

# KSBHA: Professionalism

A silver stethoscope with black tubing is positioned on the right side of the slide, partially overlapping the title text. The background is a solid, light blue color.

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KSBHA General Counsel

KAOM Mid-Year Conference 2021

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# Roadmap

Overview of KSBHA

Professionalism

Investigations

Potential Resolutions

Resources



## Mission

To protect the public by authorizing only those persons who meet and maintain certain qualifications to be licensed in the healthcare professions regulated by the Board.

To protect the public from incompetence or unprofessional conduct by persons who have been licensed to practice in Kansas and from unauthorized practice by persons and entities who have not been licensed to practice in Kansas.



# Board Members

Appointed by the Governor

4 year terms; 3 term limit

15 total members

- 5 MDs
- 3 DOs
- 3 DCs
- 1 DPM
- 3 Public Members

# Board Meetings

- ◇ Second Friday of every other month (Feb., April, June, Aug., Oct., Dec.)
- ◇ Open to the public, streamed live on Youtube, teleconference
- ◇ Next meeting is December 9-10, 2021
- ◇ Thomas Estep, M.D. (President); Ronald Varner, D.O. (Vice President)

31,522







**SAFEGUARDING THE PUBLIC**

**STRENGTHENING THE HEALING ARTS**

[Home](#)[The Board](#)[Departments](#)[Professions](#)[Contacts](#)[Forms](#)[Education/Outreach](#)[Statutes/Regulations](#)[Healthcare Provider Wellness](#)

**KSBHA Online Portal**  
Click Here to Access Wallet Card

**KSBHA COVID-19**  
Information Portal

#### QUICK LINKS:

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## Statutes And Regulations: Practice Handbooks

### ATHLETIC TRAINERS (A.T.)

- [Practice Handbook](#)

### BUSINESS ENTITIES - CORPORATE PRACTICE OF MEDICINE (CPM)

- [Practice Handbook](#)

### BUSINESS ENTITIES - KSBHA CERTIFICATES

- [Practice Handbook](#)

### CONTACT LENS DISTRIBUTORS

- [Practice Handbook](#)

### HEALING ARTS (M.D., D.O., D.C.)

- [Practice Handbook](#)

### INDEPENDENT CERTIFIED NURSE MIDWIVES (CNM-I)

- [Practice Handbook](#)


### LICENSED ACUPUNCTURISTS (L.Ac.)

# K.S.A. 65-2801

“Recognizing that the practice of the healing arts is a privilege granted by the legislative authority and is not a natural right of individuals, it is deemed necessary as a matter of policy in the interest 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.”

# Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*

- ◇ K.S.A. 65-2836
- ◇ K.S.A. 65-2837
- ◇ “...the legislature, by enumerating certain acts and classifying them as unprofessional conduct, did not thereby intend to exclude all other acts or conduct in the practice of the healing arts which by common understanding render the holder of a license unfit to practice...the determination whether by common judgment certain conduct is disqualifying is left to the sound discretion of the board.” *Kansas State Bd. of Healing Arts v. Foote*, 200 Kan. 447, 453-454 (1968).

The image features the word "Honesty" written in a bold, black, sans-serif font across seven light-colored wooden blocks. The blocks are arranged horizontally and rest on a surface with a prominent, wavy wood grain pattern. The entire scene is framed by a white border, which is itself set against a light blue background.

**H o n e s t y**

- ◇ Be honest on your application, if you are under investigation, and all other correspondence with the board.
- ◇ Bill accurately.
- ◇ Do not cheat on your exams.
- ◇ If someone has an incurable condition, do not tell them they can be cured.
- ◇ Be truthful and accurate when talking to the patient about treatment.

# Professional Incompetency

- ◆ One or more instances of **gross negligence**.
- ◆ Repeated instances of **ordinary negligence**.
- ◆ A **pattern or practice** or other behavior which demonstrates a manifest incapacity or incompetence to practice the healing arts.

K.S.A. 65-2837(a)(1)-(3).

# Prescribing

- ❖ Licensee prescribed, sold, administered, distributed or gave a controlled substance to any person for other than medically accepted or lawful purpose. K.S.A. 65-2836(p).
- ❖ Licensee has violated a federal law or regulation related to controlled substances. K.S.A. 65-2836(q).
- ❖ Prescribing, ordering, dispensing, administering, selling, supplying or giving any amphetamines or sympathomimetic amines, except as authorized by K.S.A. 65-2837a. K.S.A. 65-2837(b)(11).
- ❖ 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. K.S.A. 65-2837(b)(23).
- ❖ 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. K.S.A. 65-2837(b)(28).

# Impairment





The inability to practice the healing arts with reasonable skill and safety to patients by reason of physical or mental illness, or condition or use of alcohol, drugs, or controlled substances.

K.S.A. 65-2836(i).

# Kansas Impairment Question

Do you have any physical or mental health condition (including alcohol or substance use) that currently impairs your ability to practice in a competent, ethical, and professional manner?

(Yes/No)

# ADVERTISING



# Tips for Advertising

Honest and accurate

Avoid the term “pain-free”

Avoid guarantees

Identify yourself as a physician (MD/DO)

Avoid saying you or your services are the best

Be weary of Groupon ads

Be weary of advertising advice from marketers

Consider seeking legal advice

# Supervision

- ◆ Licensee as the supervising physician 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. K.S.A. 65-2836(bb).
- ◆ Aiding or abetting the practice of the healing arts by an unlicensed, incompetent or impaired person. K.S.A. 65-2837(b)(14).
- ◆ 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. K.S.A. 65-2837(b)(26).
- ◆ 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. K.S.A. 65-2837(b)(30).



# Boundaries


Heightened sensitivity towards boundaries can help minimize risk.

It's a good idea not to seek emotional support from patients.

It's a good idea to not engage in a business relationship with a patient.

It's a good idea not to exchange gifts with patients.

Recognize problem behavior and stop it in its tracks.



## SEXUAL MISCONDUCT

- Any act of sexual abuse, misconduct, or other improper sexual contact, which exploits the licensee-patient relationship. K.S.A. 65-2837(b)(16).



## SOCIAL MEDIA

- Do not disclose individually identifiable patient health information or post images or videos online without the express written consent of the patient.
- Maintain appropriate professional boundaries with patients.
- Comport yourself professionally, even when communicating or posting in a personal capacity.
- Think twice before posting.
- Consider all online content as open, accessible, and permanent.
- Consider innovative ways in which social media can enhance you practice, career, or patient care while maintaining ethical and professional principles.

# MEDICAL RECORD KEEPING

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- Be sure your medical records document services rendered to the patient, patient histories, pertinent findings, examination results and test results.
- K.A.R. 100-24-1
- EHR → Copy and paste issue
- Common violation, but in combination with others

# Collateral Violations

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Felony or Class A misdemeanor

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Disciplinary action by another state

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Sanctions taken against the licensee by a peer review committee, healthcare facility, etc.

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Failing to furnish the Board legally requested information

# Duty to Report

- ◇ “Any person licensed...to practice any profession regulated by the board who possesses knowledge not subject to the physician-patient privilege that another person so licensed, registered or certified has committed any act enumerated under any practice act administered by the board which may be ground for disciplinary action **shall immediately report** such knowledge [to the board]...: K.S.A. 65-28,122(a).
- ◇ “Knowledge” means familiarity because of direct involvement or observation of the incident. K.S.A. 65-28,122(b).
- ◇ Failure to adhere to this duty is unprofessional conduct. K.S.A. 65-2836(l).



# General Overview

## Common Complaint Sources

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Patients

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Patient family members

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Other licensees

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Law enforcement

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Hospitals

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Other state Boards

# Investigation Process, Generally



# Disciplinary Panel

- ◇ Subcommittee of the Board
- ◇ Generally, 1MD, 1 DO, 1DC, and 1 public member
- ◇ Meets monthly
- ◇ Reviews the investigation, review committee determination if applicable, the law, and determines action to pursue in a case. (Close → Disciplinary Action).



# Board Actions

Letter of  
Concern

Professional  
Development  
Plan

Public  
Censure

Fine

Probation

Limitation

Suspension

Revocation

Non-disciplinary,  
Confidential  
Resolution

Statutorily authorized under K.S.A. 65-2838a

Letter of Concern and Professional Development Plan

Not reported to NPDB, FSMB

Not posed on website

# Public Disciplinary Action

Part of public agency record

Reported to NPDB, FSMB

Posted on the Board's website under "Board Actions"

Press Release (Emergency suspension or limitation, revocation, voluntary surrender in lieu of formal proceedings)

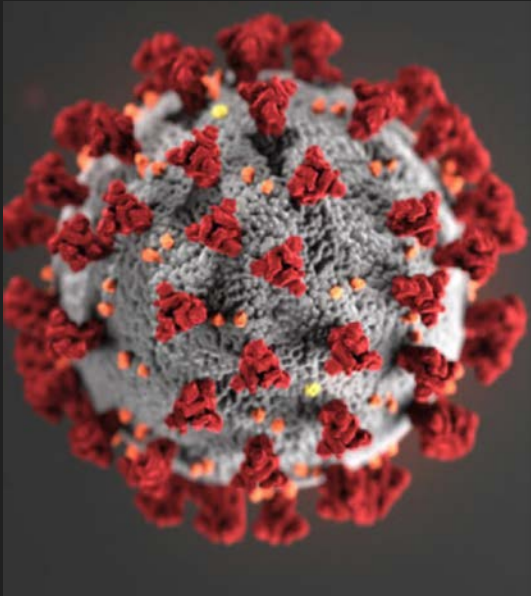
# Recent Public Cases

- ◇ (2021) - Physician was denied reinstatement of his medical license. He had surrendered his license for felony conviction (Aggravated Sexual Battery and Sexual Battery) and committed several acts of sexual abuse, misconduct, and other improper sexual contact with a patient and exploited the licensee-patient relationship.
  - On appeal in the Shawnee County District Court
- ◇ (2021) – Public censure and \$1000 fine. Physician lacked required KHCSF coverage for at least 5 years and one month.
- ◇ (2020) – Public censure and \$500 fine. Physician practiced outside the scope of Exempt license on eight patients on at least 38 occasions.

# Continued...

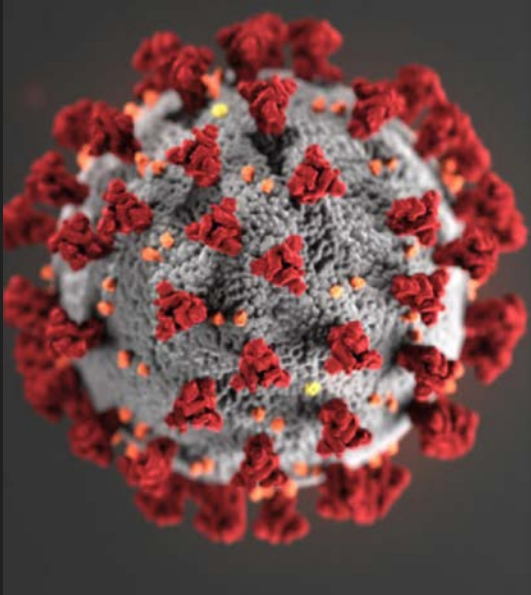
- ◆ (2020) – Injunctive relief against Shawn Parcels for the unlicensed practice of medicine. He was performing autopsies in Kansas without a license or proper supervision and writing autopsy reports.
  - Appeal pending before the Kansas Court of Appeals
- ◆ (2019) – Consent Order for \$2,500 fine, education, essay. Physician aided/abetted the practice of the healing arts of an unlicensed person, delegated medical services to persons he knew or had reason to know were not qualified to perform them, advertised the service would be pain free, and had poor medical records.

# *Board Guidance Statements*



Technical violations of the Healing Arts Act or other applicable practice act by healthcare providers that do not endanger or defraud the public, which are committed in the course of good faith COVID-19 response efforts during the Kansas emergency declaration period, will generally not be treated as a disciplinary matter by the Board.

# *Board Guidance Statements*



If the Board finds that any licensee has taken advantage of the COVID-19 crisis for personal gain in a fraudulent, misleading, or unethical manner that constitutes unprofessional conduct under the Healing Arts Act, the Board will consider such conduct to be an aggravated violation of the Healing Arts Act or other applicable practice act and will exercise its full authority to impose discipline for such conduct, including suspension or revocation.



**RESOURCES**





[www.ksbha.org](http://www.ksbha.org)

# COVID-19 KSBHA Updates & Guidance

# KSBHA Resources

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Practice Handbooks

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Policies

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KSBHA\_Licensing@ks.gov

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KSBHA\_Complaints@ks.gov

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KSBHA\_LegalQuestions@ks.gov

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Education & Outreach website page  
<http://www.ksbha.org/education.shtml>

# Professional Health Programs

## ◇ MD/DO/PA/DC

Kansas Association of Osteopathic  
Medicine

Vicki Whitaker, Executive Director

(785) 234-5563

Kansas Medical Society – PHP

Carolyn Westgate

(785) 231-1309

## ◇ RT/PT/PTA/OT/OTA/AT

Heat of America Professional  
Network

Alan Murray, Executive Director

(913) 236-7575

alan@hapn.org

# Physician Support Line

## 1 (888) 409-0141

Psychiatrists helping our US physician colleagues  
and medical students navigate the many intersections  
of our personal and professional lives

Free & Confidential | No appointment necessary  
Open 7 days a week | 8:00AM - 1:00AM ET

[Call Now](#)

## Welcome.

The Emotional PPE Project connects healthcare workers in need with licensed mental health professionals who can help.

No cost. No insurance. Just a trained professional to talk to.

Healthcare Workers Affected By The  
COVID-19 Crisis

Mental Health Practitioners Looking To  
Help

## All Services Provided Through The Emotional PPE Project Are Free Of Charge.

*The Emotional PPE Project is a directory that provides contact information of volunteer mental health practitioners to healthcare workers whose mental health has been impacted by the COVID-19 crisis.*

The Emotional PPE Project is an independent tax-exempt nonprofit (501(c)(3)) organization fully staffed by volunteers.

You may contact us at: [contact@emotionalppe.org](mailto:contact@emotionalppe.org) // [Click here to review our Terms of Use](#) // [Click here to read our FAQs](#)

Follow Us On Social Media!





# National Suicide Prevention Lifeline

We can all help prevent suicide. The Lifeline provides 24/7, free and confidential support for people in distress, prevention and crisis resources for you or your loved ones, and best practices for professionals.



Text "Hello" to 741741

## SPECIAL ANNOUNCEMENT



### President Signs National Suicide Prevention Designation Act Into Law

The President recently signed the National Suicide Hotline Designation Act into law. 988, the new three-digit number for the National Suicide Prevention Lifeline, is to be completed by July 2022. In the meantime please continue to share 1-800-273-TALK (8255) with anyone wishing to connect to the Lifeline. 988 is NOT CURRENTLY ACTIVE nationally and may not connect callers to the Lifeline.

[LEARN MORE](#)<sup>2</sup>



# Contact Information

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