



Physician Supervision

*Regulatory licensure
requirements and
considerations*

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Kansas State Board of Healing Arts

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Agenda

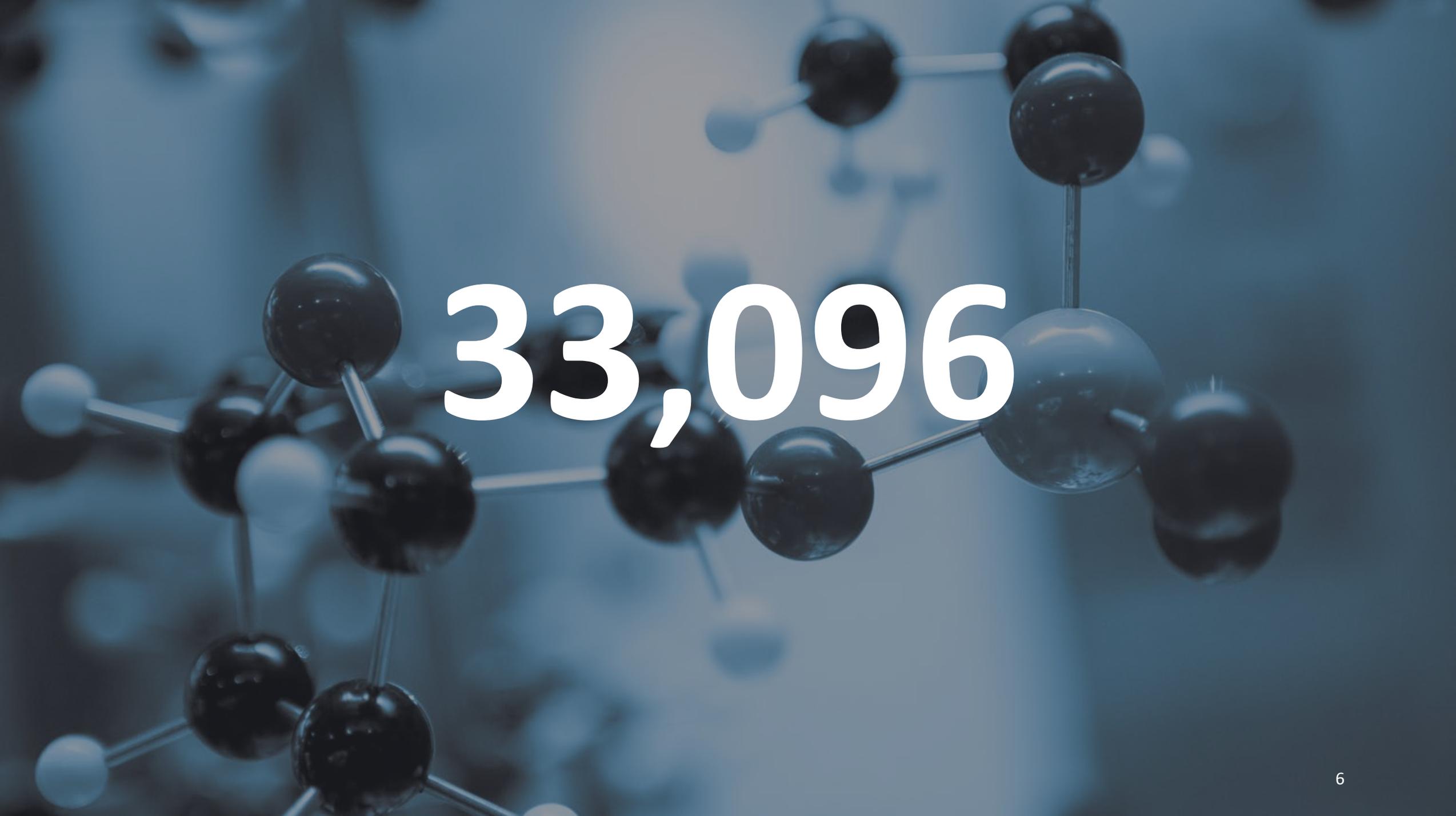
- KSBHA
- Physician supervision – Healing Arts Act
 - K.S.A. 65-28,127
 - 2022 S Sub for HB 2279
- Physician supervision – PA Licensure Act
- Other allied health professions

Mission of the Board

- 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.
- K.S.A. 65-2801.







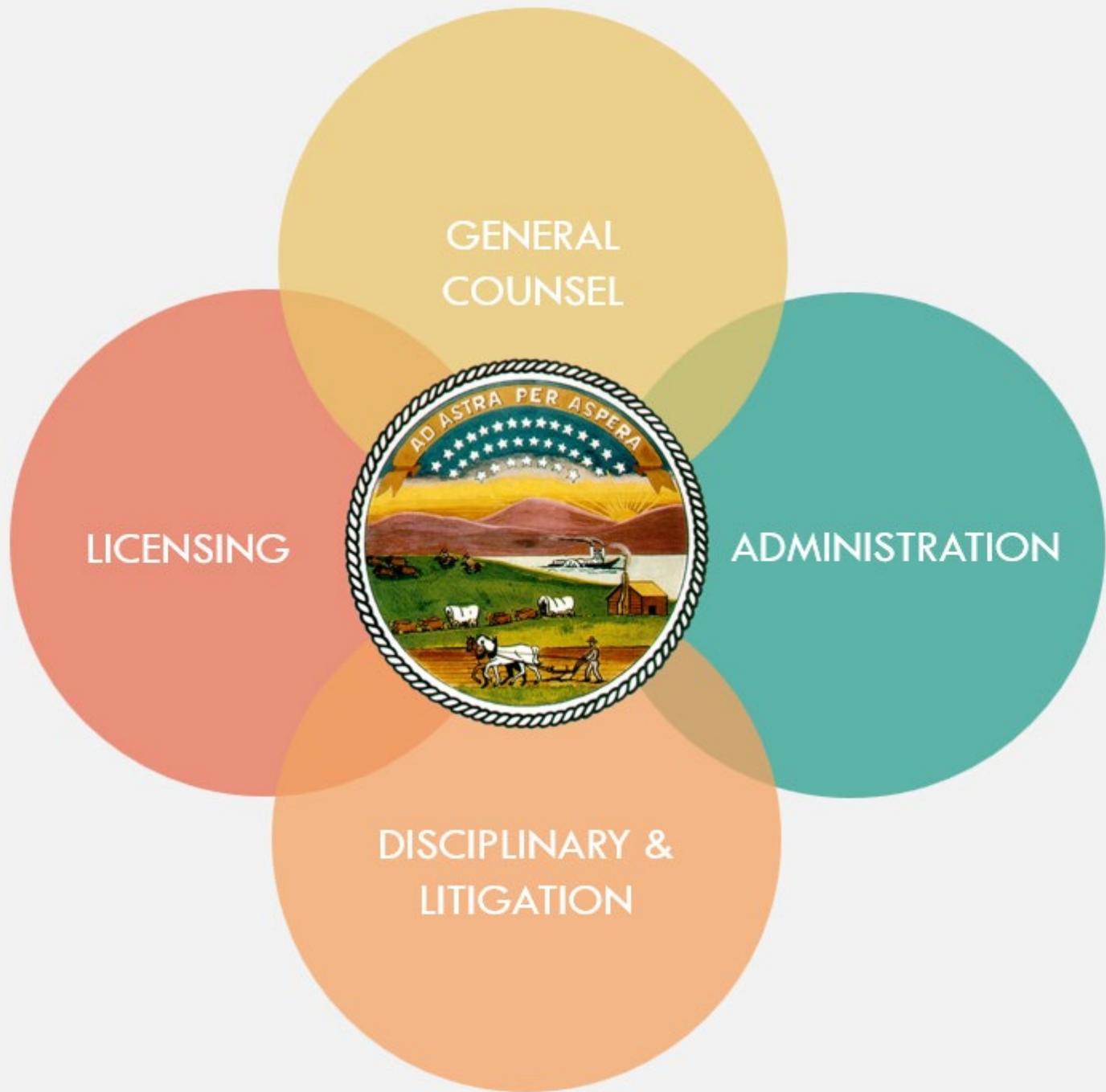
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Who we license

- MD/DO
- DC
- DPM
- PA
- ND
- AT
- CNMI



- LRT
- OT/OTA
- PA
- PT/PTA
- RT
- LAc
- CLD
- CPM



KSBHA Department Overview

Meet our Team



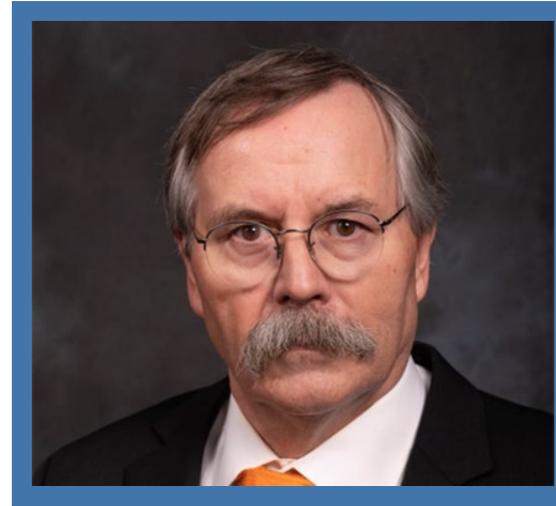
Susan Gile

Executive Director



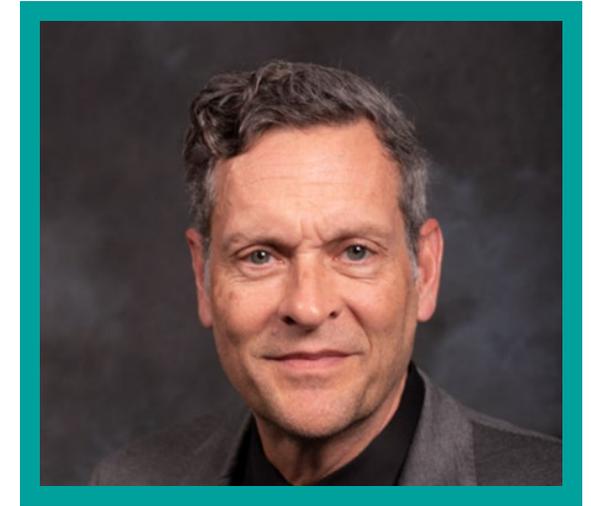
Courtney Cyzman

General Counsel



Ron Varner, DO

President



Jerry DeGrado, DC

Vice President

Meet our Team



Rebekah Moon

Licensing Administrator



Todd Hiatt

Litigation Counsel



Nancy Dodik

Disciplinary Counsel



Larry Bowles

IT Director



The Healing Arts Act

What is the healing arts?

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 the practice of medicine and surgery; the practice of osteopathic medicine and surgery; and the practice of chiropractic.**

K.S.A. 65-2802(a).

Persons engaged in the practice of medicine and surgery.

- Persons who publicly profess to be physicians or surgeons, or publicly profess to assume the duties incident to the practice of medicine and surgery.
- 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.
- Persons who attach their name to the title: MD, surgeon, physician, or any word or abbreviation indicating they are engaged in the treatment or diagnosis of ailments, disease or injuries of human beings.

K.S.A. 65-2869; *See also* K.S.A. 65-2870. Persons deemed engaged in the practice of osteopathy.

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

- 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 KS;
 2. Review and keep current any required written agreements or practice protocols between the responsible licensee and such persons;
 3. Direct, supervise, order, refer, enter into a written agreement or practice protocol with, or delegate to a person only acts and functions the **responsible licensee knows or has reason to believe can be competently performed by such person** (and not in violation of other law);
 4. Direct, supervise, order, refer, enter into a written agreement or practice protocol with, or delegate only **acts and functions within the normal and customary specialty, competence and lawful practice of the 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 licensee is temporarily absent; **and**
 6. Comply with all rules and regulations of the board establishing limits and conditions on delegation and supervision of services constituting the practice of medicine.

Responsible licensee – person licensed by KSBHA to practice medicine or chiropractic who has accepted responsibility for the actions of persons who perform acts pursuant to written agreement or practice protocols with, or at the order of, or referral, direction, supervision or delegation from such responsible licensee.

Attorney General Opinions regarding K.S.A. 65-28,127

- [Kan. Att’y Gen. Op. No. 2020-2](#) (Feb. 4, 2020) – issue of physician delegation of cardiopulmonary death pursuant to acceptable medical standards to a physician assistant or APRN.
- [Kan. Att’y Gen. Op. No. 2014-20](#) (Dec. 18, 2014) – issue of physician delegation of medical tasks to an EMS attendant beyond those tasks specified in the EMS Act.
- [Kan. Att’y Gen. Op. No. 2012-29](#) (Nov. 13, 2012) – issue of whether the School Sports Head Injury Prevention Act allows a healthcare provider to delegate the required evaluation and written clearance of a school athlete who has been removed from a sports competition or practice due to a suspected concussion or head injury.

2022 S Sub for HB 2279

- Here, it is clear from the plain language of the bill that the previous APRN requirement to enter into a “written protocol as authorized by a responsible physician detailing the medical plan of care for each classification of disease and injury for which the APRN is authorized to prescribe” is removed and an APRN may now prescribe durable medical equipment and prescribe, procure and administer any drug consistent with such licensee’s specific role and population focus, excluding abortions. **Any additional practice of the healing arts is not included in S Sub for HB 2279.** It is solely limited to the context of prescribing.

(d) (1) ~~An advanced practice registered nurse may prescribe drugs pursuant to a written protocol as authorized by a responsible physician. Each written protocol shall contain a precise and detailed medical plan of care for each classification of disease or injury for which the advanced practice registered nurse is authorized to prescribe and shall specify all drugs which may be prescribed by the advanced practice registered nurse.~~ Any written *durable medical equipment and prescribe, procure and administer any drug consistent with such licensee's specific role and population focus, except an advanced practice registered nurse shall not prescribe any drug that is intended to cause an abortion. Any drug that is a controlled substance shall be prescribed, procured or administered in accordance with the uniform controlled substances act.*

What does this mean?

- An APRN who is performing an act that constitutes the practice of the healing arts, excluding prescribing durable medical equipment and prescribing medication within their specific role and population focus, must have a written agreement with a physician who has delegated such practice in accordance with [K.S.A. 65-28,127](#).



Grounds for licensure disciplinary action

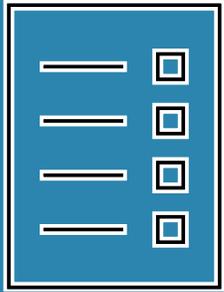
- **K.S.A. 65-2836:**

- (bb) – as supervising physician for a PA, the physician has failed to adequately direct and supervise the PA in accordance with the PA practice act and regulations.

- **K.S.A. 65-2837(b):**

- (14) – Aiding or abetting the practice of healing arts by an unlicensed, incompetent or impaired person.
- (26) – Delegating professional responsibilities to a person when licensee knows or has reason to know that such person is not qualified by training, experience or licensure to perform them.
- (30) – Failing to properly supervise, direct or delegate acts that constitute the healing arts to persons who perform professional services pursuant to the physician's direction, supervision, order, referral, delegation or practice protocols.

Key take aways from the Healing Arts Act



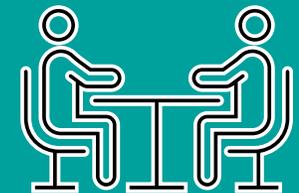
If required, is there a proper and adequate written agreement or practice protocol in place regarding delegation and supervision? Updates?

Does the physician know the person they are supervising is competent to perform the tasks, and not otherwise in violation of a law? By what measures?



Are the tasks the physician delegated within the competency and customary practice of the physician?

What does adequate supervision look like? How do we know it is adequate and what guardrails are in place to minimize risk to the patient?





The Physician Assistant Licensure Act

Definitions – K.S.A. 65-28a02.

- **Physician Assistant** - a person who is licensed ... and who provides patient services under the direction and supervision of a supervising physician.
- **“Direction and supervision”** - 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.
 - Direct supervision = supervising physician is physically present at the site of patient care and capable of immediately providing direction or taking over care of patient. K.A.R. 100-28a-1a(c).
 - Indirect supervision = supervising physician can be physically present at the site of patient care within 15 minutes to provide direct supervision. K.A.R. 100-28a-1a(e).
 - Off-site supervision = supervising physician is not physically present at the site of patient care but is immediately available by means of telephonic or electronic communication. K.A.R. 100-28a-1a(f).
- **Supervising physician** - 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.



PA Scope of Practice – K.S.A. 65-28a08

- Includes medical services within the education, training and experience of the PA that are delegated by the supervising physician. PAs practice in a dependent role with a supervising physician and may perform those duties and responsibilities through delegated authority or written agreement.
- PA may prescribe drugs pursuant to a written agreement as authorized by the supervising physician.

PA Scope of Practice – K.A.R. 100-28a-6.



Directly ordered, authorized, and coordinated by the supervising physician/substitute supervising physician through individual's physical presence.



Directly ordered, authorized, and coordinated by the supervising physician or substitute supervising physician through verbal or electronic communication.



When authorized by the active practice request ("APR") form.



If required to treat a patient with an emergency medical condition.

The supervising physician must:

Engage in the practice of medicine and surgery in KS.

Verify the PA has a current license with KSBHA.

At least annually, review, evaluate, and determine whether the PA has performed patient services constituting the practice of medicine and surgery competently and with reasonable skill and safety.

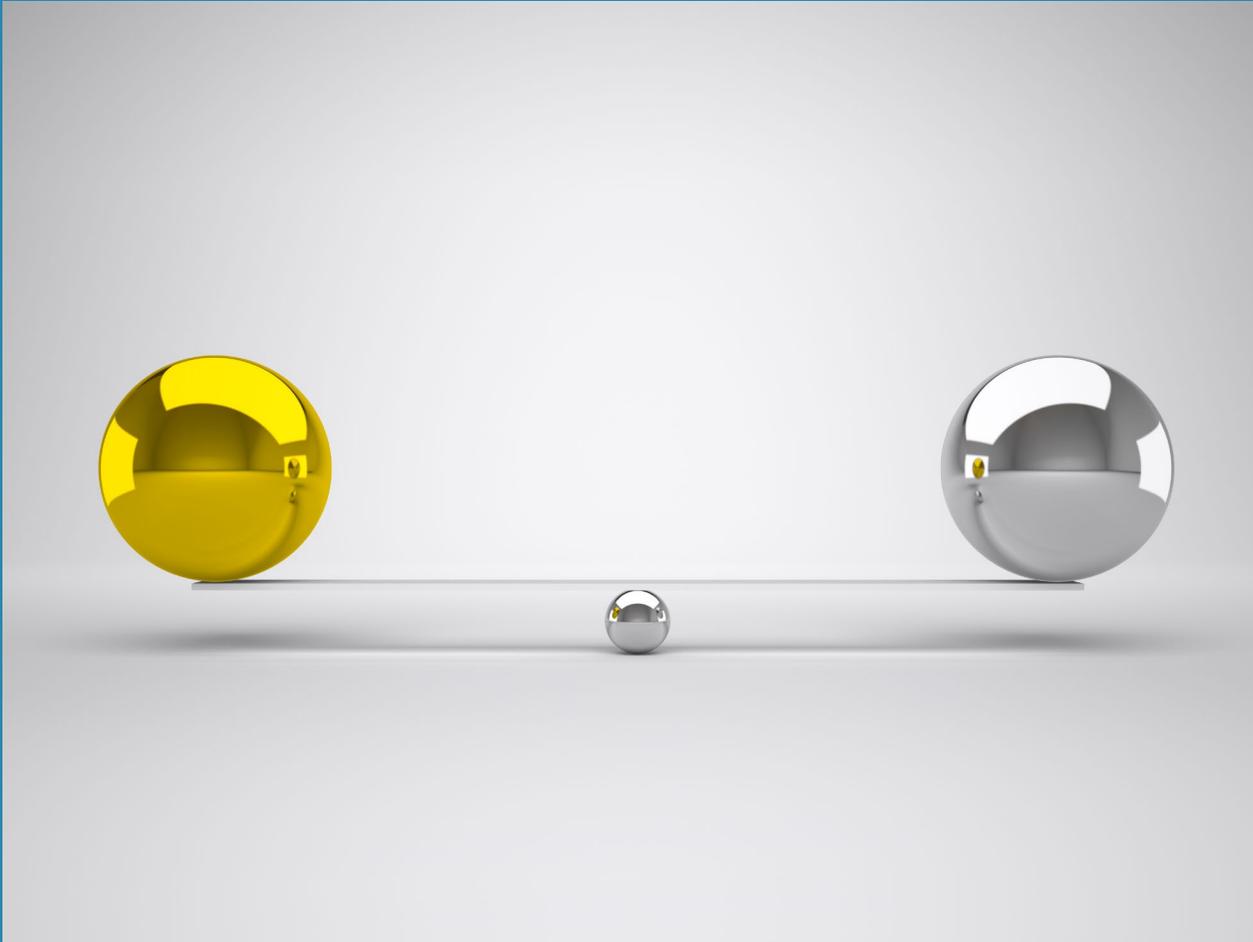
At least annually review the APR and determine if any amendments are necessary.

Report to KSBHA knowledge of any disciplinary action taken against the PA by any state licensure body or professional association – within 10 days.

Report to KSBHA termination of responsibility by supervising physician or litigation alleging conduct by PA that would constitute grounds for disciplinary action – within 10 days.

Arrange for a substitute supervising physician.

Only delegate acts physician believes can be competently performed by PA based on PA's training, capabilities, skill and experience; and are within the physician's clinical competence and customary practice.



Substitute supervising physician.

K.A.R. 100-28a-12.

If a substitute supervising physician supervises a PA, the substitute supervising physician must meet the same requirements as the supervising physician.

Review and Evaluation of the PA – K.A.R. 100-28a-10(b).

- Supervising physician must develop and implement a written method for evaluating whether the PA performed patient services constituting the practice of medicine competently and within reasonable skill and safety.
 - During the first 30 days of the supervising physician/PA relationship, supervising physician shall review and authenticate all medical records of each patient evaluated or treated by the PA within 7 days of the date the PA evaluated/treated the patient. Authentication each record by original signature or initials and record date of review. Electronic signatures are acceptable if reasonable measure have been taken to prevent unauthorized use of electronically generated signature.
 - After the first 30 days, supervising physician shall document the periodic review and evaluation of the PAs performance, which may include review of patient records. Supervising physician and PA shall sign the written review and evaluation and maintain a copy at each practice location.

Limitations on number of PAs a physician can supervise – same practice location.

K.A.R. 100-28a-17(a).



- Each supervising physician shall determine the number of PAs under the physician's supervision. **The supervising physician shall use professional judgment regarding their ability to adequately supervise each PA based on the following factors:**
 - Supervising physician's ability to meet requirements of K.A.R. 100-29a-10 for each PA.
 - Supervising physician's ability to provide the types of supervision specified in the APR/Written Agreement.
 - Specialty and setting of each practice location at which each PA will provide services.
 - Complexity of the patient population that each PA will be treating.
 - Clinical experience and competency of each PA.

Different practice location – K.A.R. 100-28a-14.

- Different practice location - is a practice location where the supervising physician is physical present less than 20% of the time that the practice location provides medical services to patients. K.A.R. 100-28a-1a(b).
- PA may provide acts that constitute practice of medicine at different practice location if all the following are met:
 - Before providing any services at the different practice location, PA shall have spent at least 80 hours since being licensed under the direct supervision of a physician licensed in KS;
 - Supervising physician or substitute supervising physician shall remain available to provide guidance, direction, and coordination of all activities of the PA. This may be by electronic means;
 - Different practice location are listed on the APR; and
 - Written notice that the different practice location is staffed primarily by a PA shall be posted in a location where it's likely to be seen by patients.

Limitations on number of PAs a physician can supervise – different practice location.

K.A.R. 100-28a-17(b).



- Supervising physician cannot supervise more than a total of 3 PAs who provide services at a different practice location, regardless of the number of different practice locations, without prior approval of the board.
- A supervising physician shall not under any circumstance supervise more than 5 PAs who provide services at a different practice location.

Physician supervision and PA prescribing

- A PA may prescribe drugs pursuant to a written agreement as authorized by the supervising physician. K.S.A. 65-28a08(b).
- See [K.A.R. 100-28a-13](#). Prescription only drugs.
- Except as otherwise required by K.A.R. 100-28a-13, a supervising physician is not required to cosign orders or prescriptions written in a patient's medical record by a PA who the supervising physician has delegated the acts constituting the practice of medicine and surgery. K.A.R. 100-28a-10(c).
- Any written prescription order shall include the name, address and telephone number of the supervising physician. K.S.A. 65-28a08(d)(2).
- In order to prescribe controlled substances, PA must have a DEA registration. K.S.A. 65-28a08(e).



Termination of Supervision – K.S.A. 65-28a09(b).



A supervising physician and PA must notify the Board when supervision and direction of the PA has terminated.



[Notice of Termination of Supervision of a Physician Assistant.pdf](#)
[\(ksbha.org\)](http://ksbha.org)



Other Allied Health Professions

Athletic Training – K.S.A. 65- 6901 *et seq.*



- Athletic training is the practice of injury, prevention, physical evaluation, emergency care and referral or physical reconditioning related to athletic activity. K.S.A. 65-6902.
- As a condition of providing services as an AT that constitute the practice of the healing arts, each AT licensed by KSBHA shall file a practice protocol with the Board. K.S.A. 65-6906(d); K.A.R. 100-69-9.
- [AT Practice Protocol](#)
- [AT Termination of Practice Protocol](#)



Respiratory Therapy – K.S.A. 65-5502

- Respiratory 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 other abnormalities which affect the pulmonary system and associated other systems functions. K.S.A. 65-5502(b).
- A qualified medical director is the medical director of any inpatient or outpatient respiratory therapy service, department or home care agency. The medical director must be a physician who has knowledge in the diagnosis and treatment of respiratory problems. This physician is 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 must be readily accessible to the RT. K.S.A. 65-5502(f).

Physical Therapy - Limited Direct Access. K.S.A. 65-2921.

- No referral for PT for employees solely for the purpose of education and instruction related to workplace injury prevention; or the public for the purposes of fitness, health promotion, and education.
- Referral from appropriate licensed healthcare professional needed if patient is not progressing toward document treatment goals after 10 patient visits or in a period of 15 business days from initial treatment visits following initial evaluation.
- Hospital or ambulatory surgical center can require a physician order or referral for PT services for a patient currently being treated in their facility.
- Physician or other appropriate licensed healthcare practitioner approval needed for PT to perform wound debridement services.
- Licensed health care practitioner – MD/DO/DPM/PA/APRN/DC/DDS/OD in appropriately related cases.



Occupational Therapy – Limited Direct Access. K.S.A. 65-5422.

- No referral for services if:
 - Employees solely for the purpose of education and instruction related to workplace injury prevention;
 - Public for purpose of health promotion, education, and functional independence in ADLs; or
 - Special education students who need OT for IEP or IFSP
- Must obtain referral if:
 - Does not meet one of the three criteria above.
 - Patient not progressing toward documented treatment goals after 10 patient visits or in a period of 30 calendar days from initial treatment.
 - Patient returns to OT seeking treatment from same condition or injury within 1 year from initial treatment visit.
- Hospital or ambulatory surgical center can require physician order for a patient being treated in their facility.
- Physician approval required for OT to perform wound care management services.



Thank you!

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