

**BEHAVIORAL SCIENCES REGULATORY BOARD
BOARD MEETING AGENDA
February 8, 2023**

Due to the COVID-19 pandemic, the Board office is practicing social distancing. The office space does not allow for a meeting while practicing social distancing, therefore, the meeting will be conducted virtually on the Zoom platform. If there are any technical issues during the meeting, you may call the Board office at, 785-296-3240.

You may view the meeting here: https://youtube.com/live/rMC_KypXk8M?feature=share

To join the meeting by conference call: 877-278-8686 (Pin: 327072)

The Behavioral Sciences Regulatory Board may take items out of order as necessary to accommodate the time restrictions of Board members and visitors. All times and items are subject to change

Wednesday, February 8, 2023

1:00 p.m. Call to Order and Roll Call

- I. Opening Remarks, Board Chair**
- II. Agenda Approval**
- III. New Business**
 - A. Review of Legislation Relating to BSRB**
 - i. HB 2153 Concerning Human Trafficking**
 - ii. HB 2239 Concerning Continuing Education for Licensing Boards**
 - iii. HB 2257 Concerning Licensure for Music Therapists**
 - iv. HB 2258 Concerning Conversion Therapy**
 - v. Other Bills Related to the BSRB**
 - B. Consideration of Agreement for Expert Review Services**
- IV. Adjournment**

HOUSE BILL No. 2153

By Committee on Child Welfare and Foster Care

1-24

1 AN ACT concerning human trafficking; relating to the attorney general;
2 authorizing the attorney general to coordinate training regarding a
3 multidisciplinary team approach to intervention for law enforcement
4 agencies; requiring training on human trafficking awareness and
5 identification for certain child welfare agencies, juvenile justice
6 agencies, mental health professionals and school personnel; amending
7 K.S.A. 75-756 and repealing the existing section.
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 75-756 is hereby amended to read as follows: 75-
11 756. (a) *It is hereby declared to be the public policy of this state that law*
12 *enforcement agencies shall implement a coordinated multidisciplinary*
13 *team approach to intervention in reports involving alleged human*
14 *trafficking, aggravated human trafficking or commercial sexual*
15 *exploitation of a child.*

16 (b) The attorney general, in consultation with other appropriate state
17 agencies, is authorized to coordinate training regarding a *coordinated*
18 *multidisciplinary team approach to intervention in reports involving*
19 *alleged human trafficking, aggravated human trafficking or commercial*
20 *sexual exploitation of a child* for law enforcement agencies throughout
21 Kansas.

22 (c) *Each fiscal year, the following persons shall be required to*
23 *complete one hour of training on human trafficking awareness and*
24 *identification that has been developed or approved by the attorney*
25 *general:*

26 (1) *All employees or contractors of the Kansas department for*
27 *children and families, the Kansas department for aging and disability*
28 *services or the juvenile services division of the department of corrections*
29 *who, in the course of employment, have regular contact with members of*
30 *the general public;*

31 (2) *all individuals who are licensed, registered, certified or otherwise*
32 *authorized to practice by the behavioral sciences regulatory board;*

33 (3) *all teachers, administrators and employees of any public or*
34 *nonpublic elementary or secondary school or any postsecondary*
35 *educational institution, as defined in K.S.A. 74-32,194, and amendments*
36 *thereto, who, in the course of employment, have regular contact with*

- 1 *children who are less than 18 years of age; and*
- 2 *(4) all persons licensed by the secretary of health and environment to*
- 3 *provide child care services and the employees of such licensees.*
- 4 Sec. 2. K.S.A. 75-756 is hereby repealed.
- 5 Sec. 3. This act shall take effect and be in force from and after its
- 6 publication in the statute book.

HOUSE BILL No. 2239

By Committee on Welfare Reform

1-31

1 AN ACT concerning occupational licensure; relating to continuing
2 education requirements; allowing exemptions from continuing
3 education requirements for work experience.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) Notwithstanding any other provision of law to the
7 contrary, each person, board, commission or similar body that determines
8 the qualifications of individuals for licensure, certification or registration
9 in the state of Kansas shall issue an exemption from such body's
10 continuing education for the period of licensure to a licensee upon
11 application if the licensee:

12 (1) Holds a current and valid license issued by any body that
13 determines the qualifications of individuals for licensure for any
14 occupation in the state of Kansas; and

15 (2) self-certifies to performing not less than 1,000 hours in the lawful
16 occupation during each period of licensure.

17 (b) Each person, board, commission or similar body that determines
18 the qualifications of individuals for licensure, certification or registration
19 in the state of Kansas shall adopt rules and regulations or guidelines
20 implementing the provisions of this section.

21 Sec. 2. This act shall take effect and be in force from and after its
22 publication in the statute book.

HOUSE BILL No. 2257

By Committee on Health and Human Services

2-1

1 AN ACT concerning health and healthcare; relating to the state board of
2 healing arts; providing for the licensure and regulation of music
3 therapists; establishing the music therapy advisory committee.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) Sections 1 through 7, and amendments thereto, shall be
7 known and may be cited as the music therapy licensure act.

8 (b) As used in the music therapy licensure act:

9 (1) "Advisory committee" means the music therapy advisory
10 committee established by section 2, and amendments thereto.

11 (2) "Board-certified music therapist" means an individual who has
12 completed the educational and clinical training requirements established
13 by the American music therapy association and who holds current board
14 certification from the certification board for music therapists.

15 (3) "Music therapist" means a person licensed by the state board of
16 healing arts to practice music therapy.

17 (4) (A) "Music therapy" means the clinical and evidence-based use of
18 music interventions by a board-certified music therapist to accomplish
19 individualized goals for individuals of all ages and ability levels within a
20 therapeutic relationship. "Music therapy" treatment plans are
21 individualized and developed specific to the needs and strengths of the
22 client, who may be seen individually or as a part of a group, with goals,
23 objectives and potential strategies appropriate for the client and setting.
24 "Music therapy" interventions include, but are not limited to, music
25 improvisation, receptive music listening, songwriting, lyric discussion,
26 music and imagery, singing, music performance, learning through music,
27 music combined with other arts, music-assisted relaxation, music-based
28 patient education, electronic music technology, adaptive music
29 intervention and movement to music.

30 (B) "Music therapy" may include, but is not limited to:

31 (i) Accepting referrals for music therapy services from medical,
32 developmental, mental health or education professionals, family members,
33 clients, caregivers or other individuals involved and authorized with the
34 provision of client services;

35 (ii) conducting a music therapy assessment of a client to determine if
36 treatment is indicated and, if treatment is so indicated, collecting

1 systematic, comprehensive and accurate information to determine the
2 appropriateness and type of music therapy services to provide to the client;

3 (iii) developing an individualized music therapy treatment plan for
4 the client that is based upon the results of a music therapy assessment, and
5 such plan may include individualized goals and objectives that focus on
6 the assessed needs and strengths of the client and specify music therapy
7 approaches and interventions to be used to address such goals and
8 objectives;

9 (iv) implementing an individualized music therapy treatment plan that
10 is consistent with any other developmental, rehabilitative, habilitative,
11 medical, mental health, preventive, wellness care or education services
12 that the client is receiving;

13 (v) evaluating a client's response to music therapy and the music
14 therapy treatment plan, documenting change and progress and suggesting
15 modifications, as appropriate;

16 (vi) developing a plan for determining when the provision of music
17 therapy services is no longer needed in collaboration with the client and
18 the client's healthcare provider, education provider, family members and
19 any other appropriate person upon whom the client relies for support;

20 (vii) ensuring that a client receives music therapy services in the least
21 restrictive environment by minimizing barriers;

22 (viii) collaborating with and educating a client and the client's family
23 or caregiver or any other appropriate person regarding the needs of the
24 client that are being addressed in music therapy and the manner in which
25 the music therapy treatment addresses such needs; and

26 (ix) utilizing appropriate knowledge and skills to inform practice,
27 including the use of research, reasoning and problem-solving skills to
28 determine appropriate actions in the context of each specific clinical
29 setting.

30 (C) "Music therapy" does not include the screening, diagnosis or
31 assessment of any physical, mental or communication disorder.

32 Sec. 2. (a) There is hereby created the music therapy advisory
33 committee to assist the state board of healing arts in administering the
34 provisions of the music therapy licensure act.

35 (b) The advisory committee shall consist of five members appointed
36 by the state board of healing arts. Such members shall be individuals who
37 are familiar with the practice of music therapy and shall include:

38 (1) Three music therapists;

39 (2) one individual who is a healthcare provider licensed, registered,
40 permitted or otherwise authorized to practice a healthcare profession in
41 this state other than music therapy; and

42 (3) one consumer of music therapy services.

43 (c) The state board of healing arts shall appoint members of the

1 advisory committee to serve four-year terms. Members of the advisory
2 committee may serve consecutive terms as appointed by the state board of
3 healing arts.

4 (d) Any vacancy in the membership of the advisory committee shall
5 be filled in the same manner as the original appointment to the position
6 that has been vacated.

7 (e) Members of the advisory committee shall serve without
8 compensation.

9 (f) The advisory committee shall meet at least once per year or as
10 otherwise called by the state board of healing arts.

11 (g) The state board of healing arts shall advise and consult with the
12 advisory committee on issues related to music therapy and prior to setting
13 or changing any fees charged to administer the music therapy licensure act.

14 (h) The advisory committee may facilitate the development of
15 materials that the state board of healing arts may use to educate the public
16 concerning music therapist licensure, the benefits of music therapy and
17 utilization of music therapy by individuals and in facilities or institutional
18 settings.

19 (i) The advisory committee may act as a facilitator of statewide
20 dissemination of information between music therapists, the American
21 music therapy association, or any substantially equivalent or successor
22 organization, the certification board for music therapists, or any
23 substantially equivalent or successor organization, and the state board of
24 healing arts.

25 (j) At least once per year, the advisory committee shall provide
26 analysis of disciplinary actions taken by the state board of healing arts and
27 appeals and denials thereof.

28 Sec. 3. (a) On and after July 1, 2023, no individual shall use the title
29 "music therapist" or any similar title or practice music therapy without a
30 valid license issued by the state board of healing arts.

31 (b) For any individual who does not present themselves to the public
32 as a music therapist, nothing in this section shall be construed to prohibit
33 or restrict the practices, services or activities of such individual:

34 (1) (A) Who is licensed, certified or regulated under the laws of this
35 state in another profession or occupation, including, but not limited to, any
36 individual licensed, certified or regulated by the state board of healing arts,
37 the board of nursing or the behavioral sciences regulatory board, or any
38 individual supervised by such a licensed, certified or regulated individual;
39 and

40 (B) who is performing work, including the use of music, incidental to
41 the practice of the licensed, certified or regulated profession or occupation;

42 (2) whose training and national certification demonstrates the
43 individual's preparation and ability to practice a certified profession or

1 occupation;

2 (3) who practices music therapy as an integral part of a program of
3 study for students enrolled in an accredited music therapy program; or

4 (4) who practices music therapy under the supervision of a music
5 therapist.

6 Sec. 4. (a) Before a music therapist provides music therapy services
7 to a client for an identified clinical or developmental need, the music
8 therapist shall review the client's diagnosis, treatment needs and treatment
9 plan with the healthcare providers involved in the client's care or, for a
10 client who is a student, with the student's individualized family service
11 plan or individualized education program team.

12 (b) During the provision of music therapy services to a client, the
13 music therapist shall collaborate, as applicable, with the client's treatment
14 team, including the client's physician, psychologist, clinical social worker
15 and any other mental health professional. For a client with a
16 communication disorder, the music therapist shall collaborate with the
17 client's audiologist or speech-language pathologist regarding the music
18 therapy treatment plan for the purpose of addressing the client's
19 communication skills.

20 (c) When providing educational or healthcare services, a music
21 therapist shall not replace the services provided by an audiologist or a
22 speech-language pathologist. Unless authorized to practice speech-
23 language pathology, a music therapist shall not evaluate, examine, instruct
24 or counsel on speech, language, communication or swallowing disorders
25 and conditions. A music therapist shall not present themselves to the public
26 that the music therapist is authorized to treat a communication disorder.
27 This subsection shall not prohibit a music therapist from representing to
28 the public that the music therapist may work with clients who have a
29 communication disorder in order to address communication skills.

30 Sec. 5. The state board of healing arts shall issue a license to an
31 applicant for a music therapist license upon application on a form and in a
32 manner prescribed by the board, payment of any required fee and
33 submission of evidence satisfactory to the board that the applicant:

34 (a) (1) Is at least 18 years of age;

35 (2) holds a bachelor's degree or higher in music therapy, or equivalent
36 thereof, including clinical training hours, from a program offered by an
37 accredited college or university and approved by the American music
38 therapy association or any successor organization;

39 (3) is in good standing based on a review of the applicant's music
40 therapy licensure history in other jurisdictions, including a review of any
41 alleged misconduct or neglect in the applicant's practice of music therapy;
42 and

43 (4) (A) has passed the examination for board certification offered by

1 the certification board for music therapists or any successor organization;
2 or

3 (B) has been transitioned into board certification and is currently a
4 board-certified music therapist; or

5 (b) is currently licensed and in good standing as a music therapist in
6 another jurisdiction that has qualifications for such licensure equal to or
7 greater than the requirements established in the music therapy licensure
8 act.

9 Sec. 6. (a) A music therapist license shall be renewed biennially upon
10 application on a form and in a manner prescribed by the state board of
11 healing arts, payment of any required fee and submission of evidence
12 satisfactory to the board that the applicant maintains status as a board-
13 certified music therapist. Each music therapist shall be responsible for
14 timely renewal of such license.

15 (b) A music therapist shall inform the state board of healing arts of
16 any change to the music therapist's address within 30 calendar days after
17 such change.

18 (c) Failure to renew a license shall result in the license being
19 canceled. A license that has been canceled may be reinstated within one
20 year after cancellation upon payment of any required renewal and
21 reinstatement fees. The state board of healing arts may require an applicant
22 whose license has been canceled for more than one year to apply for
23 licensure as a new applicant.

24 (d) There is created the designation of inactive music therapy license.
25 The state board of healing arts may issue an inactive music therapy license
26 to any music therapist upon application on a form and in a manner
27 prescribed by the board and payment of any required inactive license fee.
28 An inactive music therapy license may be issued for not to exceed two
29 years. A music therapist with an inactive music therapy license may apply
30 for an active license upon application on a form and in a manner
31 prescribed by the board and payment of any required fee.

32 Sec. 7. (a) The state board of healing arts may revoke, suspend or
33 limit a music therapy license, publicly censure a music therapist, place a
34 music therapist under probationary conditions, fine a music therapist not
35 less than \$100 but not more than \$1,000 or deny an application for license
36 or renewal or reinstatement of a license upon a finding that the applicant or
37 music therapist:

38 (1) Is ineligible for licensure, including, but not limited to,
39 falsification of information submitted for licensure or failure to maintain
40 status as a board-certified music therapist;

41 (2) has failed to pay any fee required for licensure when due;

42 (3) has failed to provide information requested by the board in a
43 timely manner;

1 (4) has been convicted of a felony;

2 (5) has been convicted of any crime that reflects an inability to
3 practice music therapy with due regard for the health and safety of clients
4 or patients or with due regard for the truth in filing claims with medicare,
5 medicaid or any third-party payor;

6 (6) is unable or has failed to practice music therapy with reasonable
7 skill and consistent with the welfare of clients or patients, including, but
8 not limited to, negligence in the practice of music therapy, intoxication,
9 incapacity or abuse of or engaging in sexual contact with a client or
10 patient; and

11 (7) has been the subject of disciplinary action by another jurisdiction
12 related to the practice of music therapy.

13 (b) The state board of healing arts may conduct investigations into
14 allegations of conduct described in subsection (a).

15 Sec. 8. This act shall take effect and be in force from and after its
16 publication in the statute book.

HOUSE BILL No. 2258

By Committee on Health and Human Services

2-1

1 AN ACT concerning health and healthcare; relating to behavioral and
2 mental health; prohibiting certain licensed individuals from using
3 conversion therapy on minors; amending K.S.A. 40-2,215, 40-2,216,
4 65-2837 and 74-7507 and K.S.A. 2022 Supp. 65-1120 and repealing the
5 existing sections.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) As used in this section:

9 (1) "Conversion therapy" means any practice or treatment that seeks
10 to change an individual's sexual orientation or gender identity, including
11 efforts to change behaviors or gender expressions or to eliminate or reduce
12 sexual or romantic attractions or feelings toward individuals of the same
13 sex or gender.

14 (2) "Conversion therapy" does not include any practice or treatment
15 that:

16 (A) Provides assistance to an individual undergoing gender transition;

17 (B) provides acceptance, support and understanding of an individual's
18 sexual orientation or gender identity, including such individual's gender
19 expressions or sexual or romantic attractions or feelings toward individuals
20 of the same sex or gender; or

21 (C) facilitates an individual's coping, social support and identity
22 exploration and development, including sexual orientation-neutral
23 interventions to prevent or address unlawful conduct or unsafe sexual
24 practices, so long as such practice or treatment does not seek to change the
25 individual's sexual orientation or gender identity.

26 (b) (1) The following licensees shall be prohibited from using
27 conversion therapy on any individual under 18 years of age:

28 (A) Persons licensed by the state board of healing arts;

29 (B) persons licensed by the board of nursing; and

30 (C) persons licensed by the behavioral sciences regulatory board.

31 (2) Any practice of conversion therapy on any individual under 18
32 years of age by any such licensee shall constitute unprofessional conduct
33 and shall be subject to discipline by such licensee's respective regulatory
34 board.

35 (3) The provisions of this subsection shall apply to delivery of
36 telemedicine authorized by the Kansas telemedicine act under K.S.A. 40-

1 2,210 et seq., and amendments thereto.

2 (4) The provisions of this subsection shall not apply to the use of
3 conversion therapy by a religious leader or official of any religious
4 denomination that is:

5 (A) Part of such leader's or official's religious duties; and

6 (B) not performed under the authority of a license issued by any of
7 the regulatory boards listed in paragraph (1).

8 Sec. 2. K.S.A. 40-2,215 is hereby amended to read as follows: 40-
9 2,215. Nothing in the Kansas telemedicine act shall be construed to
10 authorize the delivery of ~~any abortion procedure~~ via telemedicine of:

11 (a) *Any abortion procedure; or*

12 (b) *conversion therapy, as defined in section 1, and amendments*
13 *thereto, used on a minor.*

14 Sec. 3. K.S.A. 40-2,216 is hereby amended to read as follows: 40-
15 2,216. If any provision of the Kansas telemedicine act, or the application
16 thereof to any person or circumstance, is held invalid or unconstitutional
17 by court order, then the remainder of the Kansas telemedicine act and the
18 application of such provision to other persons or circumstances shall not
19 be affected thereby and it shall be conclusively presumed that the
20 legislature would have enacted the remainder of the Kansas telemedicine
21 act without such invalid or unconstitutional provision, except that the
22 provisions of K.S.A. ~~40-2,215~~ 40-2,215(a), and amendments thereto, are
23 expressly declared to be nonseverable.

24 Sec. 4. K.S.A. 2022 Supp. 65-1120 is hereby amended to read as
25 follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may
26 deny, revoke, limit or suspend any license or authorization to practice
27 nursing as a registered professional nurse, as a licensed practical nurse, as
28 an advanced practice registered nurse or as a registered nurse anesthetist
29 that is issued by the board or applied for under this act, or may require the
30 licensee to attend a specific number of hours of continuing education in
31 addition to any hours the licensee may already be required to attend or
32 may publicly or privately censure a licensee or holder of a temporary
33 permit or authorization, if the applicant, licensee or holder of a temporary
34 permit or authorization is found after a hearing:

35 (1) To be guilty of fraud or deceit in practicing nursing or in
36 procuring or attempting to procure a license to practice nursing;

37 (2) to have been guilty of a felony or to have been guilty of a
38 misdemeanor involving an illegal drug offense unless the applicant or
39 licensee establishes sufficient rehabilitation to warrant the public trust,
40 except that notwithstanding K.S.A. 74-120, and amendments thereto, no
41 license or authorization to practice nursing as a licensed professional
42 nurse, as a licensed practical nurse, as an advanced practice registered
43 nurse or registered nurse anesthetist shall be granted to a person with a

1 felony conviction for a crime against persons as specified in article 34 of
2 chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article
3 54 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2022 Supp.
4 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

5 (3) has been convicted or found guilty or has entered into an agreed
6 disposition of a misdemeanor offense related to the practice of nursing as
7 determined on a case-by-case basis;

8 (4) to have committed an act of professional incompetency as defined
9 in subsection (e);

10 (5) to be unable to practice with skill and safety due to current abuse
11 of drugs or alcohol;

12 (6) to be a person who has been adjudged in need of a guardian or
13 conservator, or both, under the act for obtaining a guardian or conservator,
14 or both, and who has not been restored to capacity under that act;

15 (7) to be guilty of unprofessional conduct as defined by rules and
16 regulations of the board, *including the use of conversion therapy on a*
17 *minor in violation of section 1, and amendments thereto*;

18 (8) to have willfully or repeatedly violated the provisions of the
19 Kansas nurse practice act or any rules and regulations adopted pursuant to
20 that act, including K.S.A. 65-1114 and 65-1122, and amendments thereto;

21 (9) to have a license to practice nursing as a registered nurse or as a
22 practical nurse denied, revoked, limited or suspended, or to be publicly or
23 privately censured, by a licensing authority of another state, agency of the
24 United States government, territory of the United States or country or to
25 have other disciplinary action taken against the applicant or licensee by a
26 licensing authority of another state, agency of the United States
27 government, territory of the United States or country. A certified copy of
28 the record or order of public or private censure, denial, suspension,
29 limitation, revocation or other disciplinary action of the licensing authority
30 of another state, agency of the United States government, territory of the
31 United States or country shall constitute prima facie evidence of such a
32 fact for purposes of this paragraph~~(9)~~; or

33 (10) to have assisted suicide in violation of K.S.A. 21-3406, prior to
34 its repeal, or K.S.A. 2022 Supp. 21-5407, and amendments thereto, as
35 established by any of the following:

36 (A) A copy of the record of criminal conviction or plea of guilty for a
37 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2022
38 Supp. 21-5407, and amendments thereto;

39 (B) a copy of the record of a judgment of contempt of court for
40 violating an injunction issued under K.S.A. 2022 Supp. 60-4404, and
41 amendments thereto; *or*

42 (C) a copy of the record of a judgment assessing damages under
43 K.S.A. 2022 Supp. 60-4405, and amendments thereto.

1 (b) *Proceedings*. Upon filing of a sworn complaint with the board
2 charging a person with having been guilty of any of the unlawful practices
3 specified in subsection (a), two or more members of the board shall
4 investigate the charges, or the board may designate and authorize an
5 employee or employees of the board to conduct an investigation. After
6 investigation, the board may institute charges. If an investigation, in the
7 opinion of the board, reveals reasonable grounds for believing the
8 applicant or licensee is guilty of the charges, the board shall fix a time and
9 place for proceedings, which shall be conducted in accordance with the
10 provisions of the Kansas administrative procedure act.

11 (c) *Witnesses*. No person shall be excused from testifying in any
12 proceedings before the board under this act or in any civil proceedings
13 under this act before a court of competent jurisdiction on the ground that
14 such testimony may incriminate the person testifying, but such testimony
15 shall not be used against the person for the prosecution of any crime under
16 the laws of this state except the crime of perjury as defined in K.S.A. 2022
17 Supp. 21-5903, and amendments thereto.

18 (d) *Costs*. If final agency action of the board in a proceeding under
19 this section is adverse to the applicant or licensee, the costs of the board's
20 proceedings shall be charged to the applicant or licensee as in ordinary
21 civil actions in the district court, but if the board is the unsuccessful party,
22 the costs shall be paid by the board. Witness fees and costs may be taxed
23 by the board according to the statutes relating to procedure in the district
24 court. All costs accrued by the board, when it is the successful party, and
25 which the attorney general certifies cannot be collected from the applicant
26 or licensee shall be paid from the board of nursing fee fund. All moneys
27 collected following board proceedings shall be credited in full to the board
28 of nursing fee fund.

29 (e) *Professional incompetency defined*. As used in this section,
30 "professional incompetency" means:

31 (1) One or more instances involving failure to adhere to the
32 applicable standard of care to a degree which constitutes gross negligence,
33 as determined by the board;

34 (2) repeated instances involving failure to adhere to the applicable
35 standard of care to a degree which constitutes ordinary negligence, as
36 determined by the board; or

37 (3) a pattern of practice or other behavior which demonstrates a
38 manifest incapacity or incompetence to practice nursing.

39 (f) *Criminal justice information*. The board upon request shall receive
40 from the Kansas bureau of investigation such criminal history record
41 information relating to arrests and criminal convictions as necessary for
42 the purpose of determining initial and continuing qualifications of
43 licensees of and applicants for licensure by the board.

1 Sec. 5. K.S.A. 65-2837 is hereby amended to read as follows: 65-
2 2837. As used in K.S.A. 65-2836, and amendments thereto, and in this
3 section:

4 (a) "Professional incompetency" means:

5 (1) One or more instances involving failure to adhere to the
6 applicable standard of care to a degree that constitutes gross negligence, as
7 determined by the board.

8 (2) Repeated instances involving failure to adhere to the applicable
9 standard of care to a degree that constitutes ordinary negligence, as
10 determined by the board.

11 (3) A pattern of practice or other behavior that demonstrates a
12 manifest incapacity or incompetence to practice the healing arts.

13 (b) "Unprofessional conduct" means:

14 (1) ~~Solicitation of~~ *Soliciting* professional patronage through the use
15 of fraudulent or false advertisements, or profiting by the acts of those
16 representing themselves to be agents of the licensee.

17 (2) Representing to a patient that a manifestly incurable disease,
18 condition or injury can be permanently cured.

19 (3) Assisting in the care or treatment of a patient without the consent
20 of the patient, the attending physician or the patient's legal representatives.

21 (4) ~~The use of~~ *Using* any letters, words or terms as an affix, on
22 stationery, in advertisements or otherwise indicating that such person is
23 entitled to practice a branch of the healing arts for which such person is
24 not licensed.

25 (5) Performing, procuring or aiding and abetting in the performance
26 or procurement of a criminal abortion.

27 (6) ~~Willful betrayal of~~ *Willfully betraying* confidential information.

28 (7) Advertising professional superiority or the performance of
29 professional services in a superior manner.

30 (8) Advertising to guarantee any professional service or to perform
31 any operation painlessly.

32 (9) Participating in any action as a staff member of a medical care
33 facility that is designed to exclude or that results in the exclusion of any
34 person licensed to practice medicine and surgery from the medical staff of
35 a nonprofit medical care facility licensed in this state because of the
36 branch of the healing arts practiced by such person or without just cause.

37 (10) ~~Failure~~ *Failing* to effectuate the declaration of a qualified
38 patient as provided in K.S.A. 65-28,107(a), and amendments thereto.

39 (11) Prescribing, ordering, dispensing, administering, selling,
40 supplying or giving any amphetamines or sympathomimetic amines,
41 except as authorized by K.S.A. 65-2837a, and amendments thereto.

42 (12) *Engaging in* conduct likely to deceive, defraud or harm the
43 public.

1 (13) Making a false or misleading statement regarding the licensee's
2 skill or the efficacy or value of the drug, treatment or remedy prescribed
3 by the licensee or at the licensee's direction in the treatment of any disease
4 or other condition of the body or mind.

5 (14) Aiding or abetting the practice of the healing arts by an
6 unlicensed, incompetent or impaired person.

7 (15) Allowing another person or organization to use the licensee's
8 license to practice the healing arts.

9 ~~(16) Commission of~~ *Committing* any act of sexual abuse,
10 misconduct or other improper sexual contact that exploits the licensee-
11 patient relationship with a patient or a person responsible for ~~health care~~
12 *healthcare* decisions concerning such patient.

13 (17) The use of any false, fraudulent or deceptive statement in any
14 document connected with the practice of the healing arts including the
15 intentional falsifying or fraudulent altering of a patient or medical care
16 facility record.

17 (18) Obtaining any fee by fraud, deceit or misrepresentation.

18 (19) Directly or indirectly giving or receiving any fee, commission,
19 rebate or other compensation for professional services not actually and
20 personally rendered, other than through the legal functioning of lawful
21 professional partnerships, corporations, limited liability companies or
22 associations.

23 ~~(20) Failure~~ *Failing* to transfer patient records to another licensee
24 when requested to do so by the subject patient or by such patient's legally
25 designated representative.

26 (21) Performing unnecessary tests, examinations or services that have
27 no legitimate medical purpose.

28 (22) Charging an excessive fee for services rendered.

29 (23) Prescribing, dispensing, administering or distributing a
30 prescription drug or substance, including a controlled substance, in an
31 improper or inappropriate manner, or for other than a valid medical
32 purpose, or not in the course of the licensee's professional practice.

33 ~~(24) Repeated failure~~ *Repeatedly failing* to practice healing arts
34 with that level of care, skill and treatment that is recognized by a
35 reasonably prudent similar practitioner as being acceptable under similar
36 conditions and circumstances.

37 ~~(25) Failure~~ *Failing* to keep written medical records that accurately
38 describe the services rendered to the patient, including patient histories,
39 pertinent findings, examination results and test results.

40 (26) Delegating professional responsibilities to a person when the
41 licensee knows or has reason to know that such person is not qualified by
42 training, experience or licensure to perform them.

43 (27) Using experimental forms of therapy without proper informed

1 patient consent, without conforming to generally accepted criteria or
2 standard protocols, without keeping detailed legible records or without
3 having periodic analysis of the study and results reviewed by a committee
4 or peers.

5 (28) Prescribing, dispensing, administering or distributing an anabolic
6 steroid or human growth hormone for other than a valid medical purpose.
7 Bodybuilding, muscle enhancement or increasing muscle bulk or strength
8 through the use of an anabolic steroid or human growth hormone by a
9 person who is in good health is not a valid medical purpose.

10 (29) Referring a patient to a ~~health care~~ *healthcare* entity for services
11 if the licensee has a significant investment interest in the ~~health care~~
12 *healthcare* entity, unless the licensee informs the patient in writing of such
13 significant investment interest and that the patient may obtain such
14 services elsewhere.

15 (30) Failing to properly supervise, direct or delegate acts that
16 constitute the healing arts to persons who perform professional services
17 pursuant to such licensee's direction, supervision, order, referral,
18 delegation or practice protocols.

19 (31) Violating K.S.A. 65-6703, and amendments thereto.

20 (32) Charging, billing or otherwise soliciting payment from any
21 patient, patient's representative or insurer for anatomic pathology services,
22 if such services are not personally rendered by the licensee or under such
23 licensee's direct supervision. As used in this subsection, "anatomic
24 pathology services" means the gross or microscopic examination of
25 histologic processing of human organ tissue or the examination of human
26 cells from fluids, aspirates, washings, brushings or smears, including blood
27 banking services, and subcellular or molecular pathology services,
28 performed by or under the supervision of a person licensed to practice
29 medicine and surgery or a clinical laboratory. Nothing in this subsection
30 shall be construed to prohibit billing for anatomic pathology services by:

31 (A) A hospital;

32 (B) a clinical laboratory when samples are transferred between
33 clinical laboratories for the provision of anatomic pathology services; or

34 (C) a physician providing services to a patient pursuant to a medical
35 retainer agreement in compliance with K.S.A. 65-4978, and amendments
36 thereto, when the bill to the patient for such services:

37 (i) Identifies the laboratory or physician that performed the services;

38 (ii) discloses in writing to the patient the actual amount charged by
39 the physician or laboratory that performed the service; and

40 (iii) is consistent with rules and regulations adopted by the board for
41 appropriate billing standards applicable to such services when furnished
42 under these agreements.

43 (33) Engaging in conduct that violates patient trust and exploits the

1 licensee-patient relationship for personal gain.

2 (34) Obstructing a board investigation including, but not limited to,
3 engaging in one or more of the following acts:

4 (A) Falsifying or concealing a material fact;

5 (B) knowingly making or causing to be made any false or misleading
6 statement or writing; or

7 (C) other acts or conduct likely to deceive or defraud the board.

8 (35) *Using conversion therapy on a minor in violation of section 1,
9 and amendments thereto.*

10 (c) "False advertisement" means any advertisement that is false,
11 misleading or deceptive in a material respect. In determining whether any
12 advertisement is misleading, there shall be taken into account not only
13 representations made or suggested by statement, word, design, device,
14 sound or any combination thereof, but also the extent to which the
15 advertisement fails to reveal facts material in the light of such
16 representations made.

17 (d) "Advertisement" means all representations disseminated in any
18 manner or by any means for the purpose of inducing, or that are likely to
19 induce, directly or indirectly, the purchase of professional services.

20 (e) "Licensee" for purposes of this section and K.S.A. 65-2836, and
21 amendments thereto, means all persons issued a license, permit or special
22 permit pursuant to article 28 of chapter 65 of the Kansas Statutes
23 Annotated, and amendments thereto.

24 (f) "License" for purposes of this section and K.S.A. 65-2836, and
25 amendments thereto, means any license, permit or special permit granted
26 under article 28 of chapter 65 of the Kansas Statutes Annotated, and
27 amendments thereto.

28 (g) "~~Health care~~Healthcare entity" means any corporation, firm,
29 partnership or other business entity that provides services for diagnosis or
30 treatment of human health conditions and that is owned separately from a
31 referring licensee's principle practice.

32 (h) "Significant investment interest" means ownership of at least 10%
33 of the value of the firm, partnership or other business entity that owns or
34 leases the ~~health care~~ healthcare entity, or ownership of at least 10% of the
35 shares of stock of the corporation that owns or leases the ~~health care~~
36 healthcare entity.

37 Sec. 6. K.S.A. 74-7507 is hereby amended to read as follows: 74-
38 7507. (a) The behavioral sciences regulatory board shall have the
39 following powers, duties and functions:

40 (1) Recommend to the appropriate district or county attorneys
41 prosecution for violations of this act, the licensure of psychologists act of
42 the state of Kansas, the professional counselors licensure act, the social
43 workers licensure act, the licensure of master's level psychologists act, the

1 applied behavior analysis licensure act, the marriage and family therapists
2 licensure act or the addiction counselor licensure act;

3 (2) compile and publish annually a list of the names and addresses of
4 all persons who are licensed under this act, are licensed under the licensure
5 of psychologists act of the state of Kansas, the professional counselors
6 licensure act, the social workers licensure act, the licensure of master's
7 level psychologists act, the applied behavior analysis licensure act, the
8 marriage and family therapists licensure act or the addiction counselor
9 licensure act;

10 (3) prescribe the form and contents of examinations required under
11 this act, the licensure of psychologists act of the state of Kansas, the
12 professional counselors licensure act, the social workers licensure act, the
13 licensure of master's level psychologists act, the applied behavior analysis
14 licensure act, the marriage and family therapists licensure act or the
15 addiction counselor licensure act;

16 (4) enter into contracts necessary to administer this act, the licensure
17 of psychologists act of the state of Kansas, the professional counselors
18 licensure act, the social workers licensure act, the licensure of master's
19 level psychologists act, the applied behavior analysis licensure act, the
20 marriage and family therapists licensure act or the addiction counselor
21 licensure act;

22 (5) adopt an official seal;

23 (6) adopt and enforce rules and regulations for professional conduct
24 of persons licensed under the licensure of psychologists act of the state of
25 Kansas, the professional counselors licensure act, the social workers
26 licensure act, the licensure of master's level psychologists act, the applied
27 behavior analysis licensure act, the marriage and family therapists
28 licensure act or the addiction counselor licensure act;

29 (7) adopt and enforce rules and regulations establishing requirements
30 for the continuing education of persons licensed under the licensure of
31 psychologists act of the state of Kansas, the professional counselors
32 licensure act, the social workers licensure act, the licensure of master's
33 level psychologists act, the applied behavior analysis licensure act, the
34 marriage and family therapists licensure act or the addiction counselor
35 licensure act;

36 (8) adopt rules and regulations establishing classes of social work
37 specialties which will be recognized for licensure under K.S.A. 65-6301 ~~to~~
38 *through* 65-6318, ~~inclusive~~, and amendments thereto;

39 (9) adopt rules and regulations establishing procedures for
40 examination of candidates for licensure under the licensure of
41 psychologists act of the state of Kansas, the professional counselors
42 licensure act, the social workers licensure act, the licensure of master's
43 level psychologists act, the applied behavior analysis licensure act, the

1 marriage and family therapists licensure act, the addiction counselor
2 licensure act and for issuance of such certificates and such licenses;

3 (10) adopt rules and regulations as may be necessary for the
4 administration of this act, the licensure of psychologists act of the state of
5 Kansas, the professional counselors licensure act, the social workers
6 licensure act, the licensure of master's level psychologists act, the applied
7 behavior analysis licensure act, the marriage and family therapists
8 licensure act and the addiction counselor licensure act and to carry out the
9 purposes thereof;

10 (11) appoint an executive director and other employees as provided in
11 K.S.A. 74-7501, and amendments thereto; and

12 (12) exercise such other powers and perform such other functions and
13 duties as may be prescribed by law.

14 (b) *Any rules and regulations adopted pursuant to this section*
15 *concerning professional conduct shall prohibit the use of conversion*
16 *therapy on a minor that would be in violation of section 1, and*
17 *amendments thereto.*

18 (c) If an order of the behavioral sciences regulatory board is adverse
19 to a licensee or registrant of the board, the actual costs shall be charged to
20 such person as in ordinary civil actions in the district court. The board
21 shall pay any additional costs and, if the board is the unsuccessful party,
22 the costs shall be paid by the board. Witness fees and costs may be taxed
23 in accordance with statutes governing taxation of witness fees and costs in
24 the district court.

25 Sec. 7. K.S.A. 40-2,215, 40-2,216, 65-2837 and 74-7507 and K.S.A.
26 2022 Supp. 65-1120 are hereby repealed.

27 Sec. 8. This act shall take effect and be in force from and after its
28 publication in the statute book.