

January 13, 2022

## Written and Oral Neutral Testimony in the House Judiciary Committee Regarding HB 2477

Dear Chairman and Honorable Committee Members:

The Kansas State Board of Healing Arts (“Board”) submits this testimony to assist legislators in evaluating HB 2477. I am Susan Gile, Interim Executive Director of the Kansas State Board of Healing Arts (“Board”). The Board is the executive body tasked with licensing and regulating 16 healthcare professions in Kansas, including physicians. *See* K.S.A. 65-2801. The Board is composed of 15 members, 12 of whom are licensed healthcare professionals from various professions, including eight licensed physicians. The statutory mission of the Board is patient protection. *See* K.S.A. 65-2801.

Although there are many aspects of the bill that the Board supports continuing during the existence of the state of emergency declared by the legislature, such as temporary regulatory flexibility to facilitate the state’s response to COVID-19, the Board believes it is duty-bound to advise the legislature that **the Board has public safety concerns related to some provisions of the bill**. The Board respectfully suggests the legislature amend the bill in a manner that retains the Board’s ability to protect public safety. **The most vital revision can be achieved through deleting subsection (h) of Section 2**. This revision would not undermine your policy goals.

The Board’s most pressing concerns with HB 2477 are as follows:

### **Section 2 at subsection (h)**

This is the most problematic subsection in the Act. The Board believes this subsection endangers public safety because it allows any “health care professional” (a term not defined) licensed and in good standing in any state or territory to practice within Kansas without the need for a Kansas license *or Kansas regulatory oversight*.

- The Board’s jurisdiction to remove unsafe providers from practice in Kansas or otherwise discipline providers for misconduct is under KSA 65-2836, and is attached to licensure. **In other words, we can only regulate licensees.**
  - This subsection allows individuals from out of state to practice in Kansas with no Kansas regulatory oversight.
  - Absent criminal activity, no Kansas authority has the jurisdiction to regulate the practice of these individuals.
- This subsection is not limited in scope in any manner – it includes services completely unrelated to the pandemic.
- **Potential fix:** Delete subsection (h) (or, at minimum add in a provision indicating a **“healthcare professional practicing pursuant to this subsection shall be subject to all rules**

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and regulations pertaining to the practice of the licensed profession in this state and shall be considered a licensee for purposes of the professional acts administered by the applicable agency.”).

Of note, these healthcare providers already have access to:

- The free [temporary emergency license](#) authorized in K.S.A. 48-965. (The Board originally created this license under executive order 20-08).
- Kansas now has a [permanent telemedicine waiver](#) for all healthcare professions regulated by the KSBHA. K.S.A. 65-28,135
- Fast-track reciprocal license via the [Interstate Medical Licensure Compact \(IMLC\)](#), pursuant to K.S.A. 65-28,133, which now includes 31 member states.

### **Section 2 at subsection (j)**

Subsection (j) has language that could be interpreted to require the Board to issue licenses and renew and reinstatement licenses without charging any fee. If this interpretation were accepted by courts, this would eliminate the revenue of the agency. This provision is unnecessary, as the Board is already providing relief for those who are unable to pay their licensing fees due to COVID19 financial distress and allowing a free temporary licensure option for those whose licensing exams have been cancelled.

- **Potential fix:** Delete subsection (j).

Thank you for considering this testimony. I welcome any comments, questions, or further dialogue with members of the committee. Please feel free to contact me at (785) 296-3680 or at any time via email at [susan.gile@ks.gov](mailto:susan.gile@ks.gov).

Sincerely,



Susan Gile  
Interim Executive Director