

Approved: 3/03/11

Date

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Steven Brunk at 1:30 p.m. on January 12, 2011, in Room 346-S of the Capitol.

All members were present except:

Representative Rocky Fund-excused.

Representative Mike Peterson-excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes

Doug Taylor, Office of the Revisor of Statutes

Julian Efird, Kansas Legislative Research Department

Dennis Hodgins, Kansas Legislative Research Department

Stephen Bainum, Committee Assistant

Conferees appearing before the Committee:

Kathleen Lippert, Exec.Director, KS Board of Healing Arts

Others attending: See attached list.

Chairman Brunk reviewed the rules for the Committee and the Conferees.

Chairman Brunk called for bill introductions. Representative Carlson introduced a bill, **HB 2013, concerning the Sale and Purchase of Certain Firearms by Kansas Firearms Dealers.**

Representative Otto introduced **HCR 5004 amending section 5 of article 12 of the constitution of the state of Kansas, relating to cities' powers of home rule.**

Representative Mah introduced **HB 2026, an act enacting the Kansas immigration accountability act.**

Chairman Brunk introduced Kathleen Lippert, Executive Director, Kansas Board of Healing Arts. A printed copy of her overhead was presented to each Representative and Staff (Attachment 1). She gave a few brief comments about the handout.

Chairman Brunk had each member of the committee and staff give their name and the district they represent and any comments they wished to make.

The next meeting is scheduled for January 24, 2011.

The meeting was adjourned at 1:56 p.m.

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

1.12.11

ROOM 346-S

[illegible]

Kansas State Board of Healing Arts
Who We Are & What We Do
Safeguarding the Public - Strengthening the Healing Arts

January 12, 2011
House Federal and State Affairs Committee

Kathleen Seizler Lippert
Executive Director

Who & What is KSBHA?

- The Kansas State Board of Healing Arts is the licensing and regulatory Board for health care providers in Kansas.
- The Board was created in 1957 by the Kansas Legislature.
- Statutes referring to the Board and the professions it regulates begin on K.S.A. 65-2801.
- The Board is comprised of 15 members
 - » 5 MDs
 - » 3 DOs
 - » 3 DCs
 - » 1 DPM
 - » 3 Public members
- Each member is appointed for a four year term.
- Each member can serve up to three terms.
- The Board holds a day-long meeting every-other month on the even-numbered months of the year.
- Board meetings are held at the KSBHA offices.
- Board members receive a stipend for meetings along with mileage reimbursement.

Purpose of the Board

- K.S.A. 65-2801 delineates the purpose of the Board of Healing Arts.
- "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 regulations to the end that the public shall be properly protected against unprofessional conduct by persons licensed to practice under this act."

Officers of the Board & Rotation

- K.S.A. 65-2818 Annual election of officers; powers and duties
 - (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".
- KSBHA Policy #05-06 Election of Officers
 - Each member of the Board should be considered qualified to hold the offices of president and vice-president;
 - Each profession and the general public should be considered equal in prominence when selecting officers;
 - The Board should elect its' officers by establishing a pattern of rotating offices among the three healing arts professions, podiatrists, and public members.
 - The physicians, podiatrists, and public members will become eligible to serve as officers after having served on the Board for two consecutive years.

KSBHA Agency Composition

- The Board is supported by an agency staff of 45 employees of the State of Kansas.
- These employees are divided among five interrelated, yet distinct divisions:
 - General Counsel (Your attorneys)
 - Administrative (ED, HR, IT, PIO, Accounting, etc)
 - Licensing (Initial licenses, renewals, reinstatements, verifications)
 - Disciplinary (Complaints, investigations, monitoring)
 - Litigation (Legal proceedings against licensees)

Who KSBHA Licenses & Regulates

- There are 14 various healthcare disciplines that KSBHA licenses or registers, and regulates. (as of 5/10)
- Medical Doctors (MD) (9,672)
- Osteopathic Doctors (DO) (1,059)
- Chiropractic Doctors (DC) (1,138)
- Podiatric Doctors (DPM) (140)
- Physician Assistants (PA) (847)
- Naturopathic Doctors (ND) (18)
- Physical Therapists (PT) (2,057)
- Physical Therapy Assistants (PTA) (1,226)
- Occupational Therapists (OT) (1,362)
- Occupational Therapy Assistants (OTA) (351)
- Respiratory Therapists (RT) (1,732)
- Athletic Trainers (AT) (358)
- Radiological Technologists (LRT) (3,134)
- Contact Lens Distributors (7)

House Fed & State Affairs

Date: 1-12-11

Attachment 1

Each profession has a governing Practice Act

• Healing Arts Act	MD, DO, DC
• K.S.A. 65-2801	
• Podiatry Act	DPM
• K.S.A. 65-2001	
• Physician Assistant Act	PA
• K.S.A. 65-28a01	
• Physical Therapy Act	PT & PTA
• K.S.A. 65-2801	
• Contact Lens Distributors	
• K.S.A. 65-4965	
• Occupational Therapy Act	OT & OTA
• K.S.A. 65-5401	
• Respiratory Therapy Act	RT
• K.S.A. 65-5501	
• Athletic Trainer Act	AT
• K.S.A. 65-6901	
• Naturopathic Doctor Act	ND
• K.S.A. 65-7201	
• Radiologic Technologists Act	LRT
• K.S.A. 65-65-7301	

Licensing & Its' Processes

- The licensing administrator is responsible for licensing and registering KSBHA's healthcare professionals. She and her staff, perform all license processing, maintenance, and verifications for more than 22,000 licensees.
- Once all information for a license application is received, licensure takes, on the average, less than a week unless there is a 'red flag'.
- Each profession has a specific renewal period during the calendar year.
- The renewal period lasts for 6 weeks and is followed by a month-long 'late' renewal period.
- If providers don't renew within the 10 week renewal period, their license is cancelled. In order to practice again, they must go through the re-instatement process.

Overview of the Licensing Process

- Receive application & supporting documentation
- Analyst reviews and enters information into the database, GLSuites; identifies any missing information
- If documentation is missing, letter is sent to applicant.
- If complete, Licensing Administrator performs a review and makes final determination if the file complete, needs additional documentation, or contains 'red flag' information. Files with 'red flags', are forwarded to the Legal Department for review.
- Once application is complete and approved, analyst issues a certificate, permit, or license.
- Certificate is sent to licensee.
- Board reviews and approves list of new licenses.

Common/General Application Issues that Cause Delay of Licensure

- Information not complete on application
- Required documents not received with application
- Information on application does not match support documentation
- Initial FCVS packet takes up to 8 weeks to receive. (Subsequent packets take less than 1 week.)
- Resistance to providing school, exam, and post-graduate information
- Applicants delegating application completion
- Name issues ~ legally changing or cultural differences in naming

Specific Examples of License Delays

Example #1

- Application Received 6-28-10
- Missing Requirement letter sent, no application fee received and no HIPDB/NPDB report 7-28-10
- Appl fee Rec'd 8-2-10
- AMA Report Rec'd 8-11-10
- Final Review 8-26-10, missing documents identified
- Final Review and license issued 9-31-10

Example #2

- Application Received 3-15-10
- Begin Processing on 3-16-10
- Sent for Final Review 4-30-10
- Missing Form Identified 5-3-10
- Missing Form Received 5-4-10
- Referred to Legal 5-11-10 due to 'yes' answers to disciplinary questions on application
 - License suspension for boundary violation(s)
 - License issued by a sister state
 - License denied by a 3rd state

Example #3

- Application Received 2-2-10
- FCVS Received 4-16-10
- Letter from Attorney 4-20-10 regarding malpractice case and another Board's letter of concern
- Referred to Legal 4-21-10 due to multiple 'yes' answers to disciplinary questions
- Legal Review Complete 4-26-10
- License issued 4-28-10

Specific Examples of Post Grad Permit Delays

Example #1

- Application Received 3-11-10
- Begin Processing on 3-12-10
- Sent for Final Review 3-24-10
- Referred to Legal 3-24-10 due to 'yes' answers to disciplinary questions on application
- Disciplinary Panel determine Post Grad permit should be issued
- Post Grad Permit issued 6-4-10

Example #2

- Application Received 4-22-10
- Begin Processing on 4-22-10
- Missing Requirements letter sent 4-23-10
- Last requirement received 6-11-10 (official transcripts)
- Final Review 6-17-10
- Referred to Legal 6-17-10 due to 'yes' answers to disciplinary questions on application
- Disciplinary Panel determine Post Grad permit should be issued
- Post Grad Permit issued 7-15-10

Complaints

- Complaints are received from patients, family members, interested parties, medical staff, co-workers, medical facilities, licensees, or insurance companies.
- Anonymous complaints are accepted.
- However, for complainants desiring status reports, responses, and other information (as allowed) KSBHA requires a signed complaint form.
- All complaints are logged into the GLSuites database by the Complaint Coordinator.



Common Alleged Complaints

- Bedside Manner ~ rude, dismissive, rushed
- Poor Communication and Customer Service
- Billing Issues ~ use of improper codes, charging for missed visits, not gaining insurance pre-approval
- Refusal to See Patient ~ particularly when patient is on maintenance medication
- Failure to Release Medical Records
- Ordering Unnecessary or Improper Tests
- Refusal to Prescribe Narcotics
- Adverse Finding Reports (from hospitals)

Common Investigations Authorized for Action (formal or informal)

- Practicing on a lapsed license
- Inappropriate Prescribing
- Inadequate record-keeping
- Practice below the standard-of-care
- Advertising Violations
- Disruptive conduct
- Boundary violations
- Impairment
- Failure to properly supervise/delegate

Overview of the Complaint Process

- Receive Complaint
- If Authorized, Open Investigation
- Review by the Appropriate Profession's Review Committee (SOC)
- Review by Disciplinary Panel
- Close Investigation or Receive Authorization for Further Action
- Board Decision

Review of Complaints

- Once logged into GLSuites, complaints are reviewed by Disciplinary Counsel.



- Although many facets are considered, a highly utilized 'guide' is, "If the allegation is substantiated, would it constitute a violation of the applicable Practice Act?" If "yes", an investigation is opened. If "no", the complaint is closed. (However, the complaint does remain in the licensee's database record.)

Investigations

- Investigations are assigned to one of KSBHA's investigators.



- Investigations are conducted through the authority set forth by K.S.A. 65-2839a

"Investigations and proceedings conducted by board; access to evidence; subpoenas; access to criminal history; confidentiality of information."

Overview of the Investigation Process

- Letter Sent to Complainant, Case File Opened, Case Given to Investigator
- Letter to Licensee Informing of Complaint, Requesting Response, or other Initial Contact, as appropriate
- Subpoena Patient Records, Billing Records, Other Reports and Documents, as appropriate
- Conduct Witness Interviews, Inspection of Facilities, Analyze Information, Write Interim Reports, and Complete All Necessary Tasks Related to the Investigation
- File Final Report to Disciplinary Counsel

Conclusion of Investigations

- Once Disciplinary Counsel reviews the investigative information, the case is either closed due to lack of credible evidence to support the allegations or statutory authority; or forwarded to a Review Committee, a Professional Council, or a Disciplinary Panel depending upon the licensee's profession and the nature of the complaint.
 - If the complaint is a standard-of-care (SOC) issue, it is forwarded to the applicable Review Committee or Professional Council.
 - If the complaint is a conduct issue, it is forwarded to a Disciplinary Panel (DP).

Review Committees & Professional Councils

- Structure and criteria for each Review Committee or Professional Council is dictated by the applicable Practice Act. Members are appointed by either KSBHA or by the Governor.
- | | | |
|-----|-----------------|--|
| MD | K.S.A. 65-2840c | 3 members (3-MDs) |
| | | 3-Medicine & Surgery Review Committees |
| DO | K.S.A. 65-2840c | 3 members + 1 adhoc (4-DOs) |
| | | 1-Osteopathic Review Committee |
| DC | K.S.A. 65-2840c | 3 members + 1 adhoc (4-DCs) |
| | | 1-Chiropractic Review Committee |
| DPM | K.S.A. 65-2016 | 2 members + adhoc(s) (All DPMs) |
| | | 1-Podiatry Review Committee |
| PA | K.S.A. 65-28a11 | 5 members (3-PAs, 1-Bd member, 1-adhoc) |
| | | 1-Physician Assistant Council |
| ND | K.S.A. 65-7214 | 5 members (3-NDs, 1-Bd aptd, 1-Gov aptd) |
| | | 1-Naturopathic Advisory Council |
| LRT | 2004 HB 2858 | 5 members (3-LRTs, 1-Bd member, 1-Bd aptd) |
| | | 1-Radiologic Technologist Council |
| RT | K.S.A. 65-5504 | 7 members (3-RTs, 2-Gov aptd, 1-Bd mem, 1-Bd aptd) |
| | | 1-Respiratory Care Council |
| OT | K.S.A. 65-5404 | 5 members (3-OTs, 2-Bd aptd) |
| | | 1-Occupational Therapist Council |
| PT | K.S.A. 65-2304 | 5 members (3-PTs, 1-Bd member, 1-adhoc) |
| | | 1-Physical Therapy Advisory Council |
| AT | K.S.A. 65-6901 | 5 members (3-ATs, 1-Bd aptd, 1-Bd member) |
| | | 1-Athletic Trainers Council |

Duties of Review Committees & Councils



- A Review Committee or Council reviews the allegations, evidence, and findings of the investigation. As a whole, the Review Committee or Council then makes a determination as to whether or not the standard-of-care was met. Once complete, their SOC determination, recommendations, and evidence are forwarded to Litigation Counsel to present the case to a Disciplinary Panel for review.

Disciplinary Panel



- DP's are comprised of at least four current Board members – 1 MD, 1 DO, 1 DC, and 1 Public Member.
- New DPs are formed and responsibilities are rotated amongst Board members every May. Therefore, a number of DPs may be referred to during a Board meeting since each case may have been reviewed by a different DP.
- A DP reviews all investigations and makes a recommendation to close the investigation (if evidence does NOT support allegations or merit action), pursue informal action, or proceed with formal actions.

Disciplinary Panel Decisions

- If a DP makes a recommendation to pursue further action, the case is forwarded to one of KSBHA's litigation attorneys.




Litigation Proceedings


- KSBHA attorneys proceed at the directives provided by the Disciplinary Panel.
- The attorneys file motions, petitions, consent orders, and direct their cases through the appropriate legal channels.
- Many actions are mutually agreed upon. These can be either formal or informal in nature. A consent order is an example of formal action whereas a professional development plan is an example of informal action.
- Unfortunately, some matters require formal proceedings. In this situation, a presiding officer will be appointed to act as the 'judge' and hear both sides of an issue. (The licensee's side (respondent) and KSBHA's side (petitioner)).
- The presiding officer can be either a KSBHA Board member, or a presiding officer from the Office of Administrative Hearings (OAH).

- KSBHA attorneys proceed at the directives provided by the Disciplinary Panel.
- The attorneys file motions, petitions, consent orders, and direct their cases through the appropriate legal channels.
- Many actions are mutually agreed upon. These can be either formal or informal in nature. A consent order is an example of formal action whereas a professional development plan is an example of informal action.
- Unfortunately, some matters require formal proceedings. In this situation, a presiding officer will be appointed to act as the 'judge' and hear both sides of an issue. (The licensee's side (respondent) and KSBHA's side (petitioner)).
- The presiding officer can be either a KSBHA Board member, or a presiding officer from the Office of Administrative Hearings (OAH).

Recommendations & Sanctions

- The full KSBHA Board receives the findings of facts, conclusions of law, and recommendations from the presiding officer.
- During it's regularly scheduled Board meeting, the Board will consider the presiding officer's recommendations. The Board can adopt the recommendations in their entirety, reduce the recommended discipline due to mitigating factors, or increase the recommended discipline due to aggravating factors.
- The Board has approved *Guidelines for the Imposition of Disciplinary Sanctions* (aoc) that assist in maintaining fair and objective continuity when determining appropriate discipline between cases and professions.
- Board members can confer with General Counsel regarding legal matters.





- The full KSBHA Board receives the findings of facts, conclusions of law, and recommendations from the presiding officer.
- During its regularly scheduled Board meeting, the Board will consider the presiding officer's recommendations.


The Board can adopt the recommendations in their entirety, reduce the recommended discipline due to mitigating factors, or increase the recommended discipline due to aggravating factors.
- The Board has approved *Guidelines for the Imposition of Disciplinary Sanctions* (2008) that assist in maintaining fair and objective continuity when determining appropriate discipline between cases and professions.
- Board members can confer with General Counsel regarding legal matters.

Board Actions

- The Board has the following tools to regulate licensure and healthcare professionals in Kansas:
 - Denial of Licensure
 - Issue a Letter of Concern
 - Require Supplemental Education/Clinical Competency Testing
 - Compel Mental/Physical Exams or Drug Screens
 - Censure
 - Fine
 - Probation
 - Limitation
 - Suspension
 - Revocation



- The Board has the following tools to regulate licensure and healthcare professionals in Kansas:
- Denial of Licensure
 - Issue a Letter of Concern
 - Require Supplemental Education/Clinical Competency Testing
 - Compet Mental/Physical Exams or Drug Screens
 - Censure
 - Fine
 - Probation
 - Limitation
 - Suspension
 - Revocation
- 

Board Decisions, Final Orders and Appeals

- The Board reviews and makes final determinations over ALL investigations regardless of outcome (recommended closures, informal actions, or recommendations from Presiding Officers).
- Once the Board issues their Final Order, the matter is concluded.
- When applicable, agency staff will make all necessary arrangements and issue orders for monitoring, payment of fines, and various other actions.
- If a licensee does not agree with the Board's decision, the licensee has the right to file an appeal with the District Court.

- The Board reviews and makes final determinations over ALL investigations regardless of outcome (recommended closures, informal actions, or recommendations from Presiding Officers).
- Once the Board issues their Final Order, the matter is concluded.
- When applicable, agency staff will make all necessary arrangements and issue orders for monitoring, payment of fines, and various other actions.
- If a licensee does not agree with the Board's decision, the licensee has the right to file an appeal with the District Court.


◆ HOME

◆ OUR MISSION
◆ THE BOARD
◆ STAFF DIRECTORY
◆ CONTACTS

◆ PUBLIC INFORMATION
◆ LICENSE INFORMATION
◆ COMPLAINT PROCESS
◆ BOARD ACTIONS

◆ STATISTICS
◆ VERIFICATIONS
◆ ETHICAL SCENARIOS
◆ AGENCY CONTACTS

SEARCH



Kansas State
Board of
Healing Arts

"Empowering the Public - Strengthening the Healing Arts"

◆ ONLINE LICENSE RENEWALS
 Allow Renewing - 1 ADs

◆ PRESS RELEASES

◆ KASBHHA NEWSLETTERS

◆ OFFICE BASED SURGERY MANUAL

◆ KASBHHA is using Twitter! Join today to start receiving KASBHHA's tweets

◆ SEARCH FOR A LICENSEE

◆ Frequently Asked Questions
 Rules, Regulations and Statutes
 Licensing
 Complaints

◆ Various Record Storage Information

◆ Official Notice to Practice
 En Expanded

◆ Licenses by County

◆ Licensee Availability - NEW UPDATES

◆ Consultant Recruitment Notice for Licensees

◆ Affidavits for the Inspection of Therapist's Practices

◆ Complaint Process & Contacts

◆ Employment Opportunity

◆ KASBHHA MEETING Times Information

◆ Mission's, Vision & Goals for 2017

KANSAS.gov

Board of Health

Licensee Registration

Licensee Search Form

Search Form

At least one field must be specified

Last Name

First Name

Middle Initial

License Number

City Name

Search Tips

You may search for medical doctors, osteopathic doctors, chiropractors, podiatrists, physician assistants, naturopathic doctors, or other health care professionals. Naturopathic doctors are not currently regulated in Kansas. Naturopathic doctors are not currently regulated in Kansas. Naturopathic doctors are not currently regulated in Kansas.

Search tips: Search for medical doctors, osteopathic doctors, chiropractors, podiatrists, physician assistants, naturopathic doctors, or other health care professionals. Naturopathic doctors are not currently regulated in Kansas. Naturopathic doctors are not currently regulated in Kansas. Naturopathic doctors are not currently regulated in Kansas.

WE ARE MOVING!

- Current address: 235 S.W. Topeka Blvd,
Topeka, Kansas 66603
- Moving in January 2011
- January 2011 address:

**Lower Level
800 SW Jackson
Topeka, Kansas 66612**

Main Agency Contacts

Kathleen Selzler Lippert,
Executive Director,
785.296.8561

Main Line 785.296.7413 or 888.886.7205
www.ksbha.org

Thank you for your time today!