therapy" means the therapeutic use of purposeful and meaningful occupations (goal-directed activities) to evaluate and treat, pursuant to the referral, supervision, order or direction of a physician, a licensed podiatrist, a licensed dentist, a licensed physician assistant, or a licensed advanced practice registered nurse working pursuant to the order or direction of a person licensed to practice medicine and surgery, a licensed chiropractor, or a licensed optometrist, individuals who have a disease or disorder, impairment, activity limitation or participation restriction that interferes with their ability to function independently in daily life roles and to promote health and wellness. Occupational therapy intervention may include:

(1) Remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological or neurological cognitive processes;

(2) adaptation of tasks, process, or the environment or the teaching of compensatory techniques in order to enhance performance;

(3) disability prevention methods and techniques that facilitate the development or safe application of performance skills; and

(4) health promotion strategies and practices that enhance performance abilities.

(c) "Occupational therapy services" include, but are not limited to:

(1) Evaluating, developing, improving, sustaining, or restoring skills in activities of daily living (ADL), work or productive activities, including instrumental activities of daily living (IADL) and play and leisure activities;

(2) evaluating, developing, remediating, or restoring sensorimotor, cognitive or psychosocial components of performance;

(3) designing, fabricating, applying, or training in the use of assistive technology or orthotic devices and training in the use of prosthetic devices;

(4) adapting environments and processes, including the application of ergonomic principles, to enhance performance and safety in daily life roles;

(5) applying physical agent modalities as an adjunct to or in preparation for engagement in occupations;

(6) evaluating and providing intervention in collaboration with the client, family, caregiver or others;

(7) educating the client, family, caregiver or others in carrying out appropriate nonskilled interventions; and

(8) consulting with groups, programs, organizations or communities to provide population-based services.

(d) "Occupational therapist" means a person licensed to practice occupational therapy as defined in this act.

(e) "Occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under the supervision of an occupational therapist.

(f) "Person" means any individual, partnership, unincorporated organization or corporation.

(g) "Physician" means a person licensed to practice medicine and surgery.

(h) "Occupational therapy aide," "occupational therapy tech" or "occupational therapy paraprofessional" means a person who provides supportive services to occupational therapists and occupational therapy assistants in accordance with K.S.A. 65-5419, and amendments thereto.

History: L. 1986, ch. 323, § 2; L. 2002, ch. 203, § 4; L. 2005, ch. 117, § 2; L. 2011, ch. 114, § 58; Jan. 1, 2012.

65-5403
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5403. Administration of act by state board of healing arts. The board, in the manner hereinafter provided, shall administer the provisions of this act.

History: L. 1986, ch. 323, § 3; July 1.

65-5404
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5404. Occupational therapist council established; appointment of members; compensation.

(a) There is established an occupational therapist council to advise the board in carrying out the provisions of this act. The council shall consist of five members, all citizens and residents of the state of Kansas appointed as follows: One member shall be a physician appointed by the state board of healing arts; one member shall be the president of the state board of healing arts or a person designated by the president; and three members shall be occupational therapists appointed by the governor. The governor shall, insofar as possible, appoint persons from different geographical areas and persons who represent various types of occupational therapy treatment. If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term, if any. The Kansas occupational therapy association shall recommend the names of occupational therapists to the governor in a number equal to at least twice the positions or vacancies to be filled, and the governor may appoint members to fill the positions or vacancies from the submitted list. The terms of the members of the council appointed by the governor prior to the effective date of this act shall expire on July 1, 1988. Members of the council appointed by the governor on and after the effective date of this act shall be appointed for terms of three years and until their successors are appointed and qualified except that of the members first appointed by the governor on or after the effective date of this act one shall be appointed for a term of one year, one shall be appointed for a term of two years and one shall be appointed for a term of three years, as designated by the governor. The member appointed by the state board of healing arts shall serve at the pleasure of the state board of healing arts. A member designated by the president of the state board of healing arts shall serve at the pleasure of the president.

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

History: L. 1986, ch. 323, § 4; L. 1987, ch. 253, § 1; L. 1988, ch. 251, § 3; July 1.

65-5405
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5405. Duties of board. The board shall pass upon the qualifications of all applicants for examination and licensure, determine the applicants who successfully pass the examination, duly license such applicants and adopt rules and regulations as may be necessary to administer the provisions of this act. The board shall keep a record of all proceedings under this act and a roster of all individuals licensed under this act. Only an individual may be licensed under this act.

History: L. 1986, ch. 323, § 5; L. 2002, ch. 203, § 5; Apr. 1, 2003.

65-5406
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5406. Application for licensure; requirements.

(a) An applicant applying for licensure as an occupational therapist or as an occupational therapy assistant shall file a written application on forms provided by the board, showing to the satisfaction of the board that the applicant meets the following requirements:

(1) Education: The applicant shall present evidence satisfactory to the board of having successfully completed the academic requirements of an educational program in occupational therapy recognized by the board.

(2) Experience: The applicant shall submit to the board evidence of having successfully completed a period of supervised field work at a minimum recognized by the board.

(3) Examination: The applicant shall pass an examination as provided for in K.S.A. 65-5407 and amendments thereto.

(4) Fees: The applicants shall pay to the board all applicable fees established under K.S.A. 65-5409 and amendments thereto.

(b) The board shall adopt rules and regulations establishing the criteria which an educational program in occupational therapy shall satisfy to be recognized by the board under paragraph (1) of subsection (a). The board may send a questionnaire developed by the board to any school or other entity conducting an educational program in occupational therapy for which the board does not have sufficient information to determine whether the program should be recognized by the board and whether the program meets the rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the program to be considered for recognition. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about an educational program in occupational therapy. In entering such contracts the authority to recognize an educational program in occupational therapy shall remain solely with the board.

History: L. 1986, ch. 323, § 6; L. 1988, ch. 243, § 12; L. 2002, ch. 203, § 6; Apr. 1, 2003.

65-5407
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5407. Examinations. Each applicant for licensure under this act shall be examined by written examination required by the board to test the applicant's knowledge of the basic and clinical sciences relating to occupational therapy, and occupational therapy theory and practice, including the applicant's professional skills and judgment in the utilization of occupational therapy techniques and methods, and such other subjects as the board may deem useful to determine the applicant's fitness to practice. The board shall approve an examination for occupational therapy assistants and establish standards for acceptable performance.

History: L. 1986, ch. 323, § 7; L. 2002, ch. 203, § 7; Apr. 1, 2003.

65-5408
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5408. Waiver of examination and other requirements; when waived; temporary license.

(a) The board may waive the examination, education or experience requirements and grant licensure to any applicant who presents proof of current licensure or registration as an occupational therapist or occupational therapy assistant in another state, the District of Columbia or territory of the United States which requires standards for licensure or registration determined by the board to be equivalent to or exceed the requirements for licensure under this act.

(b) At the time of making an application under this section, the applicant shall pay to the board the application fee as required under K.S.A. 65-5409 and amendments thereto.

(c) The board may issue a temporary license to an applicant for licensure as an occupational therapist or as an occupational therapy assistant who applies for temporary licensure on a form provided by the board, who meets the requirements for licensure or who meets all the requirements for licensure except examination and who pays to the board the temporary license fee as required under K.S.A. 65-5409 and amendments thereto. Such temporary license shall expire one year from the date of issue or on the date that the board approves the application for licensure, whichever occurs first. No more than one such temporary license shall be permitted to any one person.

History: L. 1986, ch. 323, § 8; L. 1987, ch. 253, § 2; L. 1991, ch. 192, § 5; L. 1997, ch. 26, § 1; L. 2002, ch. 203, § 8; Apr. 1, 2003.

65-5409
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5409. Fees.

(a) The board shall charge and collect in advance fees provided for in this act as fixed by the board by rules and regulations, subject to the following limitations:

Application fee, not more than	$80
Temporary license fee, not more than	40

License renewal fee, not more than	80
License late renewal fee, not more than	80
License reinstatement fee, not more than	80
Certified copy of license, not more than	40
Written verification of license, not more than	25

(b) The board shall charge and collect in advance fees for any examination administered by the board under the occupational therapy practice act as fixed by the board by rules and regulations in an amount equal to the cost to the board of the examination. If the examination is not administered by the board, the board may require that fees paid for any examination under the occupational therapy practice act be paid directly to the examination service by the person taking the examination.

History: L. 1986, ch. 323, § 9; L. 1987, ch. 253, § 3; L. 1989, ch. 202, § 2; L. 1997, ch. 94, § 4; L. 2002, ch. 203, § 9; Apr. 1, 2003.

65-5410
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5410. Denial, revocation, limitation or suspension of license or refusal to renew license; unprofessional conduct; procedure; reinstatement; penalties.

(a) The board may deny, refuse to renew, suspend, revoke or limit a license or the licensee may be publicly or privately censured where the licensee or applicant for licensure has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes:

(1) Obtaining a license by means of fraud, misrepresentation or concealment of material facts;

(2) being guilty of unprofessional conduct as defined by rules and regulations adopted by the board;

(3) being convicted of a felony if the acts for which such person was convicted are found by the board to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of an occupational therapist or occupational therapy assistant;

(4) violating any lawful order or rule and regulation of the board; and

(5) violating any provision of this act.

(b) Such denial, refusal to renew, suspension, revocation or limitation of a license or public or private censure of a licensee may be ordered by the board after notice and hearing on the matter in accordance with the provisions of the Kansas administrative procedure act. Upon the end of the period of time established by the board for the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may hold a hearing to consider such reinstatement. An application for reinstatement of a revoked license shall be accompanied by the license renewal fee and the license reinstatement fee established under K.S.A. 65-5409, and amendments thereto.

(c) The board, in addition to any other penalty prescribed in subsection (a), may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for unprofessional conduct 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.

History: L. 1986, ch. 323, § 10; L. 2002, ch. 203, § 10; L. 2004, ch. 117, § 19; July 1.

65-5411
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5411. Foreign trained occupational therapists and occupational therapy assistants; requirements. Foreign trained occupational therapists and occupational therapy assistants shall satisfy the examination requirements of K.S.A. 65-5406. The board shall require foreign trained applicants to furnish proof of completion of educational and supervised field work requirements, substantially equal to or greater than those contained in K.S.A. 65-5406 prior to taking the examination.

History: L. 1986, ch. 323, § 11; July 1.

65-5412
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5412. Expiration of license; renewal; suspension; reinstatement; fees.

(a) Licenses issued under this act shall expire on the date of expiration established by rules and regulations of the board unless renewed in the manner prescribed by the board. The request for renewal shall be accompanied by the license renewal fee established pursuant to K.S.A. 65-5409, and amendments thereto. The board may establish additional requirements for licensure renewal which provide evidence of continued competency.

(b) At least 30 days before the expiration of a licensee's license, the board shall notify the licensee of the expiration by mail addressed to the licensee's last mailing address as noted upon the office records. If the licensee fails to pay the renewal fee by the date of expiration, the licensee shall be given a second notice that the license has expired and the license may be renewed only if the renewal fee and the late renewal fee are received by the board within the thirty-day period following the date of expiration and that, if both fees are not received within the thirty-day period, the license shall be deemed canceled by operation of law without further proceedings for failure to renew and shall be reissued only after the license has been reinstated under subsection (c).

(c) Any license canceled for failure to renew as herein provided may be reinstated upon recommendation of the board and upon payment of the renewal fee and the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate continuing education requirements for reinstatement of licenses canceled for failure to renew.

(d) A person whose license is suspended shall not engage in any conduct or activity in violation of the order or judgment by which the license was suspended.

History: L. 1986, ch. 323, § 12; L. 2002, ch. 203, § 11; L. 2004, ch. 117, § 20; July 1.

65-5413
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5413. Moneys received by board; disposition; healing arts fee fund. The board shall remit all moneys received by or for it 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 each such deposit shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from such 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 designated by the president of the board.

History: L. 1986, ch. 323, § 13; L. 2001, ch. 5, § 262; L. 2011, ch. 53, § 35; July 1.

65-5414
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5414. Representation as occupational therapist or occupational therapy assistant; prohibitions; misdemeanor.

(a) It shall be unlawful for any person who is not licensed under this act as an occupational therapist or an occupational therapy assistant or whose license has been suspended or revoked to use, in connection with such person's name or place of business, the words "occupational therapist," "licensed occupational therapist," "occupational therapist licensed," "occupational therapy assistant," "licensed occupational therapy assistant," or the letters, "O.T.," " L.O.T.," "O.T.L.," "O.T.A." or " L.O.T.A." or any other words, letters, abbreviations or insignia indicating or implying that such person is an occupational therapist or an occupational therapy assistant or who in any way, orally, in writing, in print or by sign, directly or by implication, represents oneself as an occupational therapist or an occupational therapy assistant.

(b) Any violation of this section shall constitute a class C misdemeanor.

History: L. 1986, ch. 323, § 14; L. 2002, ch. 203, § 12; Apr. 1, 2003.

65-5415
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5415. Injunction. When it appears to the board that any person is violating any of the provisions of this act, the board may bring an action in a court of competent jurisdiction for an injunction against such violation without regard to whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.

History: L. 1986, ch. 323, § 15; July 1.

65-5416
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5416. State agency adjudicative proceedings and judicial review; conduct. All state agency adjudicative proceedings under K.S.A. 65-5401 to 65-5417, inclusive, shall be conducted in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act.

History: L. 1986, ch. 323, § 16; L. 2010, ch. 17, § 164; July 1.

65-5417
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5417. Invalidity of part. If any section of this act, or any part thereof, is adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder or any other section or part thereof.

History: L. 1986, ch. 323, § 17; July 1.

65-5418
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5418. Construction of occupational therapy practice act and practice of occupational therapy.

(a) Nothing in the occupational therapy practice act is intended to limit, preclude or otherwise interfere with the practices of other health care providers formally trained and licensed, registered, credentialed or certified by appropriate agencies of the state of Kansas.

(b) The practice of occupational therapy shall not be construed to include the following:

(1) Persons rendering assistance in the case of an emergency;

(2) members of any church practicing their religious tenets;

(3) persons whose services are performed pursuant to the delegation of and under the supervision of an occupational therapist who is licensed under this act;

(4) any person employed as an occupational therapist or occupational therapy assistant by the government of the United States or any agency thereof, if such person practices occupational therapy solely under the direction or control of the organization by which such person is employed;

(5) licensees under the healing arts act when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to a delegation authorized under subsection (g) of K.S.A. 65-2872 and amendments thereto;

(6) dentists practicing their professions, when licensed and practicing in accordance with the provisions of law;

(7) nurses practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensed nurse under subsection (m) of K.S.A. 65-1124 and amendments thereto;

(8) health care providers who have been formally trained and are practicing in accordance with the training or have received specific training in one or more functions included in the occupational therapy practice act pursuant to established educational protocols, or both;

(9) any person pursuing a supervised course of study leading to a degree or certificate in occupational therapy at an accredited or approved educational program, if the person is designated by the title which clearly indicates such person's status as a student or trainee;

(10) any person fulfilling the supervised fieldwork experience requirements as part of the experience necessary to meet the requirement of the occupational therapy practice act;

(11) self-care by a patient or gratuitous care by a friend or family member who does not represent or hold oneself out to the public to be an occupational therapist or an occupational therapy assistant;

(12) optometrists practicing their profession when licensed and practicing in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated and amendments thereto;

(13) podiatrists practicing their profession when licensed and practicing in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated and amendments thereto;

(14) physical therapists practicing their profession when licensed and practicing in accordance with K.S.A. 65-2901 et seq. and amendments thereto;

(15) physician assistants practicing their profession when licensed and practicing in accordance with the physician assistant licensure act;

(16) athletic trainers practicing their profession when licensed and practicing in accordance with the athletic trainers licensure act;

(17) manufacturers of prosthetic devices;

(18) any person performing occupational therapy services, if these services are performed for no more than 45 days in a calendar year in association with an occupational therapist licensed under the occupational therapy practice act so long as (A) the person is registered or licensed under the laws of another state which has licensure requirements at least as stringent as the licensure requirements of this act, or (B) the person meets the requirements for certification as an occupational therapist registered (OTR) or a certified occupational therapy assistant (COTA) established by the national board for certification in occupational therapy (NBCOT).

(c) Any patient monitoring, assessment or other procedures designed to evaluate the effectiveness of prescribed occupational therapy must be performed by or pursuant to the delegation of a licensed occupational therapist or other health care provider.

(d) Education related therapy services provided by an occupational therapist to school systems or consultation regarding prevention, ergonomics and wellness within the occupational therapy scope of practice shall not require a referral, supervision, order or direction of a physician, a licensed podiatrist, a licensed dentist or a licensed optometrist. However, when in the course of providing such services an occupational therapist reasonably believes that an individual may have an underlying injury, illness, disease, disorder or impairment, the occupational therapist shall refer the individual to a physician, a licensed podiatrist, a licensed dentist or a licensed optometrist, as appropriate.

(e) Nothing in the occupational therapy practice act shall be construed to permit the practice of medicine and surgery. No statute granting authority to licensees of the state board of healing arts shall be construed to confer authority upon occupational therapists to engage in any activity not conferred by the occupational therapy practice act.

(f) This section shall be part of and supplemental to the occupational therapy practice act.

History: L. 2002, ch. 203, § 13; L. 2003, ch. 128, § 27; L. 2004, ch. 24, § 13; July 1.

65-5419

Chapter 65 – PUBLIC HEALTH

Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5419. Supervision of persons providing supportive services; supervision requirements.

(a) An occupational therapy aide, occupational therapy tech or occupational therapy paraprofessional shall function under the guidance and responsibility of the licensed occupational therapist and may be supervised by the occupational therapist or an occupational therapy assistant for specifically selected routine tasks for which the occupational therapy aide, occupational therapy tech or occupational therapy paraprofessional has been trained and has demonstrated competence. The occupational therapy aide, occupational therapy tech or occupational therapy paraprofessional shall comply with supervision requirements developed by the board by rules and regulations which are consistent with prevailing professional standards.

(b) This section shall be part of and supplemental to the occupational therapy practice act.

(c) The provisions of this section shall take effect on and after April 1, 2003.

History: L. 2002, ch. 203, § 14; July 1.

65-5420
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5420. Registration deemed to be licensure on effective day of act.

(a) Any person holding a valid registration as an occupational therapist immediately prior to the effective date of this act which has been issued by the state board of healing arts shall be deemed to be a licensed occupational therapist and shall be subject to the provisions of article 54 of chapter 65 of the Kansas Statutes Annotated.

(b) Any person holding a valid registration as an occupational therapy assistant immediately prior to the effective date of this act which has been issued by the state board of healing arts shall be deemed to be a licensed occupational therapy assistant and shall be subject to the provisions of article 54 of chapter 65 of the Kansas Statutes Annotated.

(c) This section shall be part of and supplemental to the occupational therapy practice act.

(d) The provisions of this section shall take effect on and after April 1, 2003.

History: L. 2002, ch. 203, § 15; July 1.

65-5421
Chapter 65 – PUBLIC HEALTH
Article 54 – OCCUPATIONAL THERAPY PRACTICE ACT

65-5421. Licensed occupational therapist ownership limitations in professional corporations.

(a) The state board of healing arts shall adopt rules and regulations to limit the percentage of ownership when a licensed occupational therapist forms a professional corporation pursuant to K.S.A. 17-2706 et seq., and amendments thereto, in combination with other professional services.

(b) This section shall be part of and supplemental to the occupational therapy practice act.

History: L. 2004, ch. 143, § 106; Jan. 1, 2005.

ARTICLE 54. – OCCUPATIONAL THERAPY

100-54-1. Application.
100-54-2. Education requirements.
100-54-3. Examinations.
100-54-4. Fees.
100-54-5. Unprofessional conduct; defined.
100-54-6. License; temporary license; renewal; late renewal.
100-54-7. Continuing education; license renewal.
100-54-8. Continuing education; expired, canceled, and revoked licenses.
100-54-9. Occupational therapy assistants; information to board.
100-54-10. Delegation and supervision.
100-54-11. Occupational therapists; ownership of corporation or company.
100-54-12. Supervision of occupational therapy assistants.

100-54-1. Application. (a) Each applicant for licensure as an occupational therapist or occupational therapy assistant shall submit the application on a form provided by the board. The form shall include the following information in legible writing:

(1) The applicant's full name;

(2) the applicant's social security number, nondriver identification number, or individual tax identification number if the applicant is advised that providing a social security number is voluntary pursuant to K.S.A. 74-139 and 74-148, and amendments thereto, and that if the social security number is provided, the agency may provide this number to the Kansas department of social and rehabilitation services for child support enforcement purposes and to the Kansas department of revenue's director of taxation;

(3) the applicant's mailing address. If the applicant's mailing address is different from the applicant's residential address, the applicant shall also provide the residential address;

(4) the applicant's daytime telephone number;

(5) the applicant's date and place of birth;

(6) the names of all educational programs recognized under K.A.R. 100-54-2 that the applicant attended, including the program from which the applicant graduated, the degree awarded to the applicant, and the date of graduation;

(7) information regarding licenses, registrations, or certifications issued to the applicant to practice any healthcare profession;

(8) information regarding any prior acts that could constitute grounds for denial of the application, as specified in K.S.A. 65-5410 and amendments thereto;

(9) a notarized release authorizing the board to receive any relevant information, files, or records requested by the board in connection with the application; and

(10) certification that the applicant has completed an occupational therapy program or occupational therapy assistant program from a postsecondary school recognized under K.A.R. 100-54-2.

(b) Each applicant shall submit the following with the application:

(1) The fee required by K.A.R. 100-54-4;

(2) an official transcript from an educational program recognized by the board under K.A.R. 100-54-2 that specifies the degree awarded to the applicant;

(3) a verification on a form provided by the board of each license, registration, or certification issued to the applicant by any state or the District of Columbia relating to

any healthcare profession;

(4) a current photograph of the applicant taken within 90 days of the date the application is received by the board; and

(5) the results of a written examination recognized and approved by the board under K.A.R. 100-54-3, which shall be provided directly to the board from the testing entity.

(c) The applicant shall sign the application under oath and have the application notarized.

(d) The occupational therapist council shall consider every application from persons who have been neither engaged in an educational program recognized by the board nor engaged in the practice of occupational therapy during the five years preceding the date of the application. The council shall then make its recommendation to the board. (Authorized by K.S.A. 65-5405; implementing K.S.A. 65-5404, K.S.A. 65-5406, and K.S.A. 2008 Supp. 65-5410; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999; amended Sept. 23, 2005; amended Nov. 20, 2009.)

100-54-2. Education requirements. (a) An educational program for licensure as an occupational therapist shall be recognized by the board if the program meets the ‘‘standards for an accredited educational program for the occupational therapist,’’ adopted December 1998 by the accreditation council for occupational therapy education and hereby adopted by reference.

(b) An educational program for licensure as an occupational therapy assistant shall be recognized by the board if the program meets the ‘‘standards for an accredited educational program for the occupational therapy assistant,’’ adopted December 1998 by the accreditation council for occupational therapy education and hereby adopted by reference. (Authorized by K.S.A. 65-5405; implementing K.S.A. 65-5406; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999; amended Nov. 21, 2003.)

100-54-3. Examinations. (a) Each applicant for licensure as an occupational therapist or occupational therapy assistant shall submit proof of having passed a nationally administered, standardized examination. This examination shall be one that is approved by the board and consists of written questions from the following content areas of occupational therapy:

(1) Human development and performance;

(2) principles and strategies in the identification and evaluation of strengths and needs;

(3) principles and strategies in intervention and treatment planning;

(4) principles and strategies in intervention;

(5) the nature of the occupation and occupational performance;

(6) service management; and

(7) the individual’s responsibilities as a professional.

(b) In order to qualify as board-approved, the entry-level certification examination for an occupational therapist administered by the national board for certification in occupational therapy, inc. shall meet the standards for an examination established by the board in subsection (a).

(c) In order to qualify as board-approved, the entry-level certification examination for an occupational therapy assistant administered by the national board for certification in occupational therapy, inc. shall meet the standards for an examination established by the board in subsection (a).

(d) To qualify for a license, each applicant for a license as an occupational therapist and occupational therapy assistant shall obtain a minimum criterion-scaled score of 450 on the required examination. (Authorized by K.S.A. 65-5405; implementing K.S.A. 65-5407; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999; amended Nov. 21, 2003.)

100-54-4. Fees. The following fees shall be collected by the board:

(a) Application for license $80.00

(b) License renewal:

(1) Paper renewal $75.00

(2) On-line renewal $72.00

(c) License late renewal:

(1) Paper late renewal $80.00

(2) On-line late renewal $77.00

(d) License reinstatement $80.00

(e) Certified copy of license $15.00

(f) Temporary license $25.00

(Authorized by K.S.A. 65-5405; implementing K.S.A. 65-5409; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended, T-100-10-17-89, Oct. 17, 1989; amended Feb. 5, 1990; amended May 1, 1998; amended Sept. 29, 2000; amended Jan. 10, 2003; amended Nov. 21, 2003; amended, T-100-3-19-04, March 19, 2004; amended July 23, 2004; amended March 7, 2008.)

100-54-5. Unprofessional conduct; defined. ‘‘Unprofessional conduct’’ means any of the following:

(a) Using fraudulent or false advertisements;

(b) engaging in occupational therapy under a false or assumed name, or by impersonating another person licensed by the board as an occupational therapist or occupational therapy assistant;

(c) practicing occupational therapy without reasonable skill and safety because of illness; disability, excessive use of alcohol or drugs; illegal use of controlled substances, chemicals, or any other type of material; or as a result of any mental or physical condition;

(d) having an occupational therapy license, registration, or certification revoked, suspended, or limited, or an application for any of these denied by the proper regulatory authority of another state, territory, District of Columbia, or other country;

(e) cheating or attempting to subvert the validity of the examination required for licensure;

(f) having been found either not guilty by reason of insanity or incompetent to stand trial by a court of competent jurisdiction;

(g) failing to furnish the board, its investigators, or its representatives any information legally requested by the board;

(h) being sanctioned or disciplined by a peer review committee or medical care facility for acts or conduct that would constitute grounds for denial, refusal to renew, suspension, or revocation of a license under K.S.A. 65-5410 and amendments thereto;

(i) surrendering a license, registration, or certification to practice occupational therapy in another state while disciplinary proceedings are pending for acts or conduct that would constitute grounds for denial, refusal to renew, suspension, or revocation of a registration under K.S.A. 65-5410 and amendments thereto;

(j) being professionally incompetent, as defined in K.S.A. 65-2837 and

amendments thereto;

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

(l) providing occupational therapy to a patient without the consent of the patient or the patient's legal representative;

(m) willfully betraying confidential information;

(n) using any advertisement that is false, misleading, or deceptive in a material respect;

(o) committing conduct likely to deceive, defraud, or harm the public;

(p) making a false or misleading statement regarding the licensee's skill, which shall include providing any form of occupational therapy without appropriate education, training, and knowledge in the specific therapeutic methods used;

(q) committing any act of sexual, psychological, or physical abuse, or exploitation;

(r) obtaining any fee by fraud, deceit, or misrepresentation;

(s) charging an excessive fee for services rendered;

(t) failing to keep written records justifying the course of treatment of the patient; or

(u) delegating occupational therapy to a person who the licensee knows or has reason to know is not qualified by training or experience to perform it. (Authorized by K.S.A. 65-5405 and 65-5410; implementing K.S.A. 65-5410; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999; amended Nov. 21, 2003.)

100-54-6. License; temporary license; renewal; late renewal. (a) Each license issued by the board shall expire on March 31 of each year.

(b) A temporary license shall be issued by the board to each applicant for licensure who meets the requirements for licensure or the requirements for licensure except examination, pays the temporary license fee, and has not been guilty of unprofessional conduct.

(c) The license specified in subsection (a) may be renewed annually. Each request for renewal shall be submitted on a form provided by the board and shall be accompanied by the following:

(1) The prescribed license renewal fee; and

(2) proof of satisfactory completion of a program of continuing education as required by the board.

(d) Each license not renewed by March 31 shall expire. Any expired license may be renewed within 30 days of expiration, upon request of the licensee. Each request for late renewal shall be submitted on the same form as that for a request for renewal and shall be accompanied by the following:

(1) The prescribed license renewal fee and the late renewal fee; and

(2) proof of satisfactory completion of a program of continuing education as required by the board. (Authorized by K.S.A. 65-5405; implementing K.S.A. 2004 Supp. 65-5412; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Dec. 27, 1993; amended Jan. 15, 1999; amended Nov. 21, 2003; amended Sept. 23, 2005.)

100-54-7. Continuing education; license renewal. (a)(1) Each licensee shall submit evidence of completing at least 40 contact hours of continuing education during the preceding 24 months. Evidence of this attainment shall be submitted before or with the application for renewal in each odd-numbered year.

(2) No evidence of continuing education shall be required for license renewal in even-numbered years.

(b) A licensee initially licensed within one year of a renewal date when evidence of

continuing education must be submitted shall not be required to submit evidence of satisfactory completion of a program of continuing education required by paragraph (a)(1) for that first renewal period. Each licensee who was initially licensed or whose license has been reinstated for more than one year but less than two years from a renewal date when continuing education required by paragraph (a)(1) must be submitted shall be required to submit evidence of satisfactory completion of at least 20 contact hours of continuing education.

(c) Any licensee who cannot meet the requirements of paragraph (a)(1) or subsection (b) may request an extension from the board. The request shall include a plan for completion of the continuing education requirements within the requested extension period. An extension of not more than six months may be granted by the board for good cause shown by a substantiated medical condition, natural disaster, death of a spouse or an immediate family member, or any other compelling reason that in the judgment of the board renders the licensee incapable of meeting the requirements of paragraph (a)(1) or subsection (b).

(d) A contact hour shall consist of 60 minutes of instruction, unless otherwise specified in this regulation.

(e) The content of the continuing education classes or literature shall be related to the field of occupational therapy or similar areas.

(f) Each licensee shall acquire continuing education from the classes of education experiences defined in subsection (g). The licensee shall acquire at least 30 contact hours from one or more of the following: class I, class IV, ~~or~~ class V, and class VI.

(g) Continuing education experiences shall be classified as follows:

(1) Class I: attendance at or participation in an education presentation. Class I continuing education experiences shall include the following types of education offerings:

(A) Lectures. A "lecture" means a discourse given for instruction before an audience or through a teleconference.

(B) Panels. A "panel" means the presentation of a number of views by several professional individuals on a given subject, with none of the views considered a final solution.

(C) Workshops. A "workshop" means a series of meetings designed for intensive study, work, or discussion in a specific field of interest.

(D) Seminars. A "seminar" means directed advanced study or discussion in a specific field of interest.

(E) Symposiums. A "symposium" means a conference of more than a single session organized for the purpose of discussing a specific subject from various viewpoints and presented by various speakers.

(F) College or university courses. Ten contact hours shall be given for each college credit hour with a grade of at least C or a "pass" in a pass/fail course.

(G) Other courses. An "other course" means a home study, correspondence, or internet course for which the provider of the activity evaluates the licensee's knowledge of the subject matter presented in the continuing education activity. A maximum of 20 contact hours may be acquired from other courses.

(2) Class II: in-service training. "In-service training" means training that is given to employees during the course of employment. A maximum of four contact hours may be given for attending an in-service training session. A maximum of four contact hours may be given for instructing ~~the~~ an in-service training session, but no additional hours shall be acquired for attending that particular in-service training session or for any subsequent instruction on the same subject matter. A maximum of eight contact hours may be acquired from class II.

(3) Class III: professional reading. "Professional reading" means reading professional literature, whether printed or provided by audiotapes, videotapes, or electronic media. A maximum of two contact hours may be acquired from class III.

(4) Class IV: professional publication. The maximum number of contact hours that may be given for professional publication shall be as follows:

(A) 30 hours for publication of a book or original paper; and

(B) 15 hours for a review paper, case report, abstract, or book review.

(5) Class V: instructor preparation of class I programs. Any licensee who presents a class I continuing education program or its equivalent may receive three class V contact hours for each hour of presentation. No credit shall be granted for any subsequent presentations on the same subject matter. A maximum of 30 contact hours may be acquired from class V.

(6) Class VI: fieldwork supervision of level II students. One contact hour per week may be given for supervising a level II student's full-time fieldwork. "Full-time fieldwork" shall mean at least 35 hours per week. A maximum of 24 contact hours may be acquired from class VI.

(h) Each licensee shall submit documented evidence of attendance at, participation in, or presentation to class I and class II continuing education activities. Each licensee shall submit personal verification for class III activities. Copies of publications shall be submitted for verification of class IV activities. Verification of class VI fieldwork supervision shall be submitted by the licensee's employer.

(i) Instructional staff shall be competent in the subject matter and in the methodology of instruction and learning processes as evidenced by experience, education, or publication. (Authorized by K.S.A. 65-5405; implementing K.S.A. 2013 Supp. 65-5412; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Feb. 14, 1997; amended Nov. 21, 2003; amended July 6, 2007; amended May 13, 2016.)

100-54-8. Continuing education; expired, canceled, and revoked licenses. (a) If the license has expired but has not been canceled, no continuing education shall be required in addition to the continuing education that would have been necessary if the license had been renewed before its expiration.

(b) Each applicant who wishes to reinstate a license that has been canceled shall submit proof of continuing education as follows:

(1) If the applicant has continuously held an active license in another state or the District of Columbia since the date on which the Kansas license was canceled or the applicant currently holds a license that has been active for at least two years in any state that has licensing and continuing education requirements at least as strict as those of Kansas, the applicant shall submit proof of the applicant's current license, registration, or certification from that jurisdiction.

(2) If the time since the license was canceled has been one year or less, no continuing education in addition to the continuing education that would have been necessary if the license had been renewed before cancellation shall be required.

(3) If the time since the license was canceled has been more than one year but less than two years, the applicant shall complete a minimum of 20 contact hours.

(4) If the time since the license was canceled has been at least two years but less than three years, the applicant shall complete 40 contact hours.

(5) If the time since the license was canceled has been at least three years or the applicant has not held an active license in another state that has licensing and continuing education requirements at least as strict as those of Kansas, the applicant shall complete an educational program related to continued competency based on a written recommendation by the occupational therapist council and approved by the board.

(c) An occupational therapist or an occupational therapy assistant whose license has been reinstated within one year of a renewal date when evidence of continuing education must be submitted shall not be required to submit evidence of satisfactory completion of a program of continuing education for that first renewal period. Each licensee whose license has been reinstated for more than one year but less than two years from a renewal date when continuing education must be submitted shall be required to submit evidence of satisfactory completion of at least 20 contact hours of continuing education.

(d) Each applicant seeking reinstatement of a revoked license shall be required to successfully complete a program approved by the board. (Authorized by K.S.A. 65-5405; implementing K.S.A. 2008 Supp. 65-5412; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999; amended Nov. 21, 2003; amended Sept. 23, 2005; amended July 6, 2007; amended Nov. 20, 2009.)

100-54-9. Occupational therapy assistants; information to board. Before an occupational therapist allows an occupational therapy assistant to work under the occupational therapist's direction, the occupational therapist shall inform the board of the following:

(a) The name of each occupational therapy assistant who intends to work under the direction of that occupational therapist;

(b) the occupational therapy assistant's place of employment; and

(c) the address of the employer. (Authorized by K.S.A. 65-5405 and implementing K.S.A. 65-5406; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999.)

100-54-10. Delegation and supervision. (a) Occupational therapy procedures delegated by an occupational therapist or occupational therapy assistant to an occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional shall be performed under the direct, on-site supervision of a licensed occupational therapist or occupational therapy assistant.

(b)(1) ''Occupational therapy technician'' as used in this regulation, shall mean ''occupational therapy tech'' pursuant to K.S.A. 65-5419 and amendments thereto.

(2) An occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional shall mean an individual who provides support services to the occupational therapist and occupational therapy assistant.

(c) A task delegated to an occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional by an occupational therapist or occupational therapy assistant shall not exceed the level of training, knowledge, skill, and competence of the individual being supervised. The occupational therapist or occupational therapy assistant shall be responsible for the acts or actions performed by the occupational therapy
aide, occupational therapy technician, or occupational therapy paraprofessional functioning in a practice setting.

(d) Each occupational therapist and each occupational therapy assistant shall delegate only specific tasks to an occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional that meet all of the following conditions:

(1) The tasks are routine in nature.

(2) The treatment outcome is predictable.

(3) The task does not require judgment, interpretation, or adaptation by the occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional.

(e) The tasks that an occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional may perform shall include the following specifically selected routine tasks:

(1) Clerical, secretarial, or administrative duties;

(2) transportation of patients, clients, or students;

(3) preparation or setup of the treatment equipment and work area;

(4) attending to a patient's, client's, or student's needs during treatment; and

(5) maintenance or restorative services to patients, clients, or students.

(f) Any occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional may assist in the delivery of occupational therapy services. However, no occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional shall provide independent treatment or use any title or description implying that the occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional is a provider of occupational therapy services.

(g) An occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional shall not perform any of the following:

(1) Interpret referrals or prescriptions for occupational therapy services;

(2) evaluate treatment procedures;

(3) develop, plan, adjust, or modify treatment procedures;

(4) act on behalf of the occupational therapist or occupational therapy assistant relating to direct patient care that requires judgment or decision making; and

(5) act independently or without the supervision of an occupational therapist or occupational therapy assistant. (Authorized by K.S.A. 65-5405; implementing K.S.A. 65-5419; effective Sept. 23, 2005.)

100-54-11. Occupational therapists; ownership of corporation or company.

(a) Licensed occupational therapists shall not hold more than 49 percent of the total number of shares issued by a professional corporation that is organized to render the professional services of a physician, surgeon or doctor of medicine, osteopathic physician or surgeon, podiatrist, dentist, or optometrist.

(b) Licensed occupational therapists shall not contribute more than 49 percent of the total amount of capital to a professional liability company that is organized to render the professional services of a physician, surgeon or doctor of medicine, osteopathic physician or surgeon, podiatrist, dentist, or optometrist.

(c) This regulation shall be effective on and after January 1, 2006. (Authorized by K.S.A. 17-2716 and K.S.A. 2004 Supp. 65-5421; implementing K.S.A. 2004 Supp. 65-5421; effective Jan. 1, 2006.)

100-54-12. Supervision of occupational therapy assistants. (a) For the purposes of this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) “Full-time” means employed for 30 or more hours per week.

(2) “Supervision” means oversight of an occupational therapy assistant by a licensed occupational therapist that includes initial direction and periodic review of service delivery and the provision of relevant instruction and training.

(b) Supervision shall be considered adequate if the occupational therapist and occupational therapy assistant have on-site contact at least monthly and interim contact occurring as needed by other means, including telephone, electronic mail, text messaging, and written communication.

(c) Each occupational therapist who supervises an occupational therapy assistant shall meet the following requirements:

(1) Be licensed in Kansas;

(2) be actively engaged in the practice of occupational therapy in Kansas;

(3) be responsible for the services and tasks performed by the occupational therapy assistant under the supervision of the occupational therapist;

(4) be responsible for any tasks that the supervised occupational therapy assistant delegates to an occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional;

(5) delegate only those services for which the occupational therapist has reasonable knowledge that the occupational therapy assistant has the knowledge, experience, training, and skill to perform;

(6) document in the patient's chart any direction or review of occupational therapy services provided under supervision by the occupational therapy assistant; and

(7) report to the board any knowledge that the occupational therapy assistant has committed any act specified in K.S.A. 65-5410, and amendments thereto. The occupational therapist shall report this information to the board within 10 days of receiving notice of the information.

(d) An occupational therapist shall not supervise more than the combined equivalent of four full-time occupational therapy assistants. This combination shall not exceed a total of eight occupational therapy assistants.

(e) Each occupational therapist's decision to delegate components of occupational therapy services under this regulation to an occupational therapy assistant shall be based on that occupational therapist's education, expertise, and professional judgment.

(f) An occupational therapy assistant shall not initiate therapy for any patient or client before the supervising occupational therapist's evaluation of the patient or client.

(g) An occupational therapy assistant shall not perform any of the following services for a patient or client:

(1) Performing and documenting an initial evaluation;

(2) developing or modifying the treatment plan; or

(3) developing a plan of discharge from treatment.

(h) Any occupational therapy assistant, under supervision, may perform the following services for a patient or client:

(1) Collecting initial patient data through screening and interviewing;

(2) assessing initial activities of daily living by administering standardized assessments;

(3) performing a chart review;

(4) implementing and coordinating occupational therapy interventions;

(5) providing direct services that follow a documented routine and accepted protocol;

(6) grading and adapting activities, media, or the environment according to the needs of the patient or client;

(7) contributing to the reassessment process; and

(8) contributing to the discontinuation of intervention, as directed by the occupational therapist, by implementing a discharge plan and providing necessary client discharge resources.

(i) Failure by any occupational therapist or occupational therapy assistant to meet the applicable requirements of this regulation shall constitute evidence of unprofessional conduct. (Authorized by K.S.A. 65-5405; implementing K.S.A. 2015 Supp. 65-5402 and 65-5410; effective May 13, 2016.)

KANSAS STATE BOARD

OF

HEALING ARTS

KANSAS STATUTES ANNOTATED

AND

KANSAS ADMINISTRATIVE REGULATIONS

Relating to the practice of

RESPIRATORY THERAPY

February 2013

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.

Chapter 65 – PUBLIC HEALTH
ARTICLE 55 - RESPIRATORY THERAPY PRACTICE ACT

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65-5501
Chapter 65 – PUBLIC HEALTH
Article 55 – RESPIRATORY THERAPY PRACTICE ACT

65-5501. Citation of act. K.S.A. 65-5501 to 65-5517, inclusive, shall be known and may be cited as the respiratory therapy practice act.

History: L. 1986, ch. 322, § 1; July 1.

65-5502
Chapter 65 – PUBLIC HEALTH
Article 55 – RESPIRATORY THERAPY PRACTICE ACT

65-5502. Definitions. As used in K.S.A. 65-5501 to 65-5517, inclusive and amendments thereto:

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

(b) "Respiratory therapy" is a health care profession whose therapists practice under the supervision of a qualified medical director and with the prescription of a licensed physician providing therapy, management, rehabilitation, respiratory assessment and care of patients with deficiencies and abnormalities which affect the

pulmonary system and associated other systems functions. The duties which may be performed by a respiratory therapist include:

(1) Direct and indirect respiratory therapy services that are safe, aseptic, preventative and restorative to the patient.

(2) Direct and indirect respiratory therapy services, including but not limited to, the administration of pharmacological and diagnostic and therapeutic agents related to respiratory therapy procedures to implement a treatment, disease prevention or pulmonary rehabilitative regimen prescribed by a physician.

(3) Administration of medical gases, exclusive of general anesthesia, aerosols, humidification and environmental control systems.

(4) Transcription and implementation of written or verbal orders of a physician pertaining to the practice of respiratory therapy.

(5) Implementation of respiratory therapy protocols as defined by the medical staff of an institution or a qualified medical director or other written protocol, changes in treatment pursuant to the written or verbal orders of a physician or the initiation of emergency procedures as authorized by written protocols.

(c) "Respiratory therapist" means a person who is licensed to practice respiratory therapy as defined in this act.

(d) "Person" means any individual, partnership, unincorporated organization or corporation.

(e) "Physician" means a person who is licensed by the board to practice medicine and surgery.

(f) "Qualified medical director" means the medical director of any inpatient or outpatient respiratory therapy service, department or home care agency. The medical director shall be a physician who has interest and knowledge in the diagnosis and treatment of respiratory problems. This physician shall be responsible for the quality, safety and appropriateness of the respiratory services provided and require that respiratory therapy be ordered by a physician who has medical responsibility for the patient. The medical director shall be readily accessible to the respiratory therapy practitioner.

History: L. 1986, ch. 322, § 2; L. 1999, ch. 87, § 7; Mar. 1, 2000.

65-5503
Chapter 65 – PUBLIC HEALTH
Article 55 – RESPIRATORY THERAPY PRACTICE ACT

65-5503. Administration of act by state board of healing arts. The board, as hereinafter provided, shall administer the provisions of this act.

History: L. 1986, ch. 322, § 3; L. 1999, ch. 87, § 8; Mar. 1, 2000.

65-5504
Chapter 65 – PUBLIC HEALTH
Article 55 – RESPIRATORY THERAPY PRACTICE ACT

65-5504. Respiratory care council established; appointment of members; compensation.

(a) There is established a respiratory care council to advise the board in carrying out the provisions of this act. The council shall consist of seven members, all citizens and residents of the state of Kansas appointed as follows: One member shall be a physician appointed by the state board of healing arts; one member shall be the president of the state board of healing arts or a person designated by the president; two members shall be from the public sector who are not engaged, directly or indirectly, in

the provision of health services appointed by the governor; and three members shall be respiratory therapists appointed by the governor. The governor, insofar as possible, shall appoint persons from different geographical areas and persons who represent various types of respiratory therapy practice. If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term, if any. The Kansas respiratory care society shall recommend the names of respiratory therapists to the governor in a number equal to at least twice the positions or vacancies to be filled, and the governor may appoint members to fill the positions or vacancies from the submitted list. Members of the council appointed by the governor on and after the effective date of this act shall be appointed for terms of three years and until their successors are appointed, except that members appointed from the public sector shall be appointed for terms of two years and until their successors are appointed. The member appointed by the state board of healing arts shall serve at the pleasure of the state board of healing arts. A member designated by the president of the state board of healing arts shall serve at the pleasure of the president.

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

History: L. 1986, ch. 322, § 4; L. 1987, ch. 253, § 4; L. 1988, ch. 251, § 4; L. 1999, ch. 87, § 9; Mar. 1, 2000.

65-5505
Chapter 65 – PUBLIC HEALTH
Article 55 – RESPIRATORY THERAPY PRACTICE ACT

65-5505. Duties of board. The board shall pass upon the qualifications of all applicants for examination and licensure, provide for all examinations, determine the applicants who successfully pass the examination, duly license such applicants and adopt rules and regulations as may be necessary to administer the provisions of this act. The board shall keep a record of all proceedings under this act and a roster of all individuals licensed under this act. Only an individual may be licensed under this act.

History: L. 1986, ch. 322, § 5; L. 1999, ch. 87, § 10; Mar. 1, 2000.

65-5506
Chapter 65 – PUBLIC HEALTH
Article 55 – RESPIRATORY THERAPY PRACTICE ACT

65-5506. Application for licensure; requirements; rules and regulations criteria for educational programs.

(a) An applicant applying for licensure as a respiratory therapist shall file a written application on forms provided by the board, showing to the satisfaction of the board that the applicant meets the following requirements:

(1) Education: The applicant shall present evidence satisfactory to the board of having successfully completed an educational program in respiratory therapy approved by the board.

(2) Examination: The applicant shall pass an examination as provided for in K.S.A. 65-5507 and amendments thereto.

(3) Fees: The applicants shall pay to the board all applicable fees established under K.S.A. 65-5509 and amendments thereto.

(b) The board shall adopt rules and regulations establishing the criteria for an educational program in respiratory therapy to obtain successful recognition by the board under paragraph (1) of subsection (a). The board may send a questionnaire developed by the board to any school or other entity conducting an educational program in respiratory therapy for which the board does not have sufficient information to determine whether the program should be recognized by the board and whether the program meets the rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the program to be considered for recognition. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about an educational program in respiratory therapy. In entering such contracts the authority to recognize an educational program in respiratory therapy shall remain solely with the board.

History: L. 1986, ch. 322, § 6; L. 1988, ch. 243, § 13; L. 1999, ch. 87, § 11; Mar. 1, 2000.

65-5507
Chapter 65 – PUBLIC HEALTH
Article 55 – RESPIRATORY THERAPY PRACTICE ACT

65-5507. Examinations.

(a) Each applicant for licensure under this act shall be examined by a written examination chosen by the board to test the applicant's knowledge of the basic and clinical sciences relating to respiratory therapy, and respiratory therapy theory and practice, including the applicant's professional skills and judgment in the utilization of respiratory therapy techniques and methods, and such other subjects as the board may deem useful to determine the applicant's fitness to practice.

(b) Applicants for licensure shall be examined at a time and place and under such supervision as the board may determine. Examinations shall be given at least twice each year at such places as the board may determine and the board shall give or cause to be given reasonable public notice of such examinations at least 60 days prior to their administration.

(c) Applicants may obtain their examination scores.

History: L. 1986, ch. 322, § 7; L. 1999, ch. 87, § 12; Mar. 1, 2000.

65-5508
Chapter 65 – PUBLIC HEALTH
Article 55 – RESPIRATORY THERAPY PRACTICE ACT

65-5508. Waiver of examination and other requirements; when waived; special permits; temporary license.

(a) The board may waive the examination, education or experience requirements and grant licensure to any applicant who presents proof of current licensure or registration as a respiratory therapist in another state, the District of Columbia or territory of the United States which requires standards for licensure or registration determined by the board to be equivalent to the requirements for licensure under this act.

(b) At the time of making an application under this section, the applicant shall pay to the board the application fee as required under K.S.A. 65-5509, and amendments thereto.

(c) The board may issue a special permit to a student enrolled in an approved school of respiratory therapy who applies for such special permit on a form provided by the board and who pays to the board the special permit fee as required under K.S.A. 65-5509, and amendments thereto. The special permit shall authorize a student who is enrolled in an approved school of respiratory therapy and who holds such special permit to practice respiratory therapy under the supervision of a licensed respiratory therapist. Such special permit shall expire 30 days after the date that the student graduates from an approved school of respiratory therapy or otherwise ceases to be enrolled in an approved school of respiratory therapy.

(d) The board may issue a temporary license to an applicant for licensure as a respiratory therapist who applies for temporary licensure on a form provided by the board, who meets the requirements for licensure or who meets all of the requirements for licensure except examination and who pays to the board the temporary license fee as required under K.S.A. 65-5509, and amendments thereto. Temporary licenses issued prior to July 1, 2010, shall expire one year from the date of issue or on the date that the board approves the application for licensure, whichever occurs first. Temporary licenses issued on or after July 1, 2010, shall expire six months from the date of issue or on the date that the board approves the application for licensure, whichever occurs first. No more than one such temporary license shall be permitted to any one person.

History: L. 1986, ch. 322, § 8; L. 1987, ch. 253, § 5; L. 1991, ch. 192, § 6; L. 1997, ch. 26, § 2; L. 1999, ch. 87, § 13; L. 2010, ch. 67, § 1; July 1.

65-5509
Chapter 65 – PUBLIC HEALTH
Article 55 – RESPIRATORY THERAPY PRACTICE ACT

65-5509. Fees.

(a) The board shall charge and collect in advance fees provided for in this act as fixed by the board by rules and regulations, subject to the following limitations:
Application fee, not more than……$80
Temporary license fee, not more than……..……40
Special permit fee, not more than……..80
License renewal fee, not more than……...80
License late renewal fee, not more than……80
License reinstatement fee, not more than……..……80
Certified copy of license, not more than……40
Written verification of license, not more than……..……..25

(b) The board shall charge and collect in advance fees for any examination administered by the board under the respiratory therapy practice act as fixed by the board by rules and regulations in an amount equal to the cost to the board of the examination. If the examination is not administered by the board, the board may require that fees paid for any examination under the respiratory therapy practice act be paid directly to the examination service by the person taking the examination.

History: L. 1986, ch. 322, § 9; L. 1987, ch. 253, § 6; L. 1989, ch. 202, § 1; L. 1997, ch. 94, § 5; L. 1999, ch. 87, § 14; Mar. 1, 2000.

65-5510. Denial, revocation, limitation or suspension of license or refusal to renew license; unprofessional conduct; discipline; civil fines; procedure; reinstatement.

(a) The board may deny, refuse to renew, suspend, revoke or limit a license or the licensee may be publicly or privately censured where the licensee or applicant for licensure has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes:

(1) Obtaining a license by means of fraud, misrepresentation or concealment of material facts;

(2) being guilty of unprofessional conduct as defined by rules and regulations adopted by the board;

(3) being convicted of a felony if the acts for which such person was convicted are found by the board to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of a respiratory therapist;

(4) violating any lawful order or rule and regulation of the board; and

(5) violating any provision of this act.

(b) Such denial, refusal to renew, suspension, revocation or limitation of a license or public or private censure of a licensee may be ordered by the board after notice and hearing on the matter in accordance with the provisions of the Kansas administrative procedure act. Upon the end of the period of time established by the board for the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may hold a hearing to consider such reinstatement. An application for reinstatement of a revoked license shall be accompanied by the license renewal fee and the license reinstatement fee established under K.S.A. 65-5509 and amendments thereto.

(c) The board, in addition to any other penalty prescribed in subsection (a), may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for unprofessional conduct 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.

History: L. 1986, ch. 322, § 10; L. 1999, ch. 87, § 15; L. 2004, ch. 117, § 21; July 1.

65-5511. Foreign trained respiratory therapists; requirements. Foreign trained respiratory therapists shall satisfy the examination requirements of K.S.A. 65-5506 and amendments thereto. The board shall require foreign trained applicants to furnish proof of completion of educational requirements, substantially equal to those contained in K.S.A. 65-5506 and amendments thereto prior to taking the examination.

History: L. 1986, ch. 322, § 11; L. 1999, ch. 87, § 16; Mar. 1, 2000.

65-5512. Expiration of license; failure to renew; renewal; suspended license; fees.

(a) Licenses issued under this act shall expire on the date of expiration established by rules and regulations of the board unless renewed in the manner prescribed by the board. The request for renewal shall be accompanied by the license renewal fee established pursuant to K.S.A. 65-5509, and amendments thereto. The board may establish additional requirements for license renewal which provide evidence of continued competency.

(b) At least 30 days before the expiration of a licensee's license, the board shall notify the licensee of the expiration by mail addressed to the licensee's last mailing address as noted upon the office records. If the licensee fails to pay the renewal fee by the date of expiration, the licensee shall be given a second notice that the license has expired and the license may be renewed only if the renewal fee and the late renewal fee are received by the board within the thirty-day period following the date of expiration and that, if both fees are not received within the thirty-day period, the license shall be deemed canceled by operation of law without further proceedings for failure to renew and shall be reissued only after the license has been reinstated under subsection (c).

(c) Any license canceled for failure to renew as herein provided may be reinstated upon recommendation of the board and upon payment of the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate continuing education requirements for reinstatement of licenses canceled for failure to renew.

(d) A person whose license is suspended shall not engage in any conduct or activity in violation of the order or judgment by which the license was suspended.

History: L. 1986, ch. 322, § 12; L. 1999, ch. 87, § 17; L. 2004, ch. 117, § 22; July 1.

65-5513. Moneys received by board; disposition; healing arts fee fund. The board shall remit all moneys received by or for it 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 each such deposit shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from such 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 designated by the president of the board.

History: L. 1986, ch. 322, § 13; L. 2001, ch. 5, § 263; L. 2011, ch. 53, § 36; July 1.

65-5514. Representation as respiratory therapist; prohibitions; misdemeanor; exclusions from the practice of respiratory therapy.

(a) On and after March 1, 2000, it shall be unlawful for any person who is not licensed under this act as a respiratory therapist or whose license has been suspended or revoked to hold themselves out to the public as a licensed respiratory therapist, or use the abbreviation of CRTT, RRT, RCP or the words "respiratory therapist," "respiratory care practitioner", "inhalation therapist" or any other words, letters, abbreviations or insignia indicating or implying that such person is a respiratory therapist, or to practice the art and science of respiratory therapy as herein defined. A violation of this subsection (a) shall constitute a class B misdemeanor.

(b) Nothing in this act is intended to limit, preclude or otherwise interfere with the practices of other health care providers formally trained and licensed, registered, credentialed or certified by appropriate agencies of the state of Kansas. The practice of respiratory therapy shall not be construed to include the following individuals:

(1) Persons rendering assistance in the case of an emergency.

(2) Members of any church practicing their religious tenets.

(3) Persons whose services are performed pursuant to the delegation of and under the supervision of a respiratory therapist who is licensed under this act.

(4) Health care providers in the United States armed forces, public health services, federal facilities and coast guard or other military service when acting in the line of duty in this state.

(5) Licensees under the healing arts act, and practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensed physician under subsection (g) of K.S.A. 65-2872 and amendments thereto.

(6) Dentists practicing their professions, when licensed and practicing in accordance with the provisions of law.

(7) Nurses practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensed nurse under subsection (m) of K.S.A. 65-1124 and amendments thereto.

(8) Health care providers who have been formally trained and are practicing in accordance with the training or have received specific training in one or more functions included in this act pursuant to established educational protocols or both.

(9) Students while in actual attendance in an accredited health care occupational educational program and under the supervision of a qualified instructor.

(10) Self-care by a patient or gratuitous care by a friend or family member who does not represent or hold oneself out to the public to be a respiratory therapist.

(11) Monitoring, installation or delivery of medical devices, gases and equipment and the maintenance thereof by a nonlicensed person for the express purpose of self-care by a patient or gratuitous care by a friend or family member.

(c) Any patient monitoring, assessment or other procedures designed to evaluate the effectiveness of prescribed respiratory therapy must be performed by or pursuant to the delegation of a licensed respiratory therapist or other health care provider.

(d) Nothing in this act shall be construed to permit the practice of medicine and surgery. No statute granting authority to licensees of the state board of healing arts

shall be construed to confer authority upon respiratory therapists to engage in any activity not conferred by this act.

History: L. 1986, ch. 322, § 14; L. 1999, ch. 87, § 18; Mar. 1, 2000.

65-5515
Chapter 65 – PUBLIC HEALTH
Article 55 – RESPIRATORY THERAPY PRACTICE ACT

65-5515. Injunction. When it appears to the board that any person is violating any of the provisions of this act, the board may bring an action in a court of competent jurisdiction for an injunction against such violation without regard to whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.

History: L. 1986, ch. 322, § 15; July 1.

65-5516
Chapter 65 – PUBLIC HEALTH
Article 55 – RESPIRATORY THERAPY PRACTICE ACT

65-5516. State agency adjudicative proceedings and judicial review; conduct. All state agency adjudicative proceedings under K.S.A. 65-5501 to 65-5517, inclusive, shall be conducted in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act.

History: L. 1986, ch. 322, § 16; L. 2010, ch. 17, § 165; July 1.

65-5517
Chapter 65 – PUBLIC HEALTH
Article 55 – RESPIRATORY THERAPY PRACTICE ACT

65-5517. Invalidity of part. If any section of this act, or any part thereof, is adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder or any other section or part thereof.

History: L. 1986, ch. 322, § 17; July 1.

ARTICLE 55. - RESPIRATORY THERAPY

100-55-1. Application.
100-55-2. Education requirements.
100-55-3. Examinations.
100-55-4. Fees.
100-55-5. Unprofessional conduct; defined.
100-55-6. Licensure; renewal; late renewal and reinstatement.
100-55-7. Continuing education; license renewal.
100-55-8. Reinstatement; expired and revoked licenses.
100-55-9. Special permits.
100-55-10. Revoked. (Authorized by K.S.A. 65-5505; implementing K.S.A. 65-5508; effective Jan. 3, 1997; revoked May 1, 1998.)
100-55-11. Delegation and supervision.

100-55-1. Application. (a) Each applicant for licensure as a respiratory therapist shall submit a completed application on a form provided by the board. The application shall contain the following information in legible writing:

(1) The applicant's full name;

(2) the applicant's mailing address. If the applicant's mailing address is different from the applicant's residential address, the applicant shall also provide the residential address;

(3) the applicant's social security number, driver's license number, nondriver identification number, or individual tax identification number if the applicant is advised that providing a social security number is voluntary pursuant to K.S.A. 74-139 and 74-148, and amendments thereto, and that if the social security number is provided, the agency may provide this number to the Kansas department of social and rehabilitation services for child support enforcement purposes and to the Kansas department of revenue's director of taxation;

(4) information on any licenses, registrations, or certifications issued to the applicant to practice any health care profession;

(5) information on any prior acts constituting unprofessional conduct, as defined in K.A.R. 100-55-5, that could constitute grounds for denial of the application;

(6) the applicant's daytime telephone number;

(7) the applicant's date and place of birth;

(8) the name of each educational program recognized under K.A.R. 100-55-2 that the applicant attended, including the program from which the applicant graduated, the degree awarded to the applicant, and the date of graduation;

(9) the number of times the applicant has taken the examination required by the board for licensure and the date that the applicant passed the examination; and

(10) a notarized release authorizing the board to receive any relevant information, files, or records requested by the board in connection with the application.

(b) Each applicant shall submit the following with the application:

(1) The fee required by K.A.R. 100-55-4;

(2) an official transcript that specifies the degree awarded from an educational program recognized by the board under K.A.R. 100-55-2;

(3) a verification on a form provided by the board of each license, registration, or certification issued to the applicant by any state or the District of Columbia relating to any health care profession;

(4) a current photograph, two by three inches in size, of the applicant's head and shoulders taken within 90 days before the date the application is received by the board; and

(5) evidence provided directly to the board from the testing entity recognized and approved under K.A.R. 100-55-3 that the applicant has passed the examination.

(c) The applicant shall sign the application~~,~~ under oath and have the application notarized. (Authorized by K.S.A. 65-5505; implementing K.S.A. 65-5506; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 3, 1997; amended June 30, 2000; amended June 4, 2010.)

100-55-2. Education requirements. A list of approved educational programs in respiratory therapy shall be maintained by the board. In determining whether an educational program should be approved, accreditation by the committee on accreditation for respiratory care or its predecessor at the time of applicant's graduation may be considered by the board. (Authorized by K.S.A. 1999 Supp. 65-5505; implementing K.S.A. 1999 Supp. 65-5506; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 3, 1997; amended June 30, 2000.)

100-55-3. Examinations. (a) The examinations approved by the board to practice respiratory therapy, one of which shall be required for each applicant, shall be the following:

(1) The examination developed by the national board for respiratory care for credentialing as a certified respiratory therapist; and

(2) the examination developed by the national board for respiratory care for credentialing as a registered respiratory therapist.

(b) To pass the required and approved examination, each applicant shall achieve the minimum qualifying score established by the national board for respiratory care for certification or registration.

(c) Each applicant who has passed the required examination for a license and has not been in the active practice of respiratory therapy for more than one year, but less than five years shall provide one of the following:

(1) Evidence of completion of a minimum of 24 contact hours of continuing education; or

(2) proof that the applicant has passed one of the examinations required for a license within 12 months of the date the application was submitted.

(d) Each applicant who has passed the required examination for a license and has not been in the active practice of respiratory therapy for five years or more shall provide proof that the applicant has passed one of the examinations required for a license within 12 months of the date the application was submitted. (Authorized by K.S.A. 1999 Supp. 65-5505; implementing K.S.A. 1999 Supp. 65-5507; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 3, 1997; amended June 30, 2000.)

100-55-4. Fees. The following fees shall be collected by the board:

(a) Application for a license $80.00

(b) License renewal:

(1) Paper renewal $75.00

(2) On-line renewal $72.00

(c) License late renewal:

(1) Paper late renewal $80.00

(2) On-line late renewal $77.00

(d) License reinstatement $80.00

(e) Certified copy of license $15.00

(f) Special permit $15.00

(g) Temporary license $25.00

(Authorized by K.S.A. 65-5505; implementing K.S.A. 65-5509; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended, T-100-10-17-89, Oct. 17, 1989; amended Feb. 5, 1990; amended Jan. 3, 1997; amended May 1, 1998; amended June 30, 2000; amended Sept. 29, 2000; amended Jan. 10, 2003; amended, T-100-3-19-04, March 19, 2004; amended July 23, 2004; amended March 7, 2008.)

100-55-5. Unprofessional conduct; defined. ‘‘Unprofessional conduct’’ means any of the following:

(a) Using fraudulent or false advertisements;

(b) being addicted to intoxicating liquors or drugs;

(c) engaging in respiratory therapy under a false or assumed name or by impersonating another person licensed by the board as a respiratory therapist;

(d) practicing respiratory therapy without reasonable skill and safety because of any of the following:

(1) Illness;

(2) alcoholism;

(3) excessive use of drugs, controlled substances, chemicals, or any other type of material; or

(4) a result of any mental or physical condition;

(e) having a respiratory therapy license, registration, or certification revoked, suspended, or limited or an application for any of these denied by the proper regulatory authority of another state, territory, or country, or of District of Columbia;

(f) cheating or attempting to subvert the validity of the examination required for licensure;

(g) having been found to be mentally ill, disabled, not guilty by reason of insanity, or incompetent to stand trial by a court of competent jurisdiction;

(h) failing to furnish to the board, or to its investigators or representatives, any information legally requested by the board;

(i) being sanctioned or disciplined by a peer review committee or medical care facility for acts or conduct that would constitute grounds for denial,
refusal to renew, suspension, or revocation of a license under K.S.A. 65-5510 and amendments thereto;

(j) surrendering a license, registration, or certification to practice respiratory therapy in another state while disciplinary proceedings are pending for acts or conduct that would constitute grounds for denial, refusal to renew, suspension, or revocation of a license under K.S.A. 65-5510 and amendments thereto;

(k) being professionally incompetent, as defined in K.S.A. 65-2837 and amendments thereto;

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

(m) providing respiratory therapy to a patient without the consent of the patient or the patient’s legal representative;

(n) willfully betraying confidential information;

(o) advertising the ability to perform in a superior manner any professional service related to respiratory therapy;

(p) using any advertisement that is false, misleading, or deceptive in a material respect;

(q) committing conduct likely to deceive, defraud, or harm the public;

(r) making a false or misleading statement regarding the licensee's skill;

(s) committing any act of sexual abuse, misconduct, or exploitation;

(t) obtaining any fee by fraud, deceit, or misrepresentation;

(u) charging an excessive fee for services rendered;

(v) failing to keep written records justifying the course of treatment of the patient;

(w) delegating respiratory therapy to a person who the licensee knows or has reason to know is not qualified by training or experience to perform it;

(x) willfully supervising the holder of a special permit when the holder is not currently enrolled in a recognized program of education; or

(y) willfully allowing the holder of a special permit to perform tasks and procedures not verified by the respiratory therapy school on the holder's task proficiency list. (Authorized by and implementing K.S.A. 65-5510; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 3, 1997; amended June 30, 2000; amended May 23, 2003.)

100-55-6. Licensure; renewal; late renewal and reinstatement. (a) Each license issued by the board shall expire on March 31 of each year.

(b) A license issued or reinstated from January 1 through March 31 shall expire on March 31 of the following year.

(c) Each license may be renewed annually. The request for renewal shall be on a form provided by the board and shall be accompanied by the following:

(1) The prescribed license renewal fee; and

(2) proof of satisfactory completion of a program of continuing education as required by the board.

(d) Licenses not renewed by March 31 may be renewed for a period of 30 days thereafter upon request of the licensee. The request for late renewal shall be on the same form as that required for renewal and shall be accompanied by the following:

(1) The prescribed license late renewal fee; and

(2) proof of satisfactory completion of a program of continuing education as required by the board.

(e) Any applicant may request reinstatement of a license that has expired for a period of more than 30 days. The request for reinstatement shall be on a form provided by the board and shall be accompanied by the following:

(1) The prescribed license reinstatement fee; and

(2)(A) Proof of satisfactory completion of a program of continuing education as required by the board; or

(B) proof that the licensee has passed one of the examinations for a license required under K.A.R. 100-55-3 within the past six months. (Authorized by K.S.A. 1999 Supp. 65-5505; implementing K.S.A. 1999 Supp. 65-5512; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Dec. 27, 1993; amended Jan. 3, 1997; amended June 30, 2000.)

100-55-7. Continuing education; license renewal. (a) Each licensee shall submit documented evidence of completion of at least 12 contact hours of continuing education since April 1 of the previous year, before or with the request for renewal.

(b) Any licensee who suffered an illness or injury that made it impossible or extremely difficult to reasonably obtain the required contact hours may be granted an extension of not more than six months.

(c) Each respiratory therapist initially licensed after September 30 and before the following March 31 shall be exempt from the continuing education required by subsection (a) for the first renewal period.

(d) A contact hour shall be 50 minutes of instruction or its equivalent.

(e) The purpose of continuing education shall be to provide evidence of continued competency in the advancing art and science of respiratory therapy. All program objectives, curricular content, presenter qualifications, and outcomes shall be subject to review. Contact hours shall be determined based on program content, outcomes, and participant involvement.

(f) Continuing education shall be acquired from the following:

(1) Offerings approved by the American association of respiratory care. Any licensee may obtain all contact hours from any continuing education offerings approved by the American association of respiratory care and its state affiliates, subject to the limitations specified in paragraphs (f)(2) through (f)(8).

(2) Seminars and symposiums. At least six contact hours shall be obtained each reporting year from seminars or symposiums that provide for direct interaction between the speakers and the participants. A seminar shall mean directed advanced study or discussion in a specific field of interest. A symposium shall mean a conference of more than a single session organized for the purpose of discussing a specific subject from various viewpoints and by various speakers.

(3) Nontraditional or alternative educational programs. A nontraditional or alternative educational program shall be defined as one that is not presented in the typical conference setting. Educational programs may be provided by any print medium or presented through the internet or other electronic medium. The licensee shall submit proof of successful completion of a test administered as part of the nontraditional or alternative educational program. A maximum of six contact hours each reporting year may be obtained from nontraditional or alternative educational programs.

(4) Clinical instruction. Clinical instruction shall mean the education and evaluation of a respiratory therapy student in the clinical setting. A maximum of three contact hours may be given for clinical instruction.

(5) Presentations of a seminar or a nontraditional or alternative program. Each licensee who presents a continuing education seminar or a nontraditional or alternative educational program shall receive two contact hours for each hour of presentation. No credit shall be granted for any subsequent presentations on the same subject content.

(6) Academic coursework. Successful completion of academic coursework shall mean obtaining a grade of at least C or the equivalent in any courses on respiratory care or other health-related field of study in a bachelor's degree program or higher educational degree program. One credit hour of academic coursework shall be equal to one contact hour of continuing education. A maximum of six contact hours may be obtained through academic coursework each reporting year.

(7) Advanced lifesaving courses. Contact hours shall be restricted to first-time attendees of advanced lifesaving courses and the associated instructor courses. Advanced lifesaving courses shall include neonatal resuscitation provider (NRP), pediatric advanced life support (PALS), neonatal advanced life support (NALS), and advanced cardiac life support (ACLS).

(8) Voluntary recredentialing. Each licensee who completes voluntary recredentialing shall receive the number of contact hours approved by the American association for respiratory care.

(g) The following shall not be eligible for continuing education credit:

(1) Learning activities in the work setting designed to assist the individual in fulfilling employer requirements, including in-service education and on-the-job training; and

(2) basic life support courses and cardiopulmonary resuscitation courses. (Authorized by K.S.A. 65-5505; implementing K.S.A. 2008 Supp. 65-5512; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 3, 1997; amended June 30, 2000; amended July 17, 2009; amended May 21, 2010.)

100-55-8. Reinstatement; expired and revoked licenses. (a) Each applicant desiring to reinstate a license that has been expired for more than 30 days shall submit proof of continuing education as follows:

(1) If the time since the license expired has been one year or less, no continuing education in addition to that which would have been necessary had the license been renewed before expiration shall be required.

(2) If, since the date the license expired, the applicant has been in the active practice of respiratory therapy in another state or jurisdiction that requires a license, registration, or certification to practice, the applicant shall submit proof of the current license, registration, or certification, and compliance with the continuing education requirements of that jurisdiction.

(3) If the time since the license expired has been more than one year but less than five years, the applicant shall provide one of the following:

(A) Evidence of completion of a minimum of 24 contact hours of continuing education; or

(B) proof that the applicant has passed one of the examinations required for a license within 12 months of the date the application was submitted.

(4) If the time since the license expired has been five years or more, the applicant shall provide proof that the applicant has passed one of the examinations required for a license within 12 months of the date the application was submitted.

(b) Each applicant seeking reinstatement of a revoked license shall successfully complete an individually tailored program approved by the board.

(Authorized by K.S.A. 1999 Supp. 65-5505; implementing K.S.A. 1999 Supp. 65-5512; effective , T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 3, 1997; amended June 30, 2000.)

100-55-9. Special permits. (a) Each student who holds a special permit shall be identified as a student respiratory therapist or ‘‘student R.T.’’ by a name tag that includes the student’s job title.

(b) A special permit shall be valid for a period not to exceed 24 months and shall not be extended without additional proof that the student continues to be enrolled in an approved school of respiratory therapy.

(c) During February of each year, each student who holds a special permit shall provide the following to the board:

(1) Verification of current enrollment in an approved school of respiratory therapy; and

(2) a statement of the anticipated graduation date.

(d) Each special permit issued to a student who fails to meet the requirements under subsection (c) shall expire on March 31 of the year in which the verification and statement were to be provided.

(e) Each applicant for a special permit shall have a task proficiency list verified and submitted directly to the board by the school of respiratory therapy. The task proficiency list may be updated at the end of each session by the school of respiratory therapy. Each holder of a special permit shall perform only those tasks verified on the most recent task proficiency list that has been submitted directly to the board.

(f) Before engaging in any clinical assignments, each holder of a special permit shall present the current task proficiency list to the employer.

(g) Each licensed respiratory therapist responsible for the supervision of a student holding a special permit shall meet the requirements for supervision specified in K.A.R. 100-55-11(d). (Authorized by K.S.A. 65-5505; implementing K.S.A. 65-5508; effective Jan. 3, 1997; amended June 30, 2000; amended May 23, 2003; amended May 15, 2009.)

100-55-10. Revoked. (Authorized by K.S.A. 65-5505; implementing K.S.A. 65-5508; effective Jan. 3, 1997; revoked May 1, 1998.)

100-55-11. Delegation and supervision. (a) The delegation of respiratory therapy procedures by a licensed respiratory therapist to an unlicensed person may be made after the respiratory therapist has determined all of the following:

(1) The health status and mental and physical stability of the individual receiving care;

(2) the complexity of the procedures;

(3) the training and competence of the unlicensed person;

(4) the proximity and availability of the respiratory therapist when the procedures are performed;

(5) the degree of supervision required for the unlicensed person; and

(6) the length and number of times that the procedures may be performed.

(b) The procedures that may be delegated to an unlicensed person shall be only those that meet the following criteria:

(1) Would be determined by a reasonable and prudent respiratory therapist to be within the scope of accepted respiratory therapy standards or practice;

(2) can be performed properly and safely by an unlicensed person;

(3) do not require the unlicensed person to perform an assessment or to alter care;

(4) do not require the specific skills, evaluation, and judgment of a licensed respiratory therapist; and

(5) do not allow an unlicensed person to perform either of the following:

(A) Continue to perform the procedures on an ongoing basis; or

(B) perform the same procedures on other individuals without specific delegation.

(c) The licensed respiratory therapist shall be responsible for the following:

(1) The management and provision of care; and

(2) the performance of the procedures in compliance with established standards of practice, policies, and procedures.

(d) The supervision of an unlicensed person by a licensed respiratory therapist shall include all of the following:

(1) Providing clear directions for and expectations of how the procedures are to be performed;

(2) being available for communication with the unlicensed person when the procedures are performed;

(3) monitoring the performance of the procedures to assure compliance with established standards of practice, policies, and procedures;

(4) intervening, as necessary;

(5) ensuring that the unlicensed person makes appropriate documentation of the procedures that are performed;

(6) reassessing, reevaluating, and altering care, as necessary; and

(7) determining the appropriateness of continued delegation of the procedures. (Authorized by K.S.A. 1999 Supp. 65-5505; implementing K.S.A. 1999 Supp. 65-5514; effective June 30, 2000.)

KANSAS STATE BOARD

OF

HEALING ARTS

KANSAS STATUTES ANNOTATED

AND

KANSAS ADMINISTRATIVE REGULATIONS

Relating to the practice of

ATHLETIC TRAINING

February 2013

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.

Chapter 65 – PUBLIC HEALTH
ARTICLE 69 – ATHLETIC TRAINERS LICENSURE ACT

65-6901. Citation of act.
65-6902. Definitions.
65-6903. Unlawful representations; penalty for violation.
65-6904. Unlicensed practice of healing arts not authorized.
65-6905. State board of healing arts to administer act; rules and regulations, registry.
65-6906. Licensure as an athletic trainer; application; qualifications; reciprocity; practice protocol required to be filed with board; temporary permit.
65-6907. Qualifications for licensure.
65-6908. Contracts to obtain information about courses of study and clinical experience.
65-6909. Licensure; expiration and renewal; notice; fees; reinstatement of canceled license; rules and regulations; inactive license.
65-6910. Fees.
65-6911. Denial, suspension, limitation, refusal to renew, probation, reprimand or revocation of a license; grounds.
65-6912. Athletic trainers council established; appointment; terms; compensation.
65-6913. Injunction.
65-6914. Severability.

65-6901
Chapter 65 – PUBLIC HEALTH
Article 69 – ATHLETIC TRAINERS LICENSURE ACT

65-6901. Citation of act.
K.S.A. 65-6901 through 65-6914 shall be known and may be cited as the athletic trainers licensure act.

History: L. 1995, ch. 146, § 1; L. 2004, ch. 24, § 1; July 1.

65-6902
Chapter 65 – PUBLIC HEALTH
Article 69 – ATHLETIC TRAINERS LICENSURE ACT

65-6902. Definitions. As used in this act:

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

(b) "Athletic training" means the practice of injury prevention, physical evaluation, emergency care and referral or physical reconditioning relating to athletic activity.

(c) "Athletic trainer" means a person licensed under this act.

History: L. 1995, ch. 146, § 2; L. 2004, ch. 24, § 2; July 1.

65-6903
Chapter 65 – PUBLIC HEALTH
Article 69 – ATHLETIC TRAINERS LICENSURE ACT

65-6903. Unlawful representations; penalty for violation.

(a) It shall be unlawful for any person who is not licensed under this act as an athletic trai ner or whose license has been suspended or revoked to use, in connection with such person's name or place of business, the words: "Athletic trainer" or "athletic trainer licensed" or "licensed athletic trainer" or "certified athletic trainer" or the letters "A.T." or "A.T.L.", "L.A.T." or "ATC", or any other words, letters, abbreviations or insignia indicating or implying that such person is an athletic trainer or who in any way, orally, in writing, in print or by sign, directly or by implication represents oneself as an athletic trainer.

(b) Any violation of this section shall constitute a class B nonperson misdemeanor.

History: L. 1995, ch. 146, § 3; L. 2004, ch. 24, § 3; L. 2008, ch. 32, § 1; July 1.

65-6904
Chapter 65 – PUBLIC HEALTH
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65-6904. Unlicensed practice of healing arts not authorized. Nothing in this act shall be construed to authorize the unlicensed practice of the healing arts by any person licensed under this act.

History: L. 1995, ch. 146, § 4; L. 2004, ch. 24, § 4; July 1.

65-6905
Chapter 65 – PUBLIC HEALTH
Article 69 – ATHLETIC TRAINERS LICENSURE ACT

65-6905. State board of healing arts to administer act; rules and regulations, registry.

(a) The board, in the manner hereinafter provided, shall administer the provisions of this act.

(b) The board may adopt rules and regulations consistent with the provisions of this act for the administration and enforcement for this act and may prescribe forms which shall be issued in the administration of this act. The rules and regulations shall include standards for approval of an educational course of study and clinical experience, continuing education criteria, practice protocols, criteria for licensure procedures for the examination of applicants, and for professional conduct and discipline.

(c) The board shall maintain a registry of names and addresses of all individuals who are currently licensed under the athletic trainers licensure act.

History: L. 1995, ch. 146, § 5; L. 2004, ch. 24, § 5; L. 2008, ch. 32, § 2; July 1.

65-6906. Licensure as an athletic trainer; application; qualifications; reciprocity; practice protocol required to be filed with board; temporary permit.

(a) Applications for licensure as an athletic trainer shall be made in writing to the board on a form and in the manner prescribed by the board. Each application shall be accompanied by the required fee, which shall not be refundable. Each application shall contain such information necessary to enable the board to judge the qualifications of the applicant for licensure.

(b) The applicant is entitled to licensure as an athletic trainer if the applicant possesses the qualifications set forth under K.S.A. 65-6907 and amendments thereto, pays the licensure fee established by the board and has not committed an act which constitutes ground for denial of licensure.

(c) The board may issue a license as an athletic trainer without examination to an applicant:

(1) Who presents evidence satisfactory to the board of being licensed, registered or certified in another state, District of Columbia, territory or foreign country and of having passed an examination in athletic training before a similarly lawfully authorized examining board in athletic training of another state, District of Columbia, territory or foreign country if the standards for the examination and for licensure, registration or certification in athletic training in such other state, District of Columbia, territory or foreign country are determined by the board to be at least equivalent to those of this state; or

(2) who presents evidence satisfactory to the board of having been engaged in the practice of athletic training in another state, District of Columbia, territory or foreign country and passed an examination in athletic training by the national athletic trainers' association board of certification, inc. or other recognized national voluntary credentialing body which examination the board finds is at least equivalent to the examination approved by the board under K.S.A. 65-6907, and amendments thereto, and who is certified by the national athletic trainers' association board of certification, inc. or other recognized national voluntary credentialing body which certification the board finds was issued based on standards at least equivalent to the standards for licensure as an athletic trainer in this state; and

(3) who, at the time of making such application has not been subject to discipline or does not have a disciplinary action pending resulting from the practice of athletic training in another state, District of Columbia, territory or foreign country; and

(4) who, at the time of making such application, pays to the board a fee as prescribed, no part of which shall be returned.

(d) As a condition of performing the functions and duties of an athletic trainer in this state, each licensed athletic trainer shall file a practice protocol with the board. The practice protocol shall be signed by each person licensed by the board to practice the healing arts who will delegate to the athletic trainer acts which constitute athletic training and shall contain such information as required by rules and regulations adopted by the board.

(e) The board may issue a temporary permit to an applicant for licensure as an athletic trainer who meets the requirements for licensure as an athletic trainer as required by K.S.A. 65-6907, and amendments thereto, or who meets all the requirements for licensure except examination and who pays to the board the temporary permit fee as required under K.S.A. 65-6910, and amendments thereto. Such temporary permit shall expire six months from the date of issue or on the date that the board

approves or denies the application for licensure, whichever occurs first. No more than one such temporary permit shall be granted to any one person.

History: L. 1995, ch. 146, § 6; L. 2004, ch. 24, § 6; L. 2008, ch. 32, § 3; July 1.

65-6907
Chapter 65 – PUBLIC HEALTH
Article 69 – ATHLETIC TRAINERS LICENSURE ACT

65-6907. Qualifications for licensure. An applicant for licensure as an athletic trainer shall give proof that the applicant has:

(a) Received a baccalaureate or post-baccalaureate degree with a major course of study in an athletic training curriculum approved by the board; and

(b) passed an examination in athletic training approved by the board.

History: L. 1995, ch. 146, § 7; L. 2004, ch. 24, § 7; L. 2008, ch. 32, § 4; July 1.

65-6908
Chapter 65 – PUBLIC HEALTH
Article 69 – ATHLETIC TRAINERS LICENSURE ACT

65-6908. Contracts to obtain information about courses of study and clinical experience. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about courses of study and clinical experience to be approved by the board under K.S.A. 65-6907 and amendments thereto.

History: L. 1995, ch. 146, § 8; July 1.

65-6909
Chapter 65 – PUBLIC HEALTH
Article 69 – ATHLETIC TRAINERS LICENSURE ACT

65-6909. Licensure; expiration and renewal; notice; fees; reinstatement of canceled license; rules and regulations; inactive license.

(a) An applicant who meets the requirements for licensure pursuant to this act, has paid the licensure fee and has otherwise complied with the provisions of this act shall be licensed by the board.

(b) Licenses issued pursuant to this act shall expire on the date established by rules and regulations of the board unless revoked prior to that time. A license shall be renewed in the manner prescribed by the board.

(c) At least 60 days before the expiration of the license of an athletic trainer, the board shall notify the licensee of the expiration by mail, addressed to the licensee's last mailing address, as noted upon the board's records. If the licensee fails to pay the renewal fee and submit an application at least 30 days prior to the date of expiration of the license, the licensee shall be given a second notice that the licensee's license will expire and the license may be renewed only if an additional renewal fee is received by the board within the 30-day period following the date of expiration and that if both fees are not received by the date of expiration the license shall be canceled for failure to renew and shall be reissued only after the athletic trainer has been reinstated under subsection (d).

(d) Any licensee who allows the licensee's license to be canceled by failing to renew as herein provided may be reinstated upon payment of the reinstatement fee,

filing an updated practice protocol and upon submitting evidence of satisfactory completion of any applicable continuing education requirements established by the board. The board shall adopt rules and regulations for reinstatement of persons whose licenses have been canceled for failure to renew. Renewal of canceled licenses or reinstatement of licenses may include additional testing, training or education as the board deems necessary to establish the person's present ability to perform the functions or duties of an athletic trainer.

(e) There is hereby created the designation of an 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 application fee established pursuant to K.S.A. 65-6910, and amendments thereto. The board may issue an inactive license only to a person who meets all the requirements for a license as an athletic trainer and who does not perform the functions and duties of an athletic trainer in this state. An inactive license shall not entitle the holder to engage in active practice as an athletic trainer in this state. The provisions of subsections (b), (c) and (d) of K.S.A. 65-6909, and amendments thereto, relating to expiration, renewal and reinstatement of a license shall be applicable to an inactive license issued under this subsection. Each inactive licensee may apply to engage in active practice by filing a practice protocol required by subsection (d) of K.S.A. 65-6906, and amendments thereto.

History: L. 1995, ch. 146, § 9; L. 2004, ch. 24, § 8; L. 2008, ch. 32, § 5; July 1.

65-6910
Chapter 65 – PUBLIC HEALTH
Article 69 – ATHLETIC TRAINERS LICENSURE ACT

65-6910. Fees.

(a) The board shall charge and collect in advance fees provided for in this act as fixed by the board by rules and regulations, subject to the following limitations:

Application and license fee based upon certificate of prior examination, not more than	$80
Annual renewal fee, not more than	$70
Additional renewal fee, not more than	$75
Reinstatement fee, not more than	$80
Certified copy of license, not more than	$15
Temporary permit	$25

(b) The board shall charge and collect in advance fees for any examination administered by the board under the athletic trainers licensure act as fixed by the board by rules and regulations in an amount equal to the cost to the board of the examination and its administration. If the examination is not administered by the board, the board may require that fees paid for any examination under the athletic trainers licensure act be paid directly to the examination service by the person taking the examination.

(c) The board shall remit all moneys received 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 each such deposit shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from such 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 designated by the president of the board.

History: L. 1995, ch. 146, § 10; L. 1997, ch. 94, § 6; L. 2001, ch. 5, § 271; L. 2004, ch. 24, § 9; L. 2008, ch. 32, § 6; L. 2011, ch. 53, § 37; July 1.

65-6911
Chapter 65 – PUBLIC HEALTH
Article 69 – ATHLETIC TRAINERS LICENSURE ACT

65-6911. Denial, suspension, limitation, refusal to renew, probation, reprimand or revocation of a license; grounds.

(a) The board may deny, suspend, limit, refuse to renew, place on probation, reprimand or revoke any license granted under the athletic trainers licensure act or take other disciplinary action as the board may deem proper for any of the following reasons:

(1) Use of drugs or alcohol, or both, to an extent that impairs the individual's ability to engage in athletic training;

(2) the individual has been convicted of a felony and, after investigation, the board finds that the individual has not been sufficiently rehabilitated to merit the public trust;

(3) use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of the athletic trainers licensure act or in obtaining permission to take any examination given or required pursuant to the provisions of the athletic trainers licensure act;

(4) obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) incompetence, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of an athletic trainer;

(6) violation of, or assisting or enabling any individual to violate, any provision of this act or any rule and regulation adopted under such act;

(7) impersonation of any individual holding a license under the athletic trainers licensure act;

(8) negligent or intentional violation of the provisions of this act or the rules and regulations adopted under this act;

(9) violation of any professional trust or confidence; and

(10) the individual has committed unprofessional conduct as defined by rules and regulations adopted by the board.

(b) Any action authorized by this section shall be taken in accordance with the Kansas administrative procedure act.

History: L. 1995, ch. 146, § 11; L. 2004, ch. 24, § 10; July 1.

65-6912
Chapter 65 – PUBLIC HEALTH
Article 69 – ATHLETIC TRAINERS LICENSURE ACT

65-6912. Athletic trainers council established; appointment; terms; compensation.

(a) There is hereby established an athletic trainers council to advise the board in carrying out the provisions of this act. The council shall consist of five members, all residents of the state of Kansas appointed as follows: One member shall be a licensee of the board, appointed by the board, who has entered into a practice protocol with an athletic trainer; one member shall be the president of the board or a board member designated by the president; and three members shall be athletic trainers appointed by the governor. The governor, insofar as possible, shall appoint persons from different geographical areas.

(b) If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant

position for the unexpired term, if any. The Kansas athletic trainers' society shall recommend the names of athletic trainers to the governor in a number equal to at least twice the positions or vacancies to be filled, and the governor may appoint members to fill the positions or vacancies from the submitted list.

(c) Members of the council appointed by the governor on and after the effective date of this act shall be appointed for terms of three years and until their successors are appointed and qualified except that of the members first appointed by the governor one shall be appointed for a term of one year, one shall be appointed for a term of two years and one shall be appointed for a term of three years, as designated by the governor. The member appointed by the state board of healing arts shall serve at the pleasure of the state board of healing arts. A member designated by the president of the state board of healing arts shall serve at the pleasure of the president.

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

History: L. 1995, ch. 146, § 12; July 1.

65-6913
Chapter 65 – PUBLIC HEALTH
Article 69 – ATHLETIC TRAINERS LICENSURE ACT

65-6913. Injunction. When it appears to the board that any person is violating any of the provisions of this act, the board may bring an action in a court of competent jurisdiction for an injunction against such violation without regard to whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.

History: L. 1995, ch. 146, § 13; July 1.

65-6914
Chapter 65 – PUBLIC HEALTH
Article 69 – ATHLETIC TRAINERS LICENSURE ACT

65-6914. Severability. If any section of this act, or any part thereof, is adjudged to be invalid, such judgment shall not affect, impair or invalidate the remainder or any other section or part thereof.

History: L. 1995, ch. 146, § 14; July 1.

ARTICLE 69. – ATHLETIC TRAINING

100-69-1. Approved education.
100-69-2. (Authorized by and implementing K.S.A. 2004 Supp. 65-6905 and K.S.A. 2004 Supp. 65-6907; effective July 19, 1996; amended Sept. 9, 2005; revoked Nov. 21, 2008.)
100-69-3. Examination.
100-69-4. (Authorized by and implementing K.S.A. 1995 Supp. 65-6905 and K.S.A. 1995 Supp. 65-6906; effective July 19, 1996; revoked Sept. 9, 2005.)
100-69-5. Fees.
100-69-6. Expiration of license.
100-69-7. Unprofessional conduct; definition.
100-69-8. (Authorized by and implementing K.S.A. 1995 Supp. 65-6905; effective July 19, 1996; revoked Sept. 9, 2005.)
100-69-9. Practice protocols.
100-69-10. License renewal; continuing education.
100-69-11. Reinstatement; canceled and revoked licenses.
100-69-12. Application

100-69-1. Approved education. Each applicant for licensure as an athletic trainer shall provide proof that the applicant has received a baccalaureate degree or post-baccalaureate degree with a major course of study in athletic training curriculum from one of the following:

(a) An institution whose program for athletic trainers is accredited by the commission on accreditation of athletic training education; or

(b) an educational institution whose programs are determined by the board to have standards at least equal to those of an accredited program. (Authorized by and implementing K.S.A. 2007 Supp. 65-6905 and K.S.A. 2007 Supp. 65-6907; effective July 19, 1996; amended Sept. 9, 2005; amended Nov. 21, 2008.)

100-69-2. (Authorized by and implementing K.S.A. 2004 Supp. 65-6905 and K.S.A. 2004 Supp. 65-6907; effective July 19, 1996; amended Sept. 9, 2005; revoked Nov. 21, 2008.)

100-69-3. Examination. (a) Each applicant for licensure as an athletic trainer shall submit proof of having passed a nationally administered, standardized examination. This examination shall be one that is approved by the board and consists of written questions, written simulation questions, and practical section questions assessing knowledge on subject matter from the following domains of athletic training:

(1) Prevention of athletic injuries;

(2) recognition, evaluation, and assessment of athletic injuries;

(3) immediate care of athletic injuries;

(4) treatment of athletic injuries, rehabilitation, and reconditioning;

(5) health care administration; and

(6) professional development and responsibility.

(b) In order to qualify as board-approved, the entry-level certification examination administered by the national athletic trainers' association board of certification, inc. shall meet the standards for an examination established by the board in this regulation.

(Authorized by and implementing K.S.A. 2004 Supp. 65-6905 and K.S.A. 2004 Supp. 65-6907; effective July 19, 1996; amended Nov. 15, 2002; amended Sept. 9, 2005.)

100-69-4. (Authorized by and implementing K.S.A. 1995 Supp. 65-6905 and K.S.A. 1995 Supp. 65-6906; effective July 19, 1996; revoked Sept. 9, 2005.)

100-69-5. Fees. The following fees shall be collected by the board:
(a) Application for license $80.00
(b) Annual renewal of license:
(1) Paper renewal $70.00
(2) On-line renewal $67.00
(c) Late renewal of license:
(1) Paper late renewal $5.00
(2) On-line late renewal $5.00
(d) License reinstatement $10.00
(e) Certified copy of license $15.00
(f) Temporary permit $25.00
(Authorized by K.S.A. 65-6905, as amended by L. 2004, Ch. 24, Sec. 5, and K.S.A. 65-6910, as amended by L. 2004, Ch. 24, Sec. 9; implementing K.S.A. 65-6909, as amended by L. 2004, Ch. 24, Sec. 8, and 65-6910, as amended by L. 2004, Ch. 24, Sec. 9; effective July 19, 1996; amended May 1, 1998; amended Sept. 29, 2000; amended Nov. 19, 2004.)

100-69-6. Expiration of license. The license of each athletic trainer shall expire on December 31 of each year. (Authorized by and implementing K.S.A. 2004 Supp. 65-6909; effective July 19, 1996; amended Sept. 9, 2005.)

100-69-7. Unprofessional conduct; definition. ‘‘Unprofessional conduct’’ means any of the following:

(a) engaging in conduct resulting in a denial, revocation, suspension, or limitation of an athletic trainer license, registration, or certification by the proper regulatory authority of another state, a territory, the District of Columbia, or another country;

(b) failing to furnish to the board, its investigators, or its representatives any information legally requested by the board;

(c) surrendering a license, registration, or certification to practice as an athletic trainer in another state while under investigation for acts or conduct that would constitute grounds for any of the following under K.S.A. 65-6911 and amendments thereto:
(1) Denial;
(2) suspension;
(3) limitation;
(4) reprimand; or
(5) revocation;

(d) providing services as an athletic trainer without the consent of at least one of the following:
(1) The person on whom the services were performed;
(2) a person licensed by the board to practice the healing arts; or
(3) the legal representative of the person on whom the services were performed;

(e) providing services as an athletic trainer without practice protocols or contrary to the practice protocols filed with the board;

(f) practicing as an athletic trainer with a suspended license or in violation of any limitation placed on the license by the board; or

(g) engaging in athletic training without reasonable skill and safety by reason of illness or any mental or physical condition. (Authorized by and implementing K.S.A.

2004 Supp. 65-6905 and K.S.A. 2004 Supp. 65-6911; effective July 19, 1996; amended Sept. 9, 2005.)

100-69-8. (Authorized by and implementing K.S.A. 1995 Supp. 65-6905; effective July 19, 1996; revoked Sept. 9, 2005.)

100-69-9. Practice protocols. (a) As a condition of providing services as an athletic trainer in this state that constitute the practice of the healing arts, each athletic trainer licensed by the board shall file a practice protocol with the board on a form issued by the board.

(b) Each practice protocol shall contain the following information:

(1) The name, license number, signature, and date of signature of any person licensed to practice the healing arts who will delegate to the athletic trainer any professional responsibilities that constitute the practice of the healing arts;

(2) a description of the functions and procedures delegated to the athletic trainer that constitute the practice of the healing arts;

(3) a statement from a person licensed to practice the healing arts specifying those acts that have been delegated to the athletic trainer in the absence or unavailability of the licensee; and

(4) a statement that the board will be provided with any changes or amendments to the practice protocol within 10 days after any changes or amendments have been made. (Authorized by and implementing K.S.A. 2004 Supp. 65-6905 and 65-6906; effective July 19, 1996; amended Nov. 15, 2002; amended Sept. 9, 2005.)

100-69-10. License renewal; continuing education. (a) As a condition of renewal, each licensed athletic trainer shall submit, in addition to the annual application for renewal of licensure, evidence of satisfactory completion of a minimum of 20 hours of continuing education within the preceding year.

(b) Any licensee who suffered an illness or injury during the 12-month period before the expiration date of the license that made it impossible or extremely difficult to reasonably obtain the required continuing education hours may be granted an extension of not more than six months.

(c) Each athletic trainer initially licensed within one year of the expiration date of the license shall be exempt from the continuing education required by subsection (a) for that first renewal period.

(d) All continuing education shall be related to the field of athletic training and shall be presented by providers approved by the board.

(e) One hour shall be 60 minutes of instruction or the equivalent.

(f) All continuing education shall meet the requirements of subsection (g).

(g) The categories of continuing education experiences shall be the following:

(1) Category A. The number of hours for all category A continuing education experiences shall be granted upon receipt of documented evidence of attendance or documented evidence of satisfactory completion issued by a national, state, or local organization with standards that are at least as stringent as the standards of the board. Category A continuing education experiences shall include the following:

(A) Symposium. ‘‘Symposium’’ shall mean a conference of more than a single session organized for the purpose of discussing a specific subject from various viewpoints and by various speakers.

(B) Seminar. ‘‘Seminar’’ shall mean directed advanced study or discussion in a specific field of interest.

(C) Workshop. ‘‘Workshop’’ shall mean a series of meetings designed for intensive study, work, or discussion in a specific field of interest.

(D) Conference. ‘‘Conference’’ shall mean a formal meeting of a number of people for a discussion in a specific field of interest.

(E) Home study course. ‘‘Home study course’’ shall mean a correspondence course designed for advanced study in a specific field of interest.

(2) Category B. Category B continuing education experiences shall include the following:

(A) Leadership activities. The number of hours granted for leadership activities shall be the following:

(i) 10 hours for a speaker at a clinical symposium where the primary audience is allied health care professionals;

(ii) five hours for a panelist at a clinical symposium where the primary audience is allied health care professionals;

(iii) 20 hours for participating in the United States Olympic committee’s two-week volunteer training center; and

(iv) five hours for serving as an examiner or patient model for an examination approved by the board for athletic trainers.

(B) Publication activities. The number of hours granted for writing a professional publication shall be the following:

(i) Five hours to author an article in a non-refereed journal;

(ii) 15 hours to author an article in a refereed journal;

(iii) 10 hours to coauthor an article in a refereed journal;

(iv) 40 hours to author a published textbook;

(v) 20 hours to coauthor a published textbook;

(vi) 10 hours for being a contributing author of a published textbook;

(vii) 10 hours to author a refereed or peer-reviewed poster presentation; and

(viii) five hours to coauthor a poster presentation.

(3) Category C. The number of hours assigned to category C continuing education experiences shall be the following:

(A) 10 hours for each credit hour for postcertification education; and

(B) classes in one of the six domains of athletic training:

(i) Prevention of athletic injuries;

(ii) recognition, evaluation, and assessment of athletic injuries;

(iii) treatment, rehabilitation, and reconditioning of athletic injuries;

(iv) health care administration;

(v) professional development and responsibility; and

(vi) immediate care of athletic injuries.

(4) Category D. Five hours shall be granted for satisfactory completion of CPR courses provided by the American red cross, American heart association, national safety council, and the international affiliates of each of these organizations.

(5) Category E. The number of hours granted upon receipt of documented evidence of satisfactory completion for category E continuing education experiences shall be the following:

(A) One hour shall be granted for each hour of attendance at continuing education program activities that are not approved by the board for category A or category B, but that are related to specific athletic training and sports medicine topics.

(B) One hour shall be granted for each hour of listening to continuing education program audiotapes or other multimedia products related to specific athletic training and sports medicine topics.

(h) Continuing education requirements shall be obtained by participation in two or more of the categories listed in subsection (g).

(i) No credit shall be granted for making any repeated presentations of the same subject matter.

(j) No credit shall be granted for reiteration of material or information obtained from attendance at a continuing education program.

(k) To provide evidence of satisfactory completion of continuing education, the following shall be submitted to the board:

(1) Documented evidence of attendance at category A and category E activities;

(2) proof of participation in category B activities, which shall include a copy of any professional publication or any presentation, or a certification of leadership activity;

(3) receipt and personal verification of self-instruction from home study courses;

(4) a copy of each transcript or grade report for category C activities;

(5) a copy of the CPR card or certificate for a category D course; and

(6) personal verification of listening to or viewing continuing education program videotapes, audiotapes, or other multimedia products. (Authorized by K.S.A. 2007 Supp. 65-6905; implementing K.S.A. 2007 Supp. 65-6905 and 65-6909; effective Jan. 9, 1998; amended Nov. 15, 2002; amended Sept. 9, 2005; amended May 15, 2009.)

100-69-11. Reinstatement; canceled and revoked licenses. (a) Each applicant desiring to reinstate a license that has been canceled for failure to renew for more than 30 days shall submit proof of continuing education to the board as follows:

(1) If the time since the license was canceled has been one year or less, no continuing education in addition to that which would have been necessary had the license been renewed before cancellation shall be required.

(2) If the time since the license was canceled has been more than one year, but fewer than four years, the applicant shall provide one of the following:

(A) Evidence of completion of a minimum of 20 hours of continuing education credit hours for each year the applicant has not been in active practice;

(B) proof of completion of continuing education required by the national athletic trainers' association board of certification, inc., as evidenced by proof of active status certification; or

(C) proof that the applicant has passed the written simulation section of the examination required for a license within 12 months before the date the application was submitted.

(3) If the time since the license expired has been four years or more, the applicant shall provide one of the following:

(A) Proof of current active status certification by the national athletic trainers' association board of certification, inc.; or

(B) proof that the applicant has passed the examination required for a registration within 12 months before the date the application was submitted.

(4) If, since the date the license was canceled, the applicant has been in active practice as an athletic trainer in another state or jurisdiction that requires a license, registration, or certification to practice, the applicant shall submit proof of the current license, registration, or certification and proof of compliance with the continuing education requirements of that jurisdiction.

(b) Each applicant seeking reinstatement of a revoked license shall successfully complete an individually tailored program approved by the board.

(Authorized by K.S.A. 2004 Supp. 65-6905 and K.S.A. 2004 Supp. 65-6911; implementing K.S.A. 2004 Supp. 65-6909; effective Nov. 15, 2002; amended Sept. 9, 2005.)

100-69-12. Application. (a) Each applicant for licensure as an athletic trainer shall submit a completed application on a form provided by the board. The application shall include the following information in legible writing:

(1) The applicant's full name;

(2) the applicant's mailing address. If the applicant's mailing address is different from the applicant's residential address, the applicant shall also provide the residential address;

(3) the applicant's social security number, driver's license number, nondriver identification number, or individual tax identification number if the applicant is advised that providing a social security number is voluntary pursuant to K.S.A. 74-139 and 74-148, and amendments thereto, and that if the social security number is provided, the agency may provide this number to the Kansas department of social and rehabilitation services for child support enforcement purposes and to the Kansas department of revenue's director of taxation;

(4) information on any licenses, registrations, or certifications issued to the applicant to practice any health care profession;

(5) information on any prior acts constituting unprofessional conduct, as defined in K.A.R. 100-69-7, that could constitute grounds for denial of the application;

(6) the applicant's daytime telephone number;

(7) the applicant's date and place of birth;

(8) the name of each educational program recognized under K.A.R. 100-69-1 that the applicant attended, including the program from which the applicant graduated, the degree awarded to the applicant, and the date of graduation;

(9) the number of times the applicant has taken the examination required by the board for licensure and the date that the applicant passed the examination; and

(10) a notarized release authorizing the board to receive any relevant information, files, or records requested by the board in connection with the application.

(b) Each applicant shall submit the following with the application:

(1) The fee required by K.A.R. 100-69-5;

(2) an official transcript that specifies the degree awarded from an educational program recognized by the board under K.A.R. 100-69-1;

(3) a verification on a form provided by the board of each license, registration, or certification issued to the applicant by any state or the District of Columbia relating to any health care profession;

(4) a current photograph, two by three inches in size, of the applicant's head and shoulders taken within 90 days before the date the application is received by the board; and

(5) evidence provided directly to the board from the testing entity recognized and approved under K.A.R. 100-69-3 that the applicant has passed the examination.

(c) The applicant shall sign the application under oath and have the application notarized. (Authorized by K.S.A. 2008 Supp. 65-6905; implementing K.S.A. 2008 Supp. 65-6906; effective June 4, 2010.)

KANSAS STATE BOARD

OF

HEALING ARTS

KANSAS STATUTES ANNOTATED

AND

KANSAS ADMINISTRATIVE REGULATIONS

Relating to the practice of

NATUROPATHY

February 2013

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.

Chapter 65 – PUBLIC HEALTH
ARTICLE 72 – NATUROPATHIC DOCTOR LICENSURE ACT

65-7201. Citation of act..
65-7202. Definitions.
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65-7201
Chapter 65 – PUBLIC HEALTH
Article 72– NATUROPATHIC DOCTOR LICENSURE ACT

65-7201. Citation of act. K.S.A. 65-7201 to 65-7218, inclusive, and amendments thereto shall be known and may be cited as the naturopathic doctor licensure act.

History: L. 2002, ch. 203, § 20; L. 2010, ch. 126, § 1; Jan. 1, 2011.

65-7202. Definitions. As used in K.S.A. 65-7201 to 65-7218, inclusive, and amendments thereto:

(a) "Naturopathic doctor" means a doctor of naturopathic medicine who is authorized and licensed pursuant to this act.

(b) "Naturopathic medicine," or "naturopathy" means a system of health care practiced by naturopathic doctors for the prevention, diagnosis and treatment of human health conditions, injuries and diseases, that uses education, natural medicines and therapies to support and stimulate the individual's intrinsic self-healing processes, and includes prescribing, recommending or administering: (1) Food, food extracts, vitamins, minerals, enzymes, whole gland thyroid, botanicals, homeopathic preparations, nonprescription drugs, plant substances that are not designated as prescription drugs or controlled substances, topical drugs as defined in subsection (i) of this section, and amendments thereto; (2) health care counseling, nutritional counseling and dietary therapy, naturopathic physical applications, barrier contraceptive devices; (3) substances on the naturopathic formulary which are authorized for intramuscular or intravenous administration pursuant to a written protocol entered into with a physician who has entered into a written protocol with a naturopathic doctor licensed under this act; (4) noninvasive physical examinations, venipuncture to obtain blood for clinical laboratory tests and oroficial examinations, excluding endoscopies; (5) minor office procedures; and (6) naturopathic acupuncture. A naturopathic doctor may not perform surgery, obstetrics, administer ionizing radiation, or prescribe, dispense or administer any controlled substances as defined in K.S.A. 65-4101, and amendments thereto, or any prescription-only drugs except those listed on the naturopathic formulary adopted by the board pursuant to this act.

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

(d) "Approved naturopathic medical college" means a college and program granting the degree of doctor of naturopathy or naturopathic medicine that has been approved by the board under this act and which college and program requires at a minimum a four-year, full-time resident program of academic and clinical study.

(e) "Homeopathic preparations" means substances and drugs prepared according to the official homeopathic pharmacopoeia recognized by the United States food and drug administration.

(f) "Naturopathic acupuncture" means the insertion of fine metal needles through the skin at specific points on or near the surface of the body with or without the palpation of specific points on the body and with or without the application of electric current or heat to the needles or skin or both to treat human disease and impairment and to relieve pain.

(g) "Minor office procedures" means care incidental to superficial lacerations and abrasions, superficial lesions and the removal of foreign bodies located in the superficial tissues, except eyes, and not involving blood vessels, tendons, ligaments or nerves. "Minor office procedures" includes use of antiseptics, but shall not include the suturing, repairing, alteration or removal of tissue or the use of general or spinal anesthesia. Minor office procedures does not include anesthetics or surgery.

(h) "Naturopathic physical applications" means the therapeutic use by naturopathic doctors of the actions or devices of electrical muscle stimulation, galvanic, diathermy, ultrasound, ultraviolet light, constitutional hydrotheraphy, naturopathic musculoskeletal technique and therapeutic exercise.

(i) "Topical drugs" means topical analgesics, antiseptics, scabicides, antifungals and antibacterials but does not include prescription only drugs.

(j) "Physician" means a person licensed to practice medicine and surgery.

(k) "Written protocol" means a formal written agreement between a naturopathic doctor licensed under this act and a person licensed to practice medicine and surgery. Any licensee of the board entering into a written protocol with a licensed naturopathic doctor shall notify the board in writing of such relationship by providing such information as the board may require.

History: L. 2002, ch. 203, § 21; L. 2010, ch. 126, § 2; Jan. 1, 2011.

65-7203
Chapter 65 – PUBLIC HEALTH
Article 72– NATUROPATHIC DOCTOR LICENSURE ACT

65-7203. Administration of act by state board of healing arts; qualifications of applicants; licensure of certain naturopathic doctors; record of proceedings.

(a) The board, as hereinafter provided, shall administer the provisions of this act.

(b) The board shall judge the qualifications of all applicants for examination and licensure, determine the applicants who successfully pass the examination, duly license such applicants and adopt rules and regulations as may be necessary to administer the provisions of this act.

(c) The board shall issue a license as a naturopathic doctor to an individual who prior to the effective date of this act (1) graduated from a school of naturopathy that required four years of attendance and was at the time of such individual's graduation accredited or a candidate for accreditation by the board approved accrediting body, (2) passed an examination approved by the board covering appropriate naturopathic subjects including basic and clinical sciences and (3) has not committed an act which would subject such person to having a license suspended or revoked under K.S.A. 65-7208, and amendments thereto.

(d) The board shall keep a record of all proceedings under this act and a roster of all individuals licensed under this act. Only an individual may be licensed under this act.

History: L. 2002, ch. 203, § 22; L. 2010, ch. 126, § 3; Jan. 1, 2011.

65-7204
Chapter 65 – PUBLIC HEALTH
Article 72– NATUROPATHIC DOCTOR LICENSURE ACT

65-7204. Application for licensure; criteria for educational programs; registrant under previous act deemed to be licensed.

(a) An applicant applying for licensure as a naturopathic doctor shall file a written application on forms provided by the board, showing to the satisfaction of the board that the applicant meets the following requirements: (1) Education: The applicant shall present evidence satisfactory to the board of having successfully completed an educational program in naturopathy from an approved naturopathic medical college.

(2) Examination: The applicant shall pass an examination as provided for in K.S.A. 65-7205 and amendments thereto.

(3) Fees: The applicants shall pay to the board all applicable fees established under K.S.A. 65-7207 and amendments thereto.

(b) The board shall adopt rules and regulations establishing the criteria for an educational program in naturopathy to obtain successful recognition by the board under paragraph (1) of subsection (a). The board may send a questionnaire developed by the board to any school or other entity conducting an educational program in naturopathy for which the board does not have sufficient information to determine whether the program should be recognized by the board and whether the program meets the rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the program to be considered for recognition. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about an educational program in naturopathy. In entering such contracts the authority to recognize an educational program in naturopathy shall remain solely with the board.

(c) An individual holding a valid registration as a naturopathic doctor under the naturopathic doctor registration act on December 31, 2010, shall be deemed to be licensed as a naturopathic doctor under the naturopathic doctor license act, and such individual shall not be required to file an original application for licensure under the naturopathic doctor license act.

History: L. 2002, ch. 203, § 23; L. 2010, ch. 126, § 4; Jan. 1, 2011.

65-7205
Chapter 65 – PUBLIC HEALTH
Article 72– NATUROPATHIC DOCTOR LICENSURE ACT

65-7205. Examination. Each applicant for licensure under this act shall be examined by a written examination or examinations chosen by the board to test the applicant's knowledge of the basic and clinical sciences relating to naturopathy, and naturopathy theory and practice, including the applicant's professional skills and judgment in the utilization of naturopathic techniques and methods, and such other subjects as the board may deem useful to determine the applicant's fitness to practice naturopathy.

History: L. 2002, ch. 203, § 24; L. 2010, ch. 126, § 5; Jan. 1, 2011.

65-7206
Chapter 65 – PUBLIC HEALTH
Article 72– NATUROPATHIC DOCTOR LICENSURE ACT

65-7206. Waiver of examination and other requirements; when waived; temporary licensure.

(a) The board may waive the examination or education requirements, or both, and grant licensure (1) to any applicant who presents proof of current authorization to practice naturopathy in another state, the District of Columbia or territory of the United States which requires standards for authorization to practice determined by the board to be equivalent to the requirements for licensure under this act and (2) to any applicant who presents proof that on the day preceding the effective date of this act that the applicant was practicing under K.S.A. 65-2872a and amendments thereto.

(b) At the time of making an application under this section, the applicant shall pay to the board the application fee as required under K.S.A. 65-7207 and amendments thereto.

(c) The board may issue a temporary license to an applicant for licensure as a naturopathic doctor who applies for temporary licensure on a form provided by the board, who meets the requirements for licensure or who meets all the requirements for licensure except examination and who pays to the board the temporary license fee as

required under K.S.A. 65-7207 and amendments thereto. The person who holds a temporary license shall practice only under the supervision of a licensed naturopathic doctor. Such temporary license shall expire one year from the date of issue or on the date that the board approves the application for licensure, whichever occurs first. No more than one such temporary license shall be permitted to any one person.

History: L. 2002, ch. 203, § 25; L. 2010, ch. 126, § 6; Jan. 1, 2011.

65-7207
Chapter 65 – PUBLIC HEALTH
Article 72– NATUROPATHIC DOCTOR LICENSURE ACT

65-7207. Fees.

(a) The board shall charge and collect in advance fees provided for in this act as fixed by the board by rules and regulations, subject to the following limitations:
Application fee, not more than ……. .$200
Temporary license fee, not more than…….. $30
License renewal fee, not more than……..……...$150
License late renewal additional fee, not more than…….$250
License reinstatement fee, not more than……$250
Certified copy of license, not more than……....$30
Written verification of license, not more than……...$25

(b) The board shall charge and collect in advance fees for any examination administered by the board under the naturopathic doctor licensure act as fixed by the board by rules and regulations in an amount equal to the cost to the board of the examination. If the examination is not administered by the board, the board may require that fees paid for any examination under the naturopathic doctor licensure act be paid directly to the examination service by the person taking the examination.

History: L. 2002, ch. 203, § 26; L. 2010, ch. 126, § 7; Jan. 1, 2011.

65-7208
Chapter 65 – PUBLIC HEALTH
Article 72– NATUROPATHIC DOCTOR LICENSURE ACT

65-7208. Denial, revocation, limitation or suspension of license or refusal to renew license; unprofessional conduct; discipline; civil fines; procedure; reinstatement.

(a) The board may deny, refuse to renew, suspend, revoke or limit a license or the licensee may be publicly or privately censured where the licensee or applicant for licensure has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes:

(1) Obtaining a license by means of fraud, misrepresentation or concealment of material facts;

(2) being guilty of unprofessional conduct as defined by rules and regulations adopted by the board;

(3) being convicted of a felony if the acts for which such person was convicted are found by the board to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of a naturopathic doctor;

(4) violating any lawful order or rule and regulation of the board; and

(5) violating any provision of this act.

(b) Such denial, refusal to renew, suspension, revocation or limitation of a license or public or private censure of a licensee may be ordered by the board after notice and hearing on the matter in accordance with the provisions of the Kansas administrative

procedure act. Upon the end of the period of time established by the board for the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may hold a hearing to consider such reinstatement. An application for reinstatement of a revoked license shall be accompanied by the license renewal fee and the license reinstatement fee established under K.S.A. 65-7207 and amendments thereto.

(c) The board, in addition to any other penalty prescribed in subsection (a), may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for unprofessional conduct 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.

History: L. 2002, ch. 203, § 27; L. 2004, ch. 117, § 23; L. 2010, ch. 126, § 8; Jan. 1, 2011.

65-7209
Chapter 65 – PUBLIC HEALTH
Article 72– NATUROPATHIC DOCTOR LICENSURE ACT

65-7209. Expiration of licenses; failure to renew; renewal; continuing education; suspended license; fees.

(a) Licenses issued under this act shall expire on the date of expiration established by rules and regulations of the board unless renewed in the manner prescribed by the board. The request for renewal shall be accompanied by the license renewal fee established pursuant to K.S.A. 65-7207, and amendments thereto. The board may establish additional requirements for license renewal which provide evidence of continued competency. The board shall require as a condition for renewal of a license completion of at least 25 hours annually of continuing education approved by the board.

(b) At least 30 days before the expiration of a license, the board shall notify the licensee of the expiration by mail addressed to the licensee's last mailing address as noted upon the office records. If the licensee fails to pay the renewal fee by the date of expiration, the licensee shall be given a second notice that the license has expired and the license may be renewed only if the license renewal fee and the late renewal fee are received by the board within the thirty-day period following the date of expiration and that, if both fees are not received within the thirty-day period, the license shall be deemed canceled by operation of law without further proceedings for failure to renew and shall be reissued only after the license has been reinstated under subsection (c).

(c) Any license canceled for failure to renew as herein provided may be reinstated upon recommendation of the board and upon payment of the license reinstatement fee and upon submitting evidence of satisfactory completion of any applicable continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate continuing education requirements for reinstatement of licenses canceled for failure to renew.

(d) A person whose license is suspended shall not engage in any conduct or activity in violation of the order or judgment by which the license was suspended.

History: L. 2002, ch. 203, § 28; L. 2004, ch. 117, § 24; L. 2010, ch. 126, § 9; Jan. 1, 2011.

65-7210
Chapter 65 – PUBLIC HEALTH
Article 72– NATUROPATHIC DOCTOR LICENSURE ACT

65-7210. Moneys received by board; disposition; healing arts fee fund.

(a) The board shall remit all moneys received by or for it 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 each such deposit shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from such 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 designated by the president of the board.

(b) The provisions of this section shall take effect on and after January 1, 2003.

History: L. 2002, ch. 203, § 29; L. 2011, ch. 53, § 38; July 1.

65-7211
Chapter 65 – PUBLIC HEALTH
Article 72– NATUROPATHIC DOCTOR LICENSURE ACT

65-7211. Authorized representations; unlawful representations; authority not conferred upon naturopathic doctors to engage in activities not conferred by act.

(a) A person licensed under this act as a naturopathic doctor shall: (1) Use the letters "N.D.," when using the letters or term "Dr." or "Doctor" to identify themselves to patients or the public; and (2) be authorized to use the words "naturopathic doctor," "doctor of naturopathy," "doctor of naturopathic medicine," or "naturopath," to indicate that such person is a naturopathic doctor licensed under this act. A person licensed under this act may not advertise, hold themselves out to the public, refer to themselves or use the terms "naturopathic physician," "physician" or "naturopathic medical doctor" in conjunction with such licensee's name. A violation of this subsection (a) shall constitute a class B misdemeanor.

(b) It shall be unlawful for any person who is not licensed under this act as a naturopathic doctor or whose license has been suspended or revoked to hold oneself out to the public in any manner as a licensed naturopathic doctor, or use the abbreviation of "N.D." or the words "naturopathic doctor," "doctor of naturopathy," "doctor of naturopathic medicine," "naturopath," "naturopathic medical doctor" or any other words, letters, abbreviations or insignia indicating or implying that such person is a naturopathic doctor. A violation of this subsection (b) shall constitute a class B person misdemeanor.

(c) No statute granting authority to persons licensed or registered by the state board of healing arts shall be construed to confer authority upon naturopathic doctors to engage in any activity not conferred by this act.

History: L. 2002, ch. 203, § 30; L. 2010, ch. 126, § 10; Jan. 1, 2011.

65-7212
Chapter 65 – PUBLIC HEALTH
Article 72– NATUROPATHIC DOCTOR LICENSURE ACT

65-7212. Board of healing arts to adopt naturopathic formulary; naturopathic formulary advisory committee. The board shall adopt a naturopathic formulary which lists the drugs and substances which are approved for intramuscular or intravenous administration by a naturopathic doctor pursuant to the order of a physician. The board shall appoint a naturopathic formulary advisory committee which shall advise the board and make recommendations on the list of substances which may be included in the naturopathic formulary. The naturopathic formulary advisory committee shall consist of a licensed pharmacist, a person knowledgeable in medicinal plant chemistry, two persons licensed to practice medicine and surgery, and two naturopathic doctors licensed under this act.

History: L. 2002, ch. 203, § 31; L. 2010, ch. 126, § 11; Jan. 1, 2011.

65-7213
Chapter 65 – PUBLIC HEALTH
Article 72– NATUROPATHIC DOCTOR LICENSURE ACT

65-7213. Naturopathic acupuncture specialty certification.

(a) In order to practice naturopathic acupuncture, a naturopathic doctor shall obtain a naturopathic acupuncture specialty certification from the board. The board may issue this specialty certification to a naturopathic doctor who has:

(1) Submitted an application and paid certification fee to be determined by the board;

(2) completed basic oriental medicine philosophy from a college or university approved by the board and 500 hours of supervised clinical training under a trained naturopathic acupuncturist's supervision.

(b) The provisions of this section shall take effect on and after January 1, 2003.

History: L. 2002, ch. 203, § 32; July 1.

65-7214
Chapter 65 – PUBLIC HEALTH
Article 72– NATUROPATHIC DOCTOR LICENSURE ACT

65-7214. Naturopathic advisory council; membership; expenses; legislature to consider establishing alternative health care board.

(a) There is established a naturopathic advisory council to advise the board in carrying out the provisions of this act. The council shall consist of five members, all citizens and residents of the state of Kansas appointed as follows: Three members shall be naturopathic doctors appointed by the state board of healing arts; one member shall be the president of the state board of healing arts or a person designated by the president; and one member appointed by the governor shall be from the public sector who is not engaged, directly or indirectly, in the provision of health services. Insofar as possible persons appointed to the council shall be from different geographic areas. If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term, if any. The members of the council appointed by the governor shall be appointed for terms of three years and until a successor is appointed. The members

appointed by the state board of healing arts shall serve at the pleasure of the state board of healing arts. If a member is designated by the president of the state board of healing arts, the member shall serve at the pleasure of the president.

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

(c) During the 2003 regular session of the legislature the legislature shall consider establishing an alternative health care board composed of representatives as may be designated from existing health care regulatory agencies, alternative health care providers and members of the general public for purposes of advising the legislature on matters relating to alternative health care, administering the naturopathic doctor registration act and performing such other duties as may be established by law.

(d) The provisions of this section shall take effect on and after January 1, 2003.

History: L. 2002, ch. 203, § 33; July 1.

65-7215
Chapter 65 – PUBLIC HEALTH
Article 72– NATUROPATHIC DOCTOR LICENSURE ACT

65-7215. Injunctive remedies for violations.

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

(b) The provisions of this section shall take effect on and after January 1, 2003.

History: L. 2002, ch. 203, § 34; July 1.

65-7216
Chapter 65 – PUBLIC HEALTH
Article 72– NATUROPATHIC DOCTOR LICENSURE ACT

65-7216. Adjudicative procedures. All state agency adjudicative proceedings under the naturopathic doctor licensure act shall be conducted in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act.

History: L. 2002, ch. 203, § 35; L. 2010, ch. 17, § 171; L. 2010, ch. 155, § 20; Jan. 1, 2011.

65-7217
Chapter 65 – PUBLIC HEALTH
Article 72– NATUROPATHIC DOCTOR LICENSURE ACT

65-7217. Professional liability insurance required. Professional liability insurance coverage shall be maintained in effect by each naturopathic doctor as a condition to rendering professional service as a naturopathic doctor in this state. The board shall fix by rules and regulations the minimum level of coverage for such professional liability insurance.

History: L. 2002, ch. 203, § 36; L. 2004, ch. 117, § 26; July 1.

65-7218
Chapter 65 – PUBLIC HEALTH
Article 72– NATUROPATHIC DOCTOR LICENSURE ACT

65-7218. Confidential communications.

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

(b) The provisions of this section shall take effect on and after January 1, 2003.

History: L. 2002, ch. 203, § 37; July 1.

65-7219
Chapter 65 – PUBLIC HEALTH
Article 72– NATUROPATHIC DOCTOR LICENSURE ACT

65-7219. Nothing in act construed to require insurance reimbursement or indemnity for services as a naturopathic doctor. On and after January 1, 2011, nothing in the naturopathic doctor licensure act or in the provisions of K.S.A. 40-2,100 through 40-2,105, and amendments thereto, or K.S.A. 2011 Supp. 40-2,105a through 40-2,105d, and amendments thereto, shall be construed to require that any individual, group or blanket policy of accident and sickness, medical or surgical expense insurance coverage or any provision of a policy, contract, plan or agreement for medical service issued on or after the effective date of this act, reimburse or indemnify a person licensed under the naturopathic doctor licensure act for services provided as a naturopathic doctor.

History: L. 2010, ch. 126, § 13; Jan. 1, 2011.

ARTICLE 75. - NATUROPATHY

100-72-1. Fees.
100-72-2. Application.
100-72-3. Unprofessional conduct: defined.
100-72-4. Criteria for approval of programs in naturopathy.
100-72-5. Examinations.
100-72-6. Professional liability insurance.
100-72-7. Registration renewals; continuing education.
100-72-8. Naturopathic formulary.
100-72-9. Written protocol.

100-72-1. Fees. The following fees shall be collected by the board:
(a) Application for registration $165.00
(b) registration renewal $125.00
(c) registration late renewal additional fee $20.00
(d) registration reinstatement $155.00
(e) certified copy of registration $15.00
(f) temporary registration $30.00
(g) acupuncture certification $20.00
(Authorized by K.S.A. 65-7203; implementing K.S.A. 65-7207 and K.S.A. 65-7213; effective, T-100-1-2-03, Jan. 2, 2003; effective May 23, 2003; amended, T-100-10-16-08, Oct. 16, 2008; amended Feb. 13, 2009.)

100-72-2. Application. (a) Each individual who desires to register as a naturopathic doctor shall submit an application on a form provided by the board. The form shall contain the following information:

(1) The applicant's full name;

(2) the applicant's social security number, individual tax identification number, driver's license number, or nondriver identification number, if the applicant is advised that providing a social security number is voluntary pursuant to K.S.A. 74-139 and 74-148, and amendments thereto, and that if the social security number is provided, the agency may provide this number to the Kansas department of social and rehabilitation services for child support enforcement purposes and to the Kansas department of revenue's director of taxation;

(3) the applicant's mailing address. If the applicant's mailing address is different from the applicant's residential address, the applicant shall also provide the residential address;

(4) the applicant's date and place of birth;

(5) the applicant's daytime phone number;

(6) the names of all educational programs recognized under K.A.R. 100-72-4 that the applicant attended, including the program from which the applicant graduated, the degree awarded to the applicant, and the date of graduation;

(7) notarized certification that the applicant has completed a program in naturopathy from a postsecondary school recognized under K.A.R. 100-72-4;

(8) the issue date; state, territory, the District of Columbia, or other country of issuance; and the identifying number on any license, registration, or certification issued to the applicant to practice any health care profession;

(9) documentation of any prior acts constituting unprofessional conduct as defined in K.S.A. 65-7208, and amendments thereto, and K.A.R. 100-72-3;

(10) the number of times the applicant has taken the examination required by the board for licensure and the date the applicant passed the examination; and

(11) a notarized release authorizing the board to receive any relevant information, files, or records requested by the board in connection with the application.

(b) Each applicant shall submit the following with the application:

(1) The fee required by K.A.R. 100-72-1;

(2) an official transcript for the applicant from an educational program approved by the board, as provided in K.A.R. 100-72-4, that specifies the degree awarded to the applicant;

(3) a verification from each state, country, territory, or the District of Columbia where the applicant has been issued any license, registration, or certification to practice any health care profession;

(4) a photograph of the applicant~~.~~ measuring two inches by three inches and showing the head and shoulder areas only. The photograph shall be taken within 90 days before the date of application; and

(5) evidence provided directly to the board from the testing entity recognized and approved under K.A.R. 100-72-5 that the applicant has passed the examination.

(c) The applicant shall sign the application under oath and shall have the application notarized. (Authorized by K.S.A. 65-7203; implementing K.S.A. 65-7203, 65-7204, and K.S.A. 2008 Supp. 65-7208; effective, T-100-1-2-03, Jan. 2, 2003; effective May 23, 2003; amended June 4, 2010.)

100-72-3. Unprofessional conduct: defined. ‘‘Unprofessional conduct’’ means the commission of any of the following by an applicant or a registrant:

(a) Unlawfully invading any branch of the healing arts by providing professional services that exceed the statutory definition of naturopathy, unless the professional services are provided under the supervision of or by order of a person who is licensed to practice the healing arts;

(b) identifying the professional services provided under authority of registration by the board as being other than naturopathy;

(c) providing professional services under a false or assumed name or by impersonating another person registered by the board as a naturopath;

(d) practicing as a naturopathic doctor without reasonable skill and safety because of any of the following:

(1) Illness;

(2) alcoholism;

(3) excessive use of drugs, controlled substances, chemicals, or any other type of material; or

(4) a result of any mental or physical condition;

(e) having a naturopathic license, registration, or certification revoked, suspended, or limited or having an application for any of these credentials denied by the proper regulatory authority of another state, territory, or country, or of the District of Columbia for conduct that would constitute grounds for denial, refusal to renew, suspension, or revocation of a registration under K.S.A. 65-7208 and amendments thereto;

(f) cheating or attempting to subvert the validity of the examination required for registration;

(g) providing professional services within this state without maintaining a policy of professional liability insurance as required by K.S.A. 65-7217 and amendments thereto;

(h) failing to furnish to the board, or to its investigators or representatives, any information legally requested by the board;

(i) being sanctioned or disciplined by a review committee for acts or conduct that would constitute grounds for denial, refusal to renew, suspension, or revocation of a registration under K.S.A. 65-7208 and amendments thereto;

(j) surrendering a license, registration, or certification to practice naturopathy in another state while disciplinary proceedings are pending for acts or conduct that would constitute grounds for denial, refusal to renew, suspension, or revocation of a registration under K.S.A. 65-7208 and amendments thereto;

(k) more than one instance involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board;

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

(m) providing naturopathy to a patient without the consent of the patient or the patient's legal representative;

(n) willfully betraying confidential information;

(o) advertising the ability to perform in a superior manner any professional service related to naturopathy;

(p) using any advertisement that is false, misleading, or deceptive in a material respect;

(q) committing conduct likely to deceive, defraud, or harm the public;

(r) making a false or misleading statement regarding the applicant's or registrant's skill;

(s) committing any act of sexual abuse, misconduct, or exploitation;

(t) obtaining any fee by fraud, deceit, or misrepresentation;

(u) charging an excessive fee for services rendered;

(v) failing to keep written records justifying the course of treatment of the patient;

(w) delegating naturopathy to a person who the registrant knows or has reason to know is not qualified by training or experience to perform it;

(x) 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 a professional partnership, professional corporation, limited liability company, or similar business entity that may be performed only by designated licensed or registered professionals;

(y) using experimental forms of diagnosis or treatment without adequate informed consent of the patient or the patient's legal guardian;

(z) administering, dispensing, or prescribing any natural substance or device for other than an accepted therapeutic purpose;

(aa) offering, undertaking, or agreeing to cure or treat a disease, injury, ailment, or infirmity by a secret means, method, device, or instrumentality;

(bb) offering any treatment that has been demonstrated by controlled trials to lack efficacy or that has been demonstrated by controlled trials as likely to harm the patient, except in the course of clinical investigation. If the registrant participates in a clinical investigation, before the investigation is begun, the registrant shall apply for and obtain approval of the investigation from the board, in addition to meeting all other requirements of applicable laws; or

(cc) violating any provision of these regulations, or any provision of the naturopathic doctor registration act and amendments thereto. (Authorized by and implementing K.S.A. 65-7208; effective, T-100-1-2-03, Jan. 2, 2003; effective May 23, 2003.)

100-72-4. Criteria for approval of programs in naturopathy. To be recognized by the board as providing an approved educational program in naturopathy, each school of naturopathy shall meet the following standards:

(a) The accreditation standards for naturopathic medical education, as specified in part

two of the ‘‘handbook of accreditation for naturopathic medicine programs,’’ 2002 edition, published by the council on naturopathic medical education and hereby adopted by reference; and

(b) the accreditation criteria of the commission on institutions of higher education of the north central association of colleges and schools, or its regional equivalent, as specified in chapter four of the ‘‘handbook of accreditation,’’ second edition, published September 1997, and in the ‘‘addendum to the handbook of accreditation, second edition,’’ published March 2002, which are hereby adopted by reference. (Authorized by K.S.A. 65-7203; implementing K.S.A. 65-7204; effective, T-100-1-2-03, Jan. 2, 2003; effective May 23, 2003.)

100-72-5. Examinations. (a) Each applicant for registration by examination as a naturopathic doctor shall submit proof of having passed a nationally administered, standardized examination that is approved by the board and consists of written questions and practical questions assessing knowledge and proficiency on subject matter from the following content areas:

(1) Basic sciences, including the following:

(A) Anatomy;

(B) biochemistry;

(C) microbiology;

(D) pathology; and

(E) physiology; and

(2) clinical sciences, including the following:

(A) Emergency medicine and public health;

(B) laboratory diagnosis and diagnostic imaging;

(C) botanical medicine;

(D) clinical nutrition;

(E) physical and clinical diagnosis;

(F) physical medicine;

(G) psychology;

(H) counseling;

(I) ethics; and

(J) homeopathy.

(b) Each applicant for specialty certification in naturopathic acupuncture shall submit proof of having passed a nationally administered, standardized examination that is approved by the board and consists of written and practical questions assessing knowledge and proficiency in acupuncture.

(c) In order to qualify as board-approved, the following examinations as administered by the North American board of naturopathic examiners shall meet the examination standards established by the board in this regulation:

(1) Part I, part II, and the homeopathic add on clinical series of the naturopathic physicians licensing examinations (NPLEX); and

(2) the acupuncture add-on clinical series of NPLEX.

(d) To pass an approved examination, each applicant for registration shall obtain a criterion referenced score of at least 75. (Authorized by K.S.A. 65-7203; implementing K.S.A. 65-7205; effective, T-100-1-2-03, Jan. 2, 2003; effective May 23, 2003.)

100-72-6. Professional liability insurance. (a) Each person registered by the board as a naturopathic doctor shall, before rendering professional services within the state, submit to the board evidence that the person is maintaining professional liability insurance coverage as required by K.S.A. 65-7217 and amendments thereto for which the limit of the insurer's liability is not less than $200,000 per claim, subject to an annual aggregate of not less than $600,000 for all claims made during the period of coverage.

(b) Each person registered by the board as a naturopathic doctor and rendering professional services in this state shall submit, with the annual application for renewal of the registration, evidence that the person is maintaining the professional liability insurance coverage specified in subsection (a). (Authorized by K.S.A. 65-7203; implementing K.S.A. 2004 Supp. 65-7217; effective, T-100-1-2-03, Jan. 2, 2003; effective May 23, 2003; amended July 22, 2005.)

100-72-7. Registration renewals; continuing education. (a) Each registration initially issued or renewed by the board on or after January 1, 2009 and through December 31, 2009 shall expire on December 31, 2010.

(b) Each registration initially issued or renewed by the board on or after January 1, 2010 shall expire on December 31 of the year of issuance.

(c) Each registered naturopath who wishes to renew the registration shall meet the following requirements:

(1) Submit an application for renewal of registration and the registration renewal fee; and

(2) for the second and each subsequent renewal and for each renewal after reinstatement, submit evidence of satisfactory completion of at least 50 hours of continuing education since the registration was last renewed or was reinstated, whichever is more recent. At least 20 of these hours shall be taken in a professionally supervised setting, and not more than 30 of these hours may be taken in a non-supervised setting.

(d) Continuing education activities shall be designed to maintain, develop, or increase the knowledge, skills, and professional performance of persons registered to practice as a naturopathic doctor. All continuing education shall deal primarily with the practice of naturopathy. Each continuing education activity that occurs in a professionally supervised setting shall be presented by a provider.

(e) One hour shall mean 60 minutes of instruction or the equivalent.

(f) The content of each continuing education activity shall have a direct bearing on patient care.

(g) An activity occurring in a ''professionally supervised setting'' shall mean any of the following:

(1) Lecture, which means a discourse given before an audience for instruction;

(2) panel discussion, which means the presentation of a number of views by several professional individuals on a given subject;

(3) workshop, which means a series of meetings designed for intensive study, work, or discussion in a specific field of interest;

(4) seminar, which means directed, advanced study or discussion in a specific field of interest;

(5) symposium, which means a conference that consists of more than a single session and is organized for the purpose of discussing a specific subject from various viewpoints and by various speakers; or

(6) other structured, interactive, and formal learning methods approved by the board on

a case-by-case basis.

(h) An activity occurring in a ‘‘non-supervised setting’’ shall mean any of the following:

(1) Teaching health-related courses to practicing naturopathic doctors or other health professionals;

(2) presenting a scientific paper to an audience of health professionals, or publishing a scientific paper in a medical or naturopathic journal;

(3) engaging in self-instruction, including journal reading and the use of television and other audiovisual materials;

(4) receiving instruction from a medical or naturopathic consultant;

(5) participating in programs concerned with review and evaluation of patient care;

(6) spending time in a self-assessment examination, not including examinations and quizzes published in journals; or

(7) engaging in meritorious learning experiences that provide a unique educational benefit to the registrant.

(i) To provide evidence of satisfactory completion of continuing education, each registrant shall submit the following to the board, as applicable:

(1) Documented evidence of attendance at each activity occurring in a professionally supervised setting; and

(2) proof of participation in each activity occurring in a non-supervised setting, which shall include a copy of any professional publication, the certification of a teaching activity, or the personal verification of any other activity occurring in a non-supervised setting. (Authorized by K.S.A. 65- 7203; implementing K.S.A. 2007 Supp. 65-7209; effective, T-100-1-2-03, Jan. 2, 2003; effective Nov. 14, 2003; amended March 27, 2009.)

100-72-8. Naturopathic formulary. The following list shall constitute the naturopathic formulary for drugs and substances that are approved for intramuscular (IM) or intravenous (IV) administration , or both, by a naturopathic doctor pursuant to a written protocol entered into with a physician:

(a) Electrolytes and carrier solutions:

(1) Sterile water (IV, IM);

(2) electrolyte solution (IV);

(3) lactated ringers (IV);

(4) saline solution (IV); and

(5) half normal saline (IV);

(b) vitamins:

(1) Vitamin C (IV);

(2) B complex (IV, IM);

(3) folic acid (IV, IM);

(4) vitamin D (IV);

(5) vitamin E (IV);

(6) vitamin K (IV, IM);

(7) vitamin A (IV, IM); and

(8) vitamin B12 (IV, IM);

(c) minerals:

(1) Calcium (IV, IM);

(2) chromium (IV, IM);

(3) copper (IV, IM);

(4) iron (IV, IM);

(5) zinc (IV, IM);

(6) iodine (IV, IM);

(7) magnesium (IV, IM);
(8) selenium (IV, IM);
(9) molybdenum (IV, IM);
(10) vanadium (IV, IM);
(11) phosphorus (IV, IM); and
(12) manganese (IV, IM);
(d) amino acids:
(1) Amino acids, singular or in combination (IV);
(2) glutathione (IV, IM);
(3) tryptophan (IV); and
(4) 5 hydroxy tryptophan (IV);
(e) botanicals:
(1) Glycyrrhizin (IV, IM); and
(2) thujone-free artemisia (IV, IM); and
(f) the following miscellaneous drugs and substances:
(1) Lipids (IV);
(2) co-enzyme Q 10 (also known as ubiquinone or Co-Q 10) (IV, IM);
(3) alpha lipoic acid (IV, IM);
(4) hydrochloric acid (IV);
(5) epinephrine (IM);
(6) chelators, only with prior board approval:
(A) EDTA (IV); and
(B) DMPS (IV);
(7) diphenhydramine hydrochloride (IV, IM); and
(8) atropine sulfate (IV).
(Authorized by K.S.A. 65-7203; implementing K.S.A. 65-7212; effective Jan. 21, 2005.)

100-72-9. Written protocol. (a) Each physician entering into a written protocol with a registered naturopathic doctor shall be licensed to practice medicine and surgery in the state of Kansas and shall provide a copy of the protocol to the board within 10 days of entering into the protocol.

(b) Each written protocol between a physician and a naturopathic doctor shall contain the following information:

(1) The date on which the protocol was signed and the signatures of the physician and the naturopathic doctor;

(2) the license number of the physician and the registration number of the naturopathic doctor;

(3) the names of the drugs and substances from the naturopathic formulary, which is specified in K.A.R. 100-72-8, that the naturopathic doctor will be allowed to administer and the method of administration of each drug and substance;

(4) the usage and dosage authorized for each drug and substance;

(5) any warning or precaution associated with the administration of each drug and substance;

(6) a statement that a current copy of the protocol will be maintained at each practice location of the physician and the naturopathic doctor and that any change made to the protocol will be provided to the board within 10 days of making the change;

(7) a statement that the physician is professionally competent to order each drug and substance that the protocol authorizes the naturopathic doctor to administer and that treating the conditions identified in the protocol is within the lawful and customary practice of the physician;

(8) a statement that the authority to administer any drug or substance intravenously is limited to times when the physician either is physically present in the same building or can be present within five minutes at the location where the service is performed;

(9) the identification of any task or service that the physician delegates to any unlicensed person working with the naturopathic doctor;

(10) a statement that emergency procedures have been established by the physician and adopted by the naturopathic doctor to protect the patient in the absence of the physician and that the naturopathic doctor is competent to carry out those emergency procedures; and

(11) any conditions imposed by the physician on the naturopathic doctor before the administration of any of the drugs and substances listed in the protocol.

(c) Each written protocol shall be reviewed by the physician and naturopathic doctor at least annually, and each review shall be signed and dated on the current copy of the protocol.

(Authorized by K.S.A. 65-7203; implementing K.S.A. 65-7202; effective Nov. 19, 2004.)

KANSAS STATE BOARD

OF

HEALING ARTS

KANSAS STATUTES ANNOTATED

AND

KANSAS ADMINISTRATIVE REGULATIONS

Relating to the practice of

RADIOLOGIC TECHNOLOGISTS

February 2013

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.

Chapter 65 – PUBLIC HEALTH
ARTICLE 73 – RADIOLOGIC TECHNOLOGISTS PRACTICE ACT

65-7301. Citation of act.
65-7302. Definitions.
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65-7301
Chapter 65 – PUBLIC HEALTH
Article 73 – RADIOLOGIC TECHNOLOGISTS PRACTICE ACT

65-7301. Citation of act. K.S.A. 2011 Supp. 65-7301 through 65-7315, and amendments thereto, shall be known and may be cited as the radiologic technologists practice act.

History: L. 2004, ch. 84, § 1; July 1.

65-7302
Chapter 65 – PUBLIC HEALTH
Article 73 – RADIOLOGIC TECHNOLOGISTS PRACTICE ACT

65-7302. Definitions. As used in this act:

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

(b) "Ionizing radiation" means x-rays, gamma rays, alpha and beta particles, high speed electrons, protons, neutrons and other nuclear particles capable of producing ions directly or indirectly in its passage through matter.

(c) "License" means a certificate issued by the board authorizing the licensee to perform radiologic technology procedures on humans for diagnostic or therapeutic purposes.

(d) "Licensed practitioner" means a person licensed to practice medicine and surgery, dentistry, podiatry or chiropractic in this state.

(e) "Licensure" and "licensing" mean a method of regulation by which the state grants permission to persons who meet predetermined qualifications to engage in a health related occupation or profession.

(f) "Nuclear medicine technologist" means a person who uses radio pharmaceutical agents on humans for diagnostic or therapeutic purposes.

(g) "Nuclear medicine technology" means the use of radio nuclides on human beings for diagnostic or therapeutic purposes.

(h) "Radiation therapist" means a person who applies radiation to humans for therapeutic purposes.

(i) "Radiation therapy" means the use of any radiation procedure or article intended for the cure, mitigation or prevention of disease in humans.

(j) "Radiographer" means a person who applies radiation to humans for diagnostic purposes.

(k) "Radiography" means the use of ionizing radiation on human beings for diagnostic purposes.

(l) "Radiologic technologist" means any person who is a radiographer, radiation therapist or nuclear medicine technologist.

(m) "Radiologic technology" means the use of radioactive substance or equipment emitting or detecting ionizing radiation on humans for diagnostic or therapeutic purposes upon prescription of a licensed practitioner. The term includes the practice of radiography, nuclear medicine technology and radiation therapy, but does not include echocardiography, diagnostic sonography and magnetic resonance imaging.

(n) This section shall take effect on and after July 1, 2005.

History: L. 2004, ch. 84, § 2; July 1.

65-7303
Chapter 65 – PUBLIC HEALTH
Article 73 – RADIOLOGIC TECHNOLOGISTS PRACTICE ACT

65-7303. Unlawful representations; lawful activities under the act.

(a) On and after October 1, 2005, except as otherwise provided in this act, no person shall perform radiologic technology procedures on humans for diagnostic or therapeutic purposes unless the person possesses a valid license issued under this act.

(b) A person holding a license under this act shall use radioactive substances or equipment for radiologic technology procedures on humans only for diagnostic or therapeutic purposes by prescription of a licensed practitioner.

(c) No person shall depict one's self orally or in writing, expressly or by implication, as holder of a license who does not hold a current license under this act.

(d) (1) Only persons licensed under this act as a radiologic technologist shall be entitled to use the title "radiologic technologist" or "licensed radiologic technologist," abbreviations thereof, or words similar thereto or use the designated letters "R.T." or "L.R.T.".

(2) Only persons licensed under this act as a radiologic technologist and who have received certification from the American registry of radiologic technologists (ARRT) in radiography shall be entitled to use the title "radiologic technologist radiographer" or "licensed radiologic technologist radiographer" or abbreviations thereof, or words similar thereto or use the designated letters "R.T. (R)" or "L.R.T. (R)".

(3) Only persons licensed under this act as a radiologic technologist and who have received additional certification from the American registry of radiologic technologists (ARRT) in radiation therapy shall be entitled to use the title "radiation therapist" or "licensed radiation therapist," abbreviations thereof, or words similar thereto or use the designated letters "R.T. (T)" or "L.R.T. (T)".

(4) Only persons licensed under this act as a radiologic technologist and who have received additional certification from the American registry of radiologic technologists (ARRT) in nuclear medicine technology shall be entitled to use the title "nuclear medicine technologist," "licensed nuclear medicine technologist" or "registered nuclear medicine technologist," abbreviations thereof, or words similar thereto or use the designated letters "R.T. (N)" or "L.R.T. (N)".

(5) Only persons licensed under this act as a radiologic technologist and who have received additional certification from the nuclear medicine technology certification board (NMTCB) shall be entitled to use the title "certified nuclear medicine technologist," abbreviations thereof, or words similar thereto or use the designated letters "C.N.M.T.".

(e) This section shall not prohibit a person who is licensed as a respiratory therapist by this state from using any letter or designation indicating that such person is engaged in the practice of respiratory therapy.

(f) This section shall take effect on and after October 1, 2005.

History: L. 2004, ch. 84, § 3; L. 2005, ch. 34, § 1; July 1.

65-7304
Chapter 65 – PUBLIC HEALTH
Article 73 – RADIOLOGIC TECHNOLOGISTS PRACTICE ACT

65-7304. Persons exempt from licensure. The following shall be exempt from the requirement of a license pursuant to this act:

(a) A licensed practitioner;

(b) a person issued a postgraduate permit by the board or students while in actual attendance in an accredited health care educational program for radiologic technology and under the supervision of a qualified instructor;

(c) health care providers in the United States armed forces, public health services, federal facilities and other military service when acting in the line of duty in this state;

(d) persons rendering assistance in the case of an emergency;

(e) a licensed dental hygienist or an unlicensed person working under the supervision of a licensed dentist who has been trained by a licensed dentist on the proper use of dental radiographic equipment for the purpose of providing medical imaging for dental diagnostic purposes consistent with K.S.A. 65-1422 et seq., and amendments thereto; and

(f) a licensed physician assistant, a licensed nurse or an unlicensed person performing radiologic technology procedures who is (1) working under the supervision of a licensed practitioner or a person designated by a hospital licensed pursuant to K.S.A. 65-425 et seq., and amendments thereto, and (2) who has been trained on the proper use of equipment for the purpose of performing radiologic technology procedures consistent with K.S.A. 65-2001, et seq., or K.S.A. 65-2801, et seq., and amendments thereto. The board shall adopt rules and regulations to assure that persons exempted from licensure under this subsection receive continuing education consistent with their practice authorized herein.

(g) This section shall take effect on and after July 1, 2005.

History: L. 2004, ch. 84, § 4; L. 2005, ch. 34, § 2; July 1.

65-7305
Chapter 65 – PUBLIC HEALTH
Article 73 – RADIOLOGIC TECHNOLOGISTS PRACTICE ACT

65-7305. Application for licensure; requirements; temporary licensure; waiver of examination; application for reinstatement; fees.

(a) An applicant for licensure as a radiologic technologist shall file an application, on forms provided by the board, showing to the satisfaction of the board that the applicant meets the following requirements:

(1) At the time of the application is at least 18 years of age;

(2) has successfully completed a four-year course of study in a secondary school approved by the state board of education, passed an approved equivalency test or graduated from a secondary school outside Kansas having comparable approval by the state board of education;

(3) has satisfactorily completed a course of study in radiography, radiation therapy or nuclear medicine technology which is approved by the board and which contains a curriculum no less stringent than the standards of existing organizations which approve radiologic technology programs;

(4) except as otherwise provided in this act, has successfully passed a license examination approved by the board; and

(5) has paid all fees required for licensure prescribed in this act.

(b) The board may issue a temporary license to an applicant seeking licensure as a radiologic technologist when such applicant meets the requirements for licensure or meets all the requirements for licensure except examination and pays to the board the temporary license fee as required under K.S.A. 2011 Supp. 65-7313, and amendments thereto. Such temporary license shall expire 180 days from the date of issue or on the date that the board approves the application for licensure, whichever occurs first. No more than one such temporary license shall be permitted to any one person.

(c) The board may accept, in lieu of its own licensure examination, a current certificate by the American registry of radiologic technologists, nuclear medicine technologist certification board or other recognized national voluntary credentialing bodies, which the board finds was issued on the basis of an examination which meets standards at least as stringent as those established by the board.

(d) The board may waive the examination or education requirements and grant licensure to any applicant: (1) Who presents proof of current licensure as a radiologic technologist in another state, the District of Columbia or territory of the United States which requires standards for licensure determined by the board to be equivalent to the requirements under this act; and (2) who has, at the time of application, a current valid certificate by the American registry of radiologic technologists, nuclear medicine technology certification board or other recognized national voluntary credentialing bodies, which the board finds was issued on the basis of an examination which meets standards at least as stringent as those established by the board.

(e) A person whose license has been revoked may make written application to the board requesting reinstatement of the license in a manner prescribed by the board, which application shall be accompanied by the fee provided for in K.S.A. 2011 Supp. 65-7308, and amendments thereto.

History: L. 2004, ch. 84, § 5; L. 2007, ch. 129, § 1; July 1, 2008.

65-7306
Chapter 65 – PUBLIC HEALTH
Article 73 – RADIOLOGIC TECHNOLOGISTS PRACTICE ACT

65-7306. Repealed.

History: L. 2004, ch. 84, § 6; L. 2005, ch. 34, § 3; Repealed, L. 2007, ch. 129, § 2; July 1, 2008.

65-7307
Chapter 65 – PUBLIC HEALTH
Article 73 – RADIOLOGIC TECHNOLOGISTS PRACTICE ACT

65-7307. Expiration of licenses; renewal notification, procedure; fees; reinstatement of lapsed licenses; rules and regulations.

(a) Licenses issued under this act shall expire on the date of expiration established by rules and regulations of the board unless renewed in the manner prescribed by the board. The request for renewal shall be accompanied by the license renewal fee established pursuant to K.S.A. 2011 Supp. 65-7308, and amendments thereto.

(b) At least 30 days before the expiration of a licensee's license, the board shall notify the licensee of the expiration by mail addressed to the licensee's last mailing address as noted upon the office records. If the licensee fails to submit an application for renewal on a form provided by the board, or fails to pay the renewal fee by the date of expiration, the board shall give a second notice to the licensee that the license has expired and the license may be renewed only if the application for renewal, the renewal fee, and the late renewal fee are received by the board within the thirty-day period following the date of expiration and that, if both fees are not received within the thirty-day period, the license shall be deemed canceled by operation of law and without further proceedings.

(c) The board may require any licensee, as a condition of renewal, to submit with the application for renewal evidence of satisfactory completion of a program of continuing education required by rules and regulations of the board.

(d) Any license canceled for failure to renew may be reinstated upon recommendation of the board. An application for reinstatement shall be on a form provided by the board, and shall be accompanied by payment of the reinstatement fee and evidence of completion of any applicable continuing education requirements. The board may adopt rules and regulations establishing appropriate education requirements for reinstatement of a license that has been canceled for failure to renew.

(e) This section shall take effect on and after July 1, 2005.

History: L. 2004, ch. 84, § 7; July 1.

65-7308
Chapter 65 – PUBLIC HEALTH
Article 73 – RADIOLOGIC TECHNOLOGISTS PRACTICE ACT

65-7308. Fees.

(a) The board shall charge and collect in advance fees for radiologic technologists as established by the board by rules and regulations, not to exceed:

Application for radiologic technologist examination $200

Application for license	$80
Temporary licensing fee	$40

License renewal	$80
Late license renewal	$80
License reinstatement fee	$80
Revoked license reinstatement fee	$200
Certified copy of license	$40
Verified copy	$25

(b) If the examination is not administered by the board, the board may require that fees paid for any examination under the radiologic technologists practice act be paid directly to the examination service by the person taking the examination.

(c) This section shall take effect on and after July 1, 2005.

History: L. 2004, ch. 84, § 11; July 1.

65-7309
Chapter 65 – PUBLIC HEALTH
Article 73 – RADIOLOGIC TECHNOLOGISTS PRACTICE ACT

65-7309. Moneys received by board; disposition; healing arts fee fund.

(a) 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.

(b) This section shall take effect on and after July 1, 2005.

History: L. 2004, ch. 84, § 14; L. 2011, ch. 53, § 39; July 1.

65-7310
Chapter 65 – PUBLIC HEALTH
Article 73 – RADIOLOGIC TECHNOLOGISTS PRACTICE ACT

65-7310. Radiologic technology council, establishment; membership, terms, vacancies; meetings; majority quorum; expenses.

(a) There is established the radiologic technology council to assist the state board of healing arts in carrying out the provisions of this act. The council shall consist of five members, all citizens and residents of the state of Kansas appointed as follows: The board shall appoint one member who is a physician licensed to practice medicine and surgery who is also certified as a radiologist and one member who is a member of the state board of healing arts. Members appointed by the board shall serve at the pleasure of the board. The governor shall appoint three radiologic technologists who have at least three years' experience in radiologic technology preceding the appointment and are actively engaged, in this state, in the practice of radiologic technology or the teaching of radiologic technology. At least two of the governor's appointments shall be made from a list of four nominees submitted by the Kansas society of radiologic technologists.

(b) The members appointed by the governor shall be appointed for terms of four years except that of the members first appointed, one shall be appointed for a term of two years, one for a term of three years, and one for a term of four years, with successor

members appointed for four years and to serve until a successor member is appointed. If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term.

(c) Radiologic technologists initially appointed to the council must be eligible for licensure under K.S.A. 2011 Supp. 65-7305, and amendments thereto. On and after October 1, 2005, new appointees shall be licensed under the provisions of this act.

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

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

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

History: L. 2004, ch. 84, § 8; L. 2005, ch. 34, § 4; July 1.

65-7311
Chapter 65 – PUBLIC HEALTH
Article 73 – RADIOLOGIC TECHNOLOGISTS PRACTICE ACT

65-7311. Same; duties. The radiologic technology council shall advise the board regarding:

(a) Examination, licensing and other fees;

(b) rules and regulations to be adopted to carry out the provisions of this act;

(c) subject areas to be covered during the educational program and on the licensure examination;

(d) the number of yearly continuing education hours required to maintain active licensure;

(e) changes and new requirements taking place in the area of radiologic technology; and

(f) such other duties and responsibilities as the board may assign.

History: L. 2004, ch. 84, § 9; July 1.

65-7312
Chapter 65 – PUBLIC HEALTH
Article 73 – RADIOLOGIC TECHNOLOGISTS PRACTICE ACT

65-7312. Board of healing arts; duties; rules and regulations; establishments of standards. The board, with the advice and assistance of the radiologic technology council, shall:

(a) Pass upon the qualifications of all applicants for examination and licensing; contract for examinations; determine the applicants who successfully pass the examination; duly license such applicants and keep a roster of all individuals licensed;

(b) adopt rules and regulations as may be necessary to administer the provisions of this act; and prescribe forms which shall be issued in the administration of this act;

(c) establish standards for approval of an educational course of study and clinical experience, criteria for continuing education, procedures for the examination of applicants; and

(d) establish standards of professional conduct; procedure for the discipline of licensees and keep a record of all proceedings.

History: L. 2004, ch. 84, § 10; July 1.

65-7313
Chapter 65 – PUBLIC HEALTH
Article 73 – RADIOLOGIC TECHNOLOGISTS PRACTICE ACT

65-7313. Denial, revocation, suspension or limitation of or refusal to renew license; grounds; censure, reprimand or fine of licensee; administrative procedure; conduct prohibited during license suspension.

(a) The license of a radiologic technologist may be limited, suspended or revoked, or the licensee may be censured, reprimanded, fined pursuant to K.S.A. 65-2863a, and amendments thereto, or otherwise sanctioned by the board or an application for licensure may be denied if it is found that the licensee or applicant:

(1) Is guilty of fraud or deceit in the procurement or holding of a license;

(2) has been convicted of a felony in a court of competent jurisdiction, either within or outside of this state, unless the conviction has been reversed and the holder of the license discharged or acquitted or if the holder has been pardoned with full restoration of civil rights in which case the license shall be restored;

(3) is addicted to or has distributed intoxicating liquors or drugs for other than lawful purposes;

(4) is found to be mentally or physically incapacitated to such a degree that in the opinion of the board continued practice by the licensee would constitute a danger to the public's health and safety;

(5) has aided and abetted a person who is not a licensee under this act or is not otherwise authorized to perform the duties of a license holder;

(6) has undertaken or engaged in any practice beyond the scope of duties permitted a licensee;

(7) has engaged in the practice of radiologic technology under a false or assumed name or impersonated another licensee;

(8) has been found guilty of unprofessional conduct under criteria which the board may establish by rules and regulations;

(9) has interpreted a diagnostic image to a patient; or

(10) is, or has been, found guilty of incompetence or negligence while performing as a license holder.

(b) The denial, refusal to renew, suspension, limitation or revocation of a license or other sanction may be ordered by the board after notice and hearing on the matter in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act.

(c) A person whose license is suspended shall not engage in any conduct or activity in violation of the order by which the license was suspended.

(d) This section shall take effect on and after July 1, 2005.

History: L. 2004, ch. 84, § 12; L. 2010, ch. 17, § 172; July 1.

65-7314
Chapter 65 – PUBLIC HEALTH
Article 73 – RADIOLOGIC TECHNOLOGISTS PRACTICE ACT

65-7314. Injunctive remedies for violations.

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

(b) This section shall take effect on and after October 1, 2005.

History: L. 2004, ch. 84, § 13; L. 2005, ch. 34, § 5; July 1.

65-7315
Chapter 65 – PUBLIC HEALTH
Article 73 – RADIOLOGIC TECHNOLOGISTS PRACTICE ACT

65-7315. Violation of act; penalty. On and after October 1, 2005, any violation of this act shall constitute a class B misdemeanor.

History: L. 2004, ch. 84, § 15; L. 2005, ch. 34, § 6; July 1.

ARTICLE 73. – RADIOLOGIC TECHNOLOGISTS

100-73-1. Fees.
100-73-2. Application.
100-73-3. Criteria for approval of programs in nuclear medicine technology, radiation therapy, and radiography.
100-73-4. Examinations.
100-73-5. Expiration of license.
100-73-6. Unprofessional conduct; defined.
100-73-7. License renewal; continuing education.
100-73-8. Reinstatement; canceled and revoked licenses.
100-73-9. Continuing education; persons exempt from licensure.

100-73-1. Fees. The following fees shall be collected by the board:
(a) Application for license $60.00
(b) Annual renewal of license:
(1) Paper renewal $50.00
(2) On-line renewal $45.00
(c) Late renewal of license:
(1) Paper late renewal $55.00
(2) On-line late renewal $50.00
(d) Reinstatement of cancelled license..$60.00
(e) Certified copy of license $15.00
(f) Temporary license $25.00
(g) Reinstatement of revoked license .$100.00
(Authorized by K.S.A. 2008 Supp. 65-7312; implementing K.S.A. 2008 Supp. 65-7308; effective,T-100-7-1-05, July 1, 2005; effective Sept. 23, 2005; amended Aug. 17, 2007; amended, T-100-6-2-09, June 2, 2009; amended Sept. 11, 2009.)

100-73-2. Application. (a) Each individual for licensure as a radiologic technologist shall submit an application on a form provided by the board. The form shall contain the following information in legible writing:

(1) The applicant's full name;

(2) the applicant's social security number, driver's license number, nondriver identification number, or individual tax identification number if the applicant is advised that providing a social security number is voluntary pursuant to K.S.A. 74-139 and 74-148, and amendments thereto, and that if the social security number is provided, the agency may provide this number to the Kansas department of social and rehabilitation services for child support enforcement purposes and to the Kansas department of revenue's director of taxation;

(3) the applicant's residence address and, if different from the residence address, the applicant's current mailing address;

(4) the applicant's date and place of birth;

(5) the names of all educational programs recognized under K.A.R. 100-73-2 that the applicant attended, including the program from which the applicant graduated, the degree received, and the date of graduation;

(6) information on whether the applicant is currently certified or registered by any national organization; and

(7) for each license, registration, or certification issued to the applicant to practice any health care profession, the following information:

(A) The date of issuance;

(B) the identifying number on the license, registration, or certification; and

(C) the place of issuance, specifying the state, country, or territory, or the District of Columbia; and

(8) documentation of any prior acts constituting unprofessional conduct as defined in K.S.A. 65-7313, and amendments thereto, and K.A.R. 100-73-6.

(b)(1) Each applicant shall submit the following with the application:

(A) The fee required by K.A.R. 100-73-1;

(B) an official transcript for the applicant from an educational program approved by the board, as specified in K.A.R. 100-73-3, that indicates the degree awarded to the applicant;

(C) a verification from each state or jurisdiction where the applicant has been issued any license, registration, or certification to practice any health care profession; and

(D) a photograph of the applicant measuring two inches by three inches and showing the head and shoulder areas only. The photograph shall be taken within 90 days of submission of the application for licensure.

(2) In addition to meeting the requirements specified in paragraph (1) of this subsection, each applicant shall have the testing entity specified in K.A.R. 100-73-4 provide evidence directly to the board that the applicant has passed the national certifying examination.

(c) Each applicant shall sign the application under oath and shall have the application notarized. (Authorized by K.S.A. 2009 Supp. 65-7312; implementing K.S.A. 2009 Supp. 65-7305; effective, T-100-7-1-05, July 1, 2005; effective Sept. 23, 2005; amended May 14, 2010.)

100-73-3. Criteria for approval of programs in nuclear medicine technology, radiation therapy, and radiography. (a) To be recognized by the board as providing an approved educational program in radiation therapy or radiography , each school shall meet one of the following:

(1) The accreditation standards for the radiologic sciences, as specified in the ‘‘standards for an accredited educational program in radiologic sciences,’’ adopted and published by the joint review committee on education in radiologic technology , effective January 1, 2002 and hereby adopted by reference; or

(2) the accreditation criteria of the commission on institutions of higher education of the north central association of colleges and schools, or its regional equivalent, as specified in chapter four of the ‘‘handbook of accreditation,’’ second edition, published September 1997, and in the ‘‘addendum to the handbook of accreditation,’’ second edition, published March 2002, which are hereby adopted by reference.

(b) To be recognized by the board as providing an approved educational program in nuclear medicine technology, each school shall meet one of the following:

(1) The accreditation standards for nuclear medicine technologist as specified in the ‘‘essentials and guidelines for an accredited educational program for the nuclear medicine technologist,’’ adopted and published by the joint review committee on educational programs in nuclear medicine technology, as revised in 2003 and hereby
adopted by reference; or

(2) the accreditation criteria of the commission on institutions of higher education of the north central association of colleges and schools, or its regional equivalent, as specified in chapter four of the ‘‘handbook of accreditation,’’ second edition, published September 1997, and in the ‘‘addendum to the handbook of accreditation,’’ second edition, published March 2002, which are adopted by reference in paragraph (a)(2). (Authorized by K.S.A. 2004 Supp.

65-7312; implementing K.S.A. 2004 Supp. 65-7305; effective, T-100-7-1-05, July 1, 2005; effective Sept. 23, 2005.)

100-73-4. Examinations. (a) Each applicant for licensure as a radiologic technologist who has completed a course of study in radiography shall submit proof of having passed a nationally administered, standardized examination. This examination shall be one that is approved by the board and consists of written questions assessing knowledge on subject matter from the following content categories:

(1) Radiation protection;

(2) equipment operation and quality control;

(3) image production and evaluation;

(4) radiographic procedures; and

(5) patient care and education.

(b) Each applicant for licensure as a radiologic technologist who has completed a course of study in radiation therapy shall submit proof of having passed a nationally administered, standardized examination. This examination shall be one that is approved by the board and consists of written questions assessing knowledge on subject matter from the following content categories:

(1) Radiation protection and quality assurance;

(2) clinical concepts in radiation oncology;

(3) treatment planning;

(4) treatment delivery; and

(5) patient care and education.

(c) Each applicant for licensure as a radiologic technologist who has completed a course of study in nuclear medicine technology shall submit proof of having passed a nationally administered, standardized examination. This examination shall be one that is approved by the board and consists of written questions assessing knowledge on subject matter from the following content categories:

(1) Radiation protection and safety;

(2) radionuclides and radiopharmaceuticals;

(3) instrumentation and quality control;

(4) diagnostic and therapeutic procedures; and

(5) patient care and education.

(d) Each applicant who has passed an approved examination required for licensure and has not been in the active practice of radiologic technology for more than one year but fewer than four years from the date the application was submitted shall provide the board with one of the following:

(1) Evidence of completion of a minimum of 12 continuing education credits for each year during
which the applicant has not been in active practice;

(2) proof of current active status certification by the American registry of radiologic technologists or the nuclear medicine technology certification board; or

(3) proof that the applicant has passed an approved examination required for licensure within the 12 months before the date the application was submitted.

(e) Each applicant who has passed an approved examination for licensure and has not been in the active practice of radiologic technology for four years or more from the date the application was submitted shall provide the board with one of the following:

(1) Proof of current active status certification by the American registry of radiologic technologists or the nuclear medicine technology certification board; or

(2) proof that the applicant has passed an approved examination required for licensure

within the 12 months before the date the application was submitted.

(f) To pass an approved examination, each applicant shall obtain a scaled score of at least 75. (Authorized by K.S.A. 2004 Supp. 65-7312; implementing K.S.A. 2004 Supp. 65-7305 and 65-7306, as amended by L. 2005, ch. 34, § 3; effective, T-100-7-1-05, July 1, 2005; effective Sept. 23,2005.)

100-73-5. Expiration of license. (a) Each radiologic technologist license issued before June 1, 2006 shall expire on September 30, 2006.

(b) For each license issued on or after June 1, 2006, the following requirements shall apply:

(1) Each radiologic technologist license issued within the seven-month period beginning June 1 and ending December 31 shall expire on September 30 of the following year.

(2) Each radiologic technologist license issued within the five-month period beginning January 1 and ending May 31 shall expire on September 30 of the same year. (Authorized by K.S.A. 2004 Supp. 65-7312; implementing K.S.A. 2004 Supp. 65-7307; effective, T-100-7-1-05, July 1, 2005; effective Sept. 23, 2005.)

100-73-6. Unprofessional conduct; defined. ''Unprofessional conduct'' shall mean the commission of any of the following by an applicant or a licensee:

(a) Having a radiologic technologist license, registration, or certification revoked, suspended, or limited or having an application for any of these credentials denied by the proper regulatory authority of another state, territory, or country, or of the District of Columbia;

(b) cheating or attempting to subvert the validity of the examination required for registration;

(c) failing to furnish to the board, or to its investigators or representatives, any information legally requested by the board;

(d) being sanctioned or disciplined by a peer review committee, or a medical care facility for acts or conduct that would constitute grounds for denial, limitation, suspension, or revocation of a license under K.S.A. 65-7313 and amendments thereto;

(e) surrendering a license, registration, or certification to practice radiologic technology in another state while disciplinary proceedings are pending for acts or conduct that would constitute grounds for denial, limitation, suspension, or revocation of a license under K.S.A. 65-7313 and amendments thereto;

(f) being professionally incompetent, as defined in K.S.A. 65-2837 and amendments thereto;

(g) willfully betraying confidential information;

(h) committing conduct likely to deceive, defraud, or harm the public;

(i) committing any act of sexual abuse, misconduct, or exploitation;

(j) delegating radiologic technology to a person who the licensee knows or has reason to know is not qualified by training or experience to perform it; or

(k) violating any provision of these regulations or any provision of the radiologic technologists practice act and amendments thereto. (Authorized by and implementing K.S.A. 2004 Supp. 65-7313; effective, T-100-7-1-05, July 1, 2005; effective Sept. 23, 2005.)

100-73-7. License renewal; continuing education. (a) As a condition of license renewal, each licensed radiologic technologist shall certify, on the form provided with the license renewal application, that, during the 12-month period immediately preceding the license expiration date, the person completed at least 12 credits of continuing education. This requirement shall not apply to any person renewing a license for the first time.

(b) 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 any other circumstance preventing the licensee's timely completion of continuing education.

(c) One credit shall be 50 minutes of instruction or the equivalent.

(d) Each person who certifies completion of continuing education shall, for at least three years following the date of certification, maintain documentation of completion that shall include one 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;

(2) a copy of the written materials provided with the 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 credits completed;

(F) the activity agenda;

(G) the name and professional biographical information of each presenter; and

(H) written proof of participation; or

(3) a notarized certificate of current registration with the American registry of radiologic technologists or the nuclear medicine technology certification board.

(e) 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.

(f) The categories of continuing education experiences shall be the following:

(1) Meetings and courses. Meetings and courses shall be planned, organized, and administered to enhance the knowledge and skills that a radiologic technologist uses to provide services to patients, the public, or the medical profession. Meetings and courses shall include the following:

(A) Symposium. ''Symposium'' shall mean a conference of more than a single session organized for the purpose of discussing a specific subject from various viewpoints and by various speakers.

(B) Seminar. ''Seminar'' shall mean directed advanced study or discussion in a specific field of interest.

(C) Workshop. ''Workshop'' shall mean a series of meetings designed for intensive study, work, or discussion in a specific field of interest.

(D) Conference. ''Conference'' shall mean a formal meeting of a number of people for a discussion in a specific field of interest.

(E) Home study course. ''Home study course'' shall mean a correspondence course designed for advanced study in a specific field of interest.

(2) Leadership. Leadership shall include any presentation at one of the types of meetings described in paragraphs (f)(1)(A) through (D). The number of credits granted for leadership shall be the following:

(A) Six credits for instructor or instructor trainer at a cardiopulmonary resuscitation (CPR) course provided by the American red cross, American heart association, or American safety and health institute; and

(B) two credits for the development of each one-hour presentation that meets the requirements of paragraph (f)(1)(A), (B), (C), or (D).

(3) Classwork. Classwork shall include the following:

(A) Six credits for satisfactory completion of an advanced life support class or a pediatric life support class provided by the American red cross, the American heart association, or the American safety and health institute; and

(B) 12 credits for each academic quarter or semester credit granted by a post-secondary educational institution in a course that is relevant to radiologic technology or patient care for which the student received a grade of at least C or its equivalent, or a grade of pass in a pass-fail course. Relevant courses shall include courses in the biologic sciences, physical sciences, radiologic sciences, health and medical sciences, social studies, communication, mathematics, computers, management, and education methodology.

(g) Each continuing education activity offered using distance-learning media shall qualify for continuing education credit if the activity is in one of the categories of continuing education experiences specified in subsection (f) and meets all of the following conditions:

(1) The activity has a mechanism in place for the user to be able to contact the provider regarding questions about the continuing education activity.

(2) The provider of the activity evaluates the user's knowledge of the subject matter discussed in the continuing education activity.

(3) 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.

(4) 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. 2005 Supp. 65-7307 and 65-7312; implementing K.S.A. 2005 Supp. 65-7307; effective
Nov. 27, 2006.)

100-73-8. Reinstatement; canceled and revoked licenses. (a) Each applicant desiring to reinstate a license that has been canceled for failure to renew for more than 30 days shall submit proof of continuing education to the board as follows:

(1) If the time since the license was canceled has been one year or less, no continuing education shall be required in addition to that which would have been necessary had the license been renewed before cancellation.

(2) If the time since the license was canceled has been more than one year but fewer than four years, the applicant shall provide one of the following:

(A) Evidence of completion of a minimum of 12 credits of continuing education for each year during which the applicant has not been in active practice;

(B) proof of completion of the continuing education required by the American registry of radiologic technologists or nuclear medicine technology certification board, as evidenced by proof of current active status certification; or

(C) proof that the applicant has passed an examination required for a license within 12 months before the date the application was submitted.

(3) If the time since the license was canceled has been four years or more, the applicant shall provide one of the following:

(A) A notarized certificate of current registration with the American registry of radiologic technologists or nuclear medicine technology certification board; or

(B) proof that the applicant has passed the examination required for a license within 12 months before the date on which the application was submitted.

(4) If, since the date the license was canceled, the applicant has been in active practice as a radiologic technologist in another state or jurisdiction that requires a license, registration, or certification to practice, the applicant shall submit proof of the current license, registration, or certification and proof of compliance with the continuing education requirements of that jurisdiction.

(b) Each applicant seeking reinstatement of a revoked license shall be required to successfully complete an individually tailored program approved by the board. (Authorized by K.S.A. 2005 Supp. 65-7307 and 65-7312; implementing K.S.A. 2005 Supp. 65-7307; effective Nov. 27, 2006.)

100-73-9. Continuing education; persons exempt from licensure. Each person who performs any radiologic technology procedures and who is exempt from the licensure requirement pursuant to K.S.A. 65-7304(f), and amendments thereto, shall obtain 12 credits of continuing education each calendar year. The continuing education shall meet the criteria for continuing education specified in K.A.R. 100-73-7 and shall include the subjects for the training of x-ray equipment operators specified in K.A.R. 28-35-256. (Authorized by K.S.A. 2006 Supp. 65-7312; implementing K.S.A. 2006 Supp. 65-7304; effective July 6, 2007; amended March 28, 2008.)

KANSAS STATE BOARD

OF

HEALING ARTS

KANSAS STATUTES ANNOTATED

AND

KANSAS ADMINISTRATIVE REGULATIONS

Relating to the practice of

ACUPUNCTURE

January 2017

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.

Chapter 65 – PUBLIC HEALTH
ARTICLE 76 – Acupuncture Practice Act

65-7601. Citation of act.
65-7602. Definitions.
65-7603. License prerequisite to practice acupuncture; representation as acupuncturist; penalties.
65-7604. Acupuncture needles; requirements.
65-7605. Persons not required to hold acupuncturist license.
65-7606. License to practice acupuncture by examination; prerequisites.
65-7607. License to practice acupuncture by endorsement; prerequisite.
65-7608. Waiver of certain license prerequisites.
65-7609. Renewal date of license; requirements to maintain license; notice of renewal and cancellation; cancellation of license; reinstatement of license; designation of license.
65-7610. Reinstatement of revoked license; requirements; procedure.
65-7611. Fees; collection by state board of healing arts.
65-7612. Fees, disposition of.
65-7613. Acupuncture advisory council; appointments and terms of members; meetings; reimbursement.
65-7614. Same; duties.
65-7615. Rules and regulations.
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65-7617. Same; jurisdiction; procedure; stipulations; emergency proceedings.
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65-7619. Administrative fines.
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65-7621. Reporting alleged incidents of malpractice; civil immunity; when.
65-7622. Acupuncturist-patient privilege.
65-7623. Injunction against violation of act.
65-7624. Severability of act.

65-7601
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

65-7601. Citation of act. K.S.A. 2016 Supp. 65-7601 through 65-7624, and amendments thereto, shall be known and may be cited as the acupuncture practice act.

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

65-7602
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

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

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

(b) "Act" means the acupuncture practice act.

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

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

(e) "Council" means the acupuncture advisory council established by K.S.A. 2016 Supp. 65-7613, and amendments thereto.

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

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

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

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

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

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

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

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

(j) "Practice of acupuncture" does not include:

(1) Prescribing, dispensing or administering of any controlled substances as defined in K.S.A. 65-4101 et seq., and amendments thereto, or any prescription-only drugs;

(2) the practice of medicine and surgery, including obstetrics and the use of lasers or ionizing radiation;

(3) the practice of osteopathic medicine and surgery or osteopathic manipulative treatment;

(4) the practice of chiropractic;

(5) the practice of dentistry; or

(6) the practice of podiatry.

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

65-7603
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

65-7603. License prerequisite to practice acupuncture; representation as acupuncturist; penalties. (a) On and after July 1, 2017, except as otherwise provided in this act, no person shall practice acupuncture unless such person possesses a current and valid acupuncture license issued under this act.

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

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

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

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

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

65-7604
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

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

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

65-7605
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

65-7605. Persons not required to hold acupuncturist license. (a) The following shall be exempt from the requirements for an acupuncture license pursuant to this act:

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

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

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

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

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

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

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

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

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

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

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

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

65-7606
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

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

(a) Is at least 21 years of age;

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

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

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

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

(f) has paid all fees required for licensure pursuant to K.S.A. 2016 Supp. 65-7611, and amendments thereto.

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

65-7607
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

65-7607. License to practice acupuncture by endorsement; prerequisite. (a) The board, without examination, may issue a license to a person who has been in the active practice of acupuncture in some other state, territory, the District of Columbia or other country upon certification by the proper licensing authority of that state, territory, District of Columbia or other country certifying that the applicant is duly licensed, that the applicant's license has never been limited, suspended or revoked, that the licensee has never been censured or received other disciplinary actions and that, so far as the records of such authority are concerned, the applicant is entitled to such licensing authority's endorsement. The applicant shall also present proof satisfactory to the board:

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

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

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

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

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

(6) that the applicant has paid all the application fees as prescribed by K.S.A. 2016 Supp. 65-7611, and amendments thereto.

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

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

65-7608
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

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

(a) Is 21 years of age or older;

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

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

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

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

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

(e) has paid all fees required for licensure as prescribed by K.S.A. 2016 Supp. 65-7611, and amendments thereto.

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

65-7609
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

65-7609. Renewal date of license; requirements to maintain license; notice of renewal and cancellation; cancellation of license; reinstatement of license; designation of license. (a) The license shall be canceled on March 31 of each year unless renewed in the manner prescribed by the board. In each case in which a license is renewed for a period of time of less than 12 months, the board may prorate the amount of the fee established under K.S.A. 2016 Supp. 65-7611, and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the prescribed fee, which shall be paid not later than the renewal date of the license.

(b) There is hereby created a designation of an active license. The board is authorized to issue an active license to any licensee who makes written application for such license on a form provided by the board and remits the fee established pursuant to K.S.A. 2016 Supp. 65-7611, and amendments thereto. The board shall require every active licensee to submit evidence of satisfactory completion of a program of continuing education required by the board. The requirements for continuing education for licensed acupuncturists shall be established by rules and regulations adopted by the board.

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

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

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

(f) There is hereby created a designation of an exempt license. The board is authorized to issue an exempt license to any licensee who makes written application for such license on a form provided by the board and remits the fee established pursuant to K.S.A. 2016 Supp. 65-7611, and amendments thereto. The board may issue an exempt license to a person who is not regularly engaged in the practice of acupuncture in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder to all privileges attendant to the practice of acupuncture for which such license is issued. Each exempt license may be renewed subject to the provisions of this section. Each exempt licensee shall be subject to all provisions of the acupuncture practice act, except as otherwise provided in this subsection. The holder of an exempt license may be required to submit evidence of satisfactory completion of a program of continuing education required by this section. The requirements for continuing education for exempt licensees shall be established by rules and regulations adopted by the board. Each exempt licensee may apply for an active license to regularly engage in the practice of acupuncture upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 2016 Supp. 65-7611, and amendments thereto. For the licensee whose license has been exempt for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for exempt licensees to become licensed to regularly practice acupuncture within Kansas. Any licensee whose license has been exempt for more than two years and who has not been in the active practice of acupuncture since the license has been exempt may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety. Nothing in this subsection shall be construed to prohibit a person holding an exempt license from serving as a paid employee of: (1) A local health department as defined by K.S.A. 65-241, and amendments thereto; or (2) an indigent health care clinic as defined by K.S.A. 75-6102, and amendments thereto.

(g) There is hereby created the designation of inactive license. The board is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the board and remits the fee established pursuant to K.S.A. 2016 Supp. 65-7611, and amendments thereto. The board may issue an inactive license only to a person who is not regularly engaged in the practice of acupuncture in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An inactive license shall not entitle the holder to practice acupuncture in this state. Each inactive license may be renewed subject to the provisions of this section. Each inactive licensee shall be subject to all provisions of the acupuncture practice act, except as otherwise provided in this subsection. The holder of an inactive license shall not be required to submit evidence of satisfactory completion of a program of continuing education required by subsection (b). Each inactive licensee may apply for an active license upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 2016 Supp. 65-7611, and amendments thereto. For those licensees whose licenses have been inactive for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for inactive licensees to become licensed to regularly practice acupuncture within Kansas. Any licensee whose license has been inactive for more than two years and who has not been in the active practice of acupuncture or engaged in a formal education program since the license has been inactive may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

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

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

65-7610
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

65-7610. Reinstatement of revoked license; requirements; procedure. A person whose license has been revoked may apply for reinstatement after the expiration of three years from the effective date of the revocation. Application for reinstatement shall be on a form provided by the board and shall be accompanied by the fee established by the board in accordance with K.S.A. 2016 Supp. 65-7611, and amendments thereto. The burden of proof by clear and convincing evidence shall be on the applicant to show sufficient rehabilitation to justify reinstatement. If the board determines that a license should not be reinstated, the person shall not be eligible to reapply for reinstatement for three years from the effective date of the denial. All proceedings conducted on an application for reinstatement shall be in accordance with the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act. The board, on its own motion, may stay the effectiveness of an order of revocation of license.

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

65-7611
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

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

Initial application for licensure	$700
Annual renewal for active license - paper	$300
Annual renewal for active license - online	$250
Annual renewal for inactive license - paper	$200
Annual renewal for inactive license - online	$150
Annual renewal for exempt license - paper	$200
Annual renewal for exempt license - online	$150
Late renewal fee	$100
Conversion from inactive to active license	$300
Conversion from exempt to active license	$300
Application for reinstatement of revoked license	$1,000
Certified copy of license	$25
Written verification of license	$25

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

65-7612
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

65-7612. Fees, disposition of. The board shall remit all moneys received by or for the board from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Ten percent of such amount shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from the healing arts fee fund shall be made in

accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person or persons designated by the president.

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

65-7613
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

65-7613. Acupuncture advisory council; appointments and terms of members; meetings; reimbursement. (a) There is hereby established the acupuncture advisory council to assist the state board of healing arts in carrying out the provisions of this act. The council shall consist of five members, all citizens and residents of the state of Kansas, appointed as follows:

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

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

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

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

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

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

65-7614
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

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

(a) Examination, licensing and other fees;

(b) rules and regulations to be adopted to carry out the provisions of this act;

(c) the number of yearly continuing education hours required to maintain active licensure;

(d) changes and new requirements taking place in the areas of acupuncture; and

(e) such other duties and responsibilities as the board may assign.

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

65-7615
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

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

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

65-7616. Disciplinary action against licensee; grounds for discipline; procedure; confidentiality of certain investigatory records. (a) A licensee's license may be revoked, suspended, limited or placed on probation, or the licensee may be publicly censured, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

(1) The licensee has committed an act of unprofessional conduct as defined by rules and regulations adopted by the board;

(2) the licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license;

(3) the licensee has committed an act of professional incompetency as defined by rules and regulations adopted by the board;

(4) the licensee has been convicted of a felony;

(5) the licensee has violated any provision of the acupuncture practice act;

(6) the licensee has violated any lawful order or rule and regulation of the board;

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

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

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

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

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

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

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

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

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

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

65-7617
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

65-7617. Same; jurisdiction; procedure; stipulations; emergency proceedings. (a) The board shall have jurisdiction of proceedings to take disciplinary action against any licensee practicing under the acupuncture practice act. Any such action shall be taken in accordance with the Kansas administrative procedure act.

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

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

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

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

65-7618
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

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

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

65-7619
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

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

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

65-7620
Chapter 65 – PUBLIC HEALTH
Article 76 – ACUPUNCTURE PRACTICE ACT

65-7620. Confidentiality of complaints and related reports, records or information; exceptions. (a) Any complaint or report, record or other information relating to a complaint which is received, obtained or maintained by the board shall be confidential and shall not be disclosed by the board or its employees in a manner which identifies or enables identification of the person who is the subject or source of the information, except the information may be disclosed:

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

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

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

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

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

History: L. 2016, ch. 92, § 25; July 1.

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

65-7621. Reporting alleged incidents of malpractice; civil immunity; when. (a) No person reporting to the state board of healing arts in good faith any information such person may have relating to alleged incidents of malpractice, or the qualifications, fitness or character of, or disciplinary action taken against a person licensed, registered or certified by the board shall be subject to a civil action for damages as a result of reporting such information.

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

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

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

65-7622. Acupuncturist-patient privilege. (a) The confidential relations and communications between a licensed acupuncturist and the acupuncturist's patient are placed on the same basis as those established between a physician and a physician's patient in K.S.A. 60-427, and amendments thereto.

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

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

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

65-7623. Injunction against violation of act. (a) When it appears that any person is violating any provision of this act, the board may bring an action in the name of the state in a court of competent jurisdiction for an injunction against such violation without regard as to whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.

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

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

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

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

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

Article 76. – ACUPUNCTURISTS

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

100-76-1. Fees. (a) The following fees shall be collected by the board:
(1) Application for license . . . . . $ 165.00
(2) Annual renewal of active license:
(A) Paper renewal . . . . . $ 150.00
(B) On-line renewal . . . . . $ 125.00
(3) Annual renewal of inactive license:
(A) Paper renewal . . . . . $ 125.00
(B) On-line renewal . . . . . $ 100.00
(4) Annual renewal of exempt license:
(A) Paper renewal . . . . . $ 125.00
(B) On-line renewal . . . . . $ 100.00
(5) Conversion from inactive to active license . . . . . $ 75.00
(6) Conversion from exempt to active license . . . . . $ 75.00
(7) Late renewal:
(A) Paper renewal. . . . . $ 50.00
(B) On-line renewal . . . . . $ 25.00
(8) Application for reinstatement of canceled license. . . . . $ 165.00
(9) Application for reinstatement of revoked license . . . . . $ 500.00 (10)
Certified copy of license. . . . . $ 20.00
(11) Written verification of license. . . . . $ 20.00
(b) If a licensed acupuncturist's initial licensure period is six months or less before the first annual renewal period, the first annual renewal fee shall be prorated at $10.00 per month for any full or partial month. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7611; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

100-76-2. Licensure by examination. Each person applying for licensure in acupuncture by examination shall provide the following:
(a) Documentation of successful completion of the certification examination offered by the NCCAOM for a diplomate in acupuncture or oriental medicine. The certification examination shall include the following components:
(1) Foundations of oriental medicine;
(2) acupuncture with point location; and
(3) biomedicine; and
(b) a copy of a clean needle technique (CNT) certificate obtained from the council of colleges of acupuncture and oriental medicine (CCAOM) or NCCAOM. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7606; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

100-76-3. Waiver of examination and education. (a) Pursuant to K.S.A. 2017 Supp. 65-7608 and amendments thereto, certain license prerequisites for education and examination shall be waived by the board for each applicant who submits an application on or before January 1, 2018 and provides the following:

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

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

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

(B) an official school transcript;

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

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

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

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

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

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

(b) Each applicant shall provide any additional documentation requested by the board. (Authorized by K.S.A. 2017 Supp. 65-7608 and 65-7615; implementing K.S.A. 2017 Supp. 65- 7608; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

100-76-4. Exempt license; description of professional activities. (a) Each person applying for an exempt license shall specify on the application all professional activities related to the practice of acupuncture that the person will perform if issued an exempt license.

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

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

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

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

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

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

(f) Each violation of subsection (a), (c), or (d) shall constitute prima facie evidence of unprofessional

conduct pursuant to K.S.A. 2017 Supp. 65-7616, and amendments thereto. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7609 and 65- 7616; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

100-76-5. Professional liability insurance; active license. (a) Each person applying for an active license in acupuncture shall submit to the board, with the application, evidence that the person has obtained the professional liability insurance coverage required by K.S.A. 2017 Supp. 65-7609, and amendments thereto, for which the limit of the insurer's liability is at least $200,000 per claim, subject to an annual aggregate of at least $600,000 for all claims made during the period of coverage.

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

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

100-76-6. Continuing education. (a) As a condition of renewal, each licensed acupuncturist shall submit evidence of satisfactory completion within the preceding one-year period of at least 15 contact hours of continuing education for a licensed acupuncturist, in addition to the annual application for renewal of licensure, except as specified in subsection (b).

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

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

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

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

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

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

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

(1) Acupuncture clinical skills;

(2) acupuncture techniques;

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) Self-instruction.

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

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

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

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

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

(i) No contact hours shall be awarded for any repeated continuing education activity on the same topic within a 24-month period. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7609; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

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

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

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

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

(3) assisting in the care or treatment of a patient without the consent of the patient or the patient's

legal representative;

(4) using any letters, words, or terms as an affix on stationery or in advertisements or otherwise indicating that the person is entitled to practice any profession regulated by the board or any other state licensing board or agency for which the person is not licensed;

(5) willful betrayal of confidential information;

(6) advertising professional superiority or the performance of professional services in a superior manner;

(7) advertising to guarantee any professional service or to perform any professional service painlessly;

(8) engaging in conduct related to the practice of acupuncture that is likely to deceive, defraud, or harm the public;

(9) making a false or misleading statement regarding the licensee's skill or the efficacy or value of the treatment or remedy prescribed by the licensee or at the licensee's direction, in the treatment of any disease or other condition of the body or mind;

(10) commission of any act of sexual abuse, misconduct, or other improper sexual contact that exploits the licensee-patient relationship, with a patient or a person responsible for health care decisions concerning the patient;

(11) using any false, fraudulent, or deceptive statement in any document connected with the practice of acupuncture, including the intentional falsifying or fraudulent altering of a patient record;

(12) obtaining any fee by fraud, deceit, or misrepresentation;

(13) failing to transfer a patient's records to another licensee when requested to do so by the patient or by the patient's legally designated representative;

(14) performing unnecessary tests, examinations, or services that have no legitimate purpose;

(15) charging an excessive fee for services rendered;

(16) repeated failure to engage in the practice of acupuncture with that level of care, skill, and treatment that is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances;

(17) failure to keep written medical records that accurately describe the services rendered to each patient, including patient histories, pertinent findings, examination results, and test results;

(18) delegating professional responsibilities to a person if the licensee knows or has reason to know that the person is not qualified by training, experience, or licensure to perform those professional responsibilities;

(19) failing to properly supervise, direct, or delegate acts that constitute the practice of acupuncture to persons who perform professional services pursuant to the licensee's direction, supervision, order, referral, delegation, or practice protocols;

(20) committing fraud or misrepresentation in applying for or securing an original, renewal, or reinstated license;

(21) willfully or repeatedly violating the act, any implementing regulations, or any regulations of the secretary of health and environment that govern the practice of acupuncture;

(22) unlawfully practicing any profession regulated by the board in which the licensed acupuncturist is not licensed to practice;

(23) failing to report or reveal the knowledge required to be reported or revealed pursuant to K.S.A. 2017 Supp. 65-7621, and amendments thereto;

(24) failing to furnish the board, or its investigators or representatives, any information legally requested by the board;

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

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

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

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

(29) knowingly or negligently abandoning medical records;

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

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

(A) Falsifying or concealing a material fact;

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

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

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

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

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

(2) the extent to which the advertisement fails to reveal facts material in the light of the representations made. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7616; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

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

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

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

(c) a pattern of practice or other evidence of incapacity or incompetence to engage in the practice of acupuncture. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7616; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

100-76-9. Patient records; adequacy. (a) Each licensed acupuncturist shall maintain an adequate record for each patient for whom the licensee performs a professional service.

(b) Each patient record shall meet the following requirements:

(1) Be legible;

(2) contain only those terms and abbreviations that are or should be comprehensible to similar licensees;

(3) contain adequate identification of the patient;

(4) indicate the date on which each professional service was provided;

(5) contain all clinically pertinent information concerning the patient's condition;

(6) document what examinations, vital signs, and tests were obtained, performed, or ordered and the findings and results of each;

(7) specify the patient's initial reason for seeking the licensee's services and the initial diagnosis;

(8) specify the treatment performed or recommended;

(9) document the patient's progress during the course of treatment provided by the licensee; and

(10) include all patient records received from other health care providers, if those records formed

the basis for a treatment decision by the licensee.

(c) Each entry shall be authenticated by the person making the entry, unless the entire patient record is maintained in the licensee's own handwriting.

(d) Each patient record shall include any writing intended to be a final record, but shall not require the maintenance of rough drafts, notes, other writings, or recordings once this information is converted to final form. The final form shall accurately reflect the care and services rendered to the patient.

(e) For purposes of the act and this regulation, an electronic patient record shall be deemed to be a written patient record if both of the following conditions are met:

(1) Each entry in the electronic record is authenticated by the licensee.

(2) No entry in the electronic record can be altered after authentication. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7616; effective, T-100-9-21- 17, Sept. 21, 2017; effective Jan. 12, 2018.)

100-76-10. Release of records. (a) Each licensed acupuncturist shall, upon receipt of a signed release from a patient, furnish a copy of the patient record to the patient, to another licensee designated by the patient, or to the patient's legally designated representative, unless withholding records is permitted by law or furnishing records is prohibited by law.

(b) Any licensee may charge a person or entity for the reasonable costs to retrieve or reproduce a patient record. A licensee shall not condition the furnishing of a patient record to another licensee upon prepayment of these costs.

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

100-76-11. Free offers. Each licensed acupuncturist who offers to perform a free examination, service, or procedure for a patient shall perform only the examination, service, or procedure specified in the offer. Before any additional examination, service, or procedure is performed, the licensee shall explain the nature and purpose of the examination, service, or procedure and specifically disclose to the patient, to the greatest extent possible, the cost of the additional examination, service, or procedure. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7616; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

100-76-12. Business transactions with patients; unprofessional conduct. (a) Non- health-related goods or services. A licensed acupuncturist offering to sell a non-health-related product or service to a patient from a location at which the licensee regularly engages in the practice of acupuncture shall have engaged in unprofessional conduct, unless otherwise allowed by this subsection. A licensed acupuncturist shall not have engaged in unprofessional conduct by offering to sell a non-health-related product or service if all of the following conditions are met:

(1) The sale is for the benefit of a public service organization.

(2) The sale does not directly or indirectly result in financial gain to the licensee.

(3) No patient is unduly influenced to make a purchase.

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

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

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

(3) The licensee recruits or solicits the patient at any time that the patient is present in a location at which the licensee regularly engages in the practice of acupuncture. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7616; effective, T-100-9-21- 17, Sept. 21, 2017; effective Jan. 12, 2018.)