

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairperson Landwehr at 1:30 p.m. on January 24, 2011 in Room 784 of the Docking State Office Building.

All members were present except:

Representative Terry Calloway - excused
Representative Valdenia Winn - excused

Committee staff present:

Norm Furse, Office of the Revisor of Statutes
Katherine McBride, Office of the Revisor of Statutes
Martha Dorsey, Kansas Legislative Research Department
Dorothy Noblit, Kansas Legislative Research Department
Jay Hall, Kansas Legislative Research Department
Debbie Bartuccio, Committee Assistant

Conferees appearing before the Committee:

Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts ([Attachment 1](#))

Others attending:

See attached list.

Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts, presented an overview of the department. ([Attachment 1](#)). The Board was created in 1957 by the Kansas Legislature and is the licensing and regularity Board for health care providers in Kansas. The Board is comprised of fifteen members - five medical doctors, three osteopathic doctors, three chiropractic doctors, one podiatric doctor and three public members. Each member is appointed for a four year term and can serve up to three terms. The Board is supported by an agency staff of forty-five employees of the State of Kansas. These employees are divided among five interrelated, yet distinct divisions - General Counsel, Administrative, Licensing, Disciplinary and Litigation.

There are fourteen various healthcare disciplines that KSBHA licenses or registers and regulates and each profession has a governing Practice Act. The licensing staff perform all license processing, maintenance, and verification 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. If providers do not renew within the ten week renewal period, their license is canceled. In order to practice again, they must go through the re-instatement process. An overview of the licensing process was provided.

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 include: bedside manner, 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, and adverse finding reports (from hospitals). Common investigations authorized for action (formal or informal) include: practicing on a lapsed license, inappropriate prescribing, inadequate record-keeping, practice below the standard-of-care, advertising violations, disruptive conduct, boundary violations, impairment, and failure to properly supervise/delegate. An overview of the complaint process includes 1) receive complaint, 2) if authorized, open investigation, 3) review by the appropriate profession's review committee for standard-of-care, 4) review by Disciplinary Panel, 5) close investigation or receive authorization for further action, and 6) Board decision.

An overview of the investigation process includes:

- Letter sent to complainant, case file opened, case given to investigator.
- Letter to licensee informing of complaint, requesting response or other initial contact as

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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.
- 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.
- A Review Committee or Council reviews the allegations, evidence, and findings of the investigation. As a whole, the Committee or Council then makes a determination as to whether or not the standard-of-care (SOC) 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.
- A Disciplinary Panel 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.
- If a Disciplinary Panel makes a recommendation to pursue further action, the case is forwarded to one of KSBHA's litigation attorneys who 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. Some matters require formal proceedings, in which a presiding officer will be appointed to act as the 'judge' and hear both sides of an issue. The presiding officer can be either a KSBHA Board member, or a presiding officer from the Office of Administrative Hearings (OAH).
- 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* 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 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; and revocation.
- The Board reviews and makes final determinations over all investigations regardless of outcome. 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 the licensee does not agree with the Board's decision, the licensee has the right to file an appeal with the District Court.

The Chair gave the committee members the opportunity to ask questions. There was discussion concerning national data bases which track information concerning complaints and licensing issues. Those that are required to report information to these data bases are those who have access to this information such as hospitals and licensing agencies such as KSBHA. The committee requested a list be provided of those who are mandated to report to the federal data base. If there is a question as to whether or not a standard-of-care has been met, then KSBHA will seek an expert consultant to review all the medical records and the total situation to determine whether or not standard-of-care was met or not met. It was confirmed that physician assistants are licensed by the KSBHA. The Dental Board regulates the dentistry profession, however, there may be some overlap depending upon the oral surgeon's scope of practice. Concerning the question as to whether or not there has been an increase or decrease in the number of disciplinary actions, the response indicated the number of complaints have increased and the trend for the number of new investigations seems to be running toward the upper range of 700 per year.

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Concerning the percentage of complaints that result in disciplinary actions, the number is relatively small.

Chairperson Landwehr asked if there were any bill introductions.

Representative Donohoe made a motion to introduce a bill concerning public health relating to exemptions from the administration of vaccinations. The motion was seconded by Representative Mast. The motion carried.

Representative Bethell made a motion to introduce a bill relating to mortuary arts. It puts into statute that if a mortuary is closed, the mortuary has to notify individuals who have prepaid funeral expense through their organization, that they are closing and give them an opportunity to transfer to another mortuary. The motion was seconded by Representative Hermanson. The motion carried.

Representative Bethell made a motion concerning the maintenance of previously installed medical gas piping systems, which would allow for limited minor maintenance to be completed by qualified personnel in the facility. The motion was seconded by Representative Bollier. The motion carried.

The next meeting is scheduled for January 25, 2011.

The meeting was adjourned at 2 :15 p.m.