

Proposed

**STATE OF KANSAS  
BOARD OF HEALING ARTS**

**Notice of Public Hearing on Proposed Administrative Regulations**

A public hearing will be conducted on Monday, November 20, 2017, at 11:00 a.m. in the board room at the Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level – Suite A, Topeka, Kansas, to consider proposed new regulations related to licensure of and practice by Acupuncturists.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the above-referenced rules and regulations. All interested parties may submit comments prior to the hearing to Stacy Bond, Assistant General Counsel, at the Board of Healing Arts at the address above, or via e-mail to [KSBHA\\_HealingArts@ks.gov](mailto:KSBHA_HealingArts@ks.gov). All interested parties will be given a reasonable opportunity to present their views, orally or in writing, concerning the proposed regulations during the public hearing. In order to provide all parties with an opportunity to present their views, it may be necessary to request each participant limit any oral presentations to five minutes.

Copies of the proposed regulations and the Economic Impact Statement for the proposed regulations may be obtained from the Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level – Suite A, Topeka, Kansas 66612; on the agency website at <http://www.ksbha.org/publicinformation/publicinformation.shtml>, by contacting Jenne Cook at (785) 296-2482, or by e-mailing the agency at [KSBHA\\_HealingArts@ks.gov](mailto:KSBHA_HealingArts@ks.gov).

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations being considered and the economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Barbara Montgomery at (785) 296-8558 or at [Barbara.Montgomery@ks.gov](mailto:Barbara.Montgomery@ks.gov). Individuals with hearing and/or speech disabilities may contact the Kansas Relay Center at 800-766-3777 for communication accommodations. Handicapped parking is located on 8<sup>th</sup> Street and in the building's parking garage. From the street, both the West entrance to the building on Jackson Street and the North entrance on 8<sup>th</sup> Street are accessible.

A summary of the proposed new regulations and their economic impact follows:

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**K.A.R. 100-76-1. Fees** The purpose of this regulation is to establish fees to be collected by the Board for initial applications for licensure from acupuncturists, renewal of licensure, late renewals, reinstatement of licensure, certified copy of license, written verification of licensure, and conversions from one type of licensure to another.

**K.A.R. 100-76-2. Licensure by Examination** The purpose of this regulation is to advise potential applicants of the examination requirements set by the Board. This regulation explains which components of the national certification commission for acupuncture and oriental medicine ("NCCAOM"). It also advises applicants of the requirement of having a clean needle technique ("CNT") certificate issued within the previous six years.

**K.A.R. 100-76-3. Waiver of Examination and Education** The purpose of this regulation is to provide guidance to applicants who are applying for licensure through the grandfathering option. This regulation provides information regarding the documentation required by the Board to determine the applicant's prior education and examinations and whether they qualify based upon this information for licensure without having formal education and/or training.

**K.A.R. 100-76-4. Exempt License; unprofessional conduct** The purpose of this regulation is to advise individuals with an exempt license the limitations that are imposed on that license. The regulation also provides information regarding the continuing duties of the license to advise the Board of any changes in their proposed professional activities. This regulation also sets forth the continuing education requirements for an individual who has held an exempt license for less than two years to convert the license to an active license.

**K.A.R. 100-76-5. Professional Liability Insurance** The purpose of this regulation is to advise applicants for licensure in acupuncture that they are required to maintain professional liability insurance while they have an active license. This regulation also sets forth the minimum coverage requirements.

**K.A.R. 100-76-6. Continuing Education** The purpose of this regulation is to give guidance to licensees regarding the required continuing education necessary to maintain licensure. The regulation gives information regarding the number of hours and the types of hours accepted as proof of continuing education.

**K.A.R. 100-76-7. Unprofessional conduct; definitions** The purpose of this regulation is to advise acupuncture licensees of conduct that the Board has determined to be prohibited.

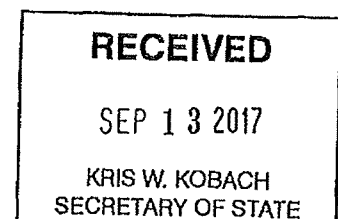
**K.A.R. 100-76-8. Professional incompetency; definitions** The purpose of this regulation is to advise acupuncture licensees of the definition of incompetency and the multitude of ways that incompetency can be determined, by either gross or ordinary negligence.

**K.A.R. 100-76-9. Patient records; adequacy** The purpose of this regulation is to advise acupuncture licensees of the specific requirements that are to be contained in each patient record.

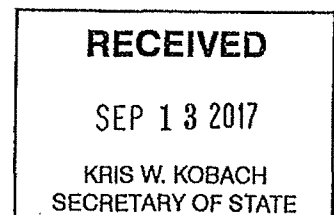
**K.A.R. 100-76-10. Release of records** The purpose of this regulation is to advise acupuncture licensees of their obligation to provide copies of patient records to the patient or a patient's legal representative upon a signed release. It also advises licensees that under certain circumstances they can refuse to release the records directly to the patient, but can provide the records to another licensee designated by the patient. Additionally, the regulation advises licensees that they may charge for copying patient records, but are not allowed to condition the furnishing of the record to the patient upon prepayment of these costs.

**K.A.R. 100-76-11. Free offers** The purpose of this regulation is to advise acupuncture licensees of the limitations on performing free examinations, services or procedures and that if the appointment with the patient expands beyond the free offer, the licensee must explain to the patient any additional examination, service or procedure and the approximate cost of such examination, service or procedure before proceeding.

**K.A.R. 100-76- 12. Business transactions with patients; unprofessional conduct** This regulation advises acupuncture licensees of the limitations on entering into or offering other business opportunities to their patients. It also advises licensees that offering to sell non-health related goods or services to a patient at the location the licensee regularly practices is considered unprofessional conduct. The regulation provides exceptions to this rule.



Costs to the State Board of Healing Arts are expected to be minimal for the daily administration of this license. Additional costs will be incurred by the Board for investigation of complaints made to the Board regarding acupuncturists, as well as additional costs for litigation of investigations deemed to show that such licensee of the Board has violated the practice act. There are no anticipated costs to other Governmental Agencies or upon private businesses. Individuals who wish to practice acupuncture in the state of Kansas will now be required to obtain licensure from the Board to engage in that profession, therefore the acupuncturists will bear the costs of licensure. There may be a minimal economic impact to the public if the practitioners choose to pass these costs on to their patients.

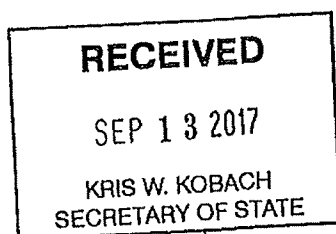


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Article 76. Acupuncturists

**K.A.R. 100-76-1. Fees.** (a) The following fees shall be collected by the board:

- (1) Application for license . . . . . \$ 165.00
- (2) Annual renewal of active license:
  - (A) Paper renewal . . . . . \$ 150.00
  - (B) On-line renewal . . . . . \$ 125.00
- (3) Annual renewal of inactive license:
  - (A) Paper renewal . . . . . \$ 125.00
  - (B) On-line renewal . . . . . \$ 100.00
- (4) Annual renewal of exempt license:
  - (A) Paper renewal . . . . . \$ 125.00
  - (B) On-line renewal . . . . . \$ 100.00
- (5) Conversion from inactive to active license . . . . . \$ 75.00
- (6) Conversion from exempt to active license . . . . . \$ 75.00
- (7) Late renewal:
  - (A) Paper renewal . . . . . \$ 50.00
  - (B) On-line renewal . . . . . \$ 25.00
- (8) Application for reinstatement of canceled license. . . . . \$ 165.00
- (9) Application for reinstatement of revoked license . . . . . \$ 500.00
- (10) Certified copy of license. . . . . \$ 20.00
- (11) Written verification of license. . . . . \$ 20.00



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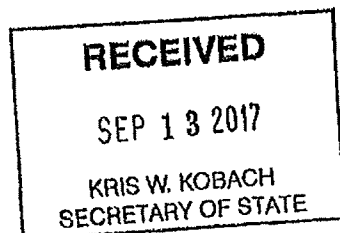
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(b) If a licensed acupuncturist's initial licensure period is six months or less before the first annual renewal period, the first annual renewal fee shall be prorated at \$10.00 per month for any full or partial month. (Authorized by K.S.A. 2016 Supp. 65-7615; implementing K.S.A. 2016 Supp. 65-7611; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)



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**K.A.R. 100-76-2. Licensure by examination.** Each person applying for licensure in acupuncture by examination shall provide the following:

(a) Documentation of successful completion of the certification examination offered by the NCCAOM for a diplomate in acupuncture or oriental medicine. The certification examination shall include the following components:

- (1) Foundations of oriental medicine;
- (2) acupuncture with point location; and
- (3) biomedicine; and

(b) a copy of a clean needle technique (CNT) certificate obtained within the previous six years from the council of colleges of acupuncture and oriental medicine (CCAOM) or NCCAOM. (Authorized by K.S.A. 2016 Supp. 65-7615; implementing K.S.A. 2016 Supp. 65-7606; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)

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\*K.A.R. 100-76-3. Waiver of examination and education. (a) Pursuant to K.S.A. 2016 Supp. 65-7608 and amendments thereto, certain license prerequisites for education and examination shall waived by the board for each applicant who submits an application on or before January 1, 2018 and provides the following:

(1) Proof that the applicant has completed at least 1,350 hours of curriculum-based study, an approved apprenticeship, or a tutorial program, or a combination of these, excluding on-line study, in the field of acupuncture. Proof of hours may be shown by successful completion of a curriculum-based program, an approved apprenticeship, or a tutorial program, or a combination of these, that meets the standards of the NCCAOM or any entity determined by the board to be the equivalent of the NCCAOM. To demonstrate successful completion of the requirements, the applicant shall submit the following:

(A)(i) Evidence that the apprenticeship preceptor either is licensed as an acupuncturist in the state in which the individual practices acupuncture or is a diplomate of acupuncture; and

(ii) a copy of the notes, records, or other documentation maintained by the preceptor conducting the apprenticeship or tutorial program providing evidence of the educational materials used in the apprenticeship and documenting the number of hours taught and the subjects covered; or

(B) an official school transcript;

(2) evidence of a current clean needle technique (CNT) certificate obtained from the CCAOM, NCCAOM, or any entity determined to be the equivalent by the board; and

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(3) proof that the applicant has been engaged in the practice of acupuncture and has had at least 1,500 patient visits in three of the last five years. The applicant shall provide any of the following for the board's review:

(A) Affidavits from at least two people who have practiced acupuncture with the applicant, including office partners, clinic supervisors, and any other individuals approved by the board;

(B) a copy of each continuing education certificate obtained within the last three years;

(C) a copy of the applicant's patient appointment books; or

(D) a copy of the applicant's patient charts.

(b) Each applicant shall provide any additional documentation requested by the board.

(Authorized by K.S.A. 2016 Supp. 65-7608 and 65-7615; implementing K.S.A. 2016 Supp. 65-7608; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)

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K.A.R. 100-76-4. Exempt license; description of professional activities. (a) Each person applying for an exempt license shall specify on the application all professional activities related to the practice of acupuncture that the person will perform if issued an exempt license.

(b) The professional activities performed by each individual holding an exempt license shall be limited to the following:

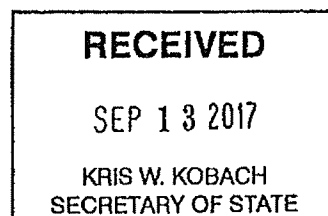
(1) Performing administrative functions, including peer review, utilization review, and expert opinions; and

(2) providing direct patient care services gratuitously or providing supervision, direction, or consultation for no compensation. Nothing in this subsection shall prohibit an exempt license holder from receiving payment for subsistence allowances or actual and necessary expenses incurred in providing these services.

(c) Each person holding an exempt license shall, at the time of license renewal, specify on the renewal application all professional activities related to the practice of acupuncture that the person will perform during the renewal period.

(d) Each person who requests modification of the professional activities on that person's application or renewal application for an exempt license shall notify the board of the modification within 30 days. The request for modification shall be submitted on a form provided by the board.

(e) Each licensed acupuncturist who has held an exempt license for less than two years and requests an active license designation shall submit evidence of satisfactory completion of at least 15 contact hours of continuing education within the preceding one-year period, as specified in K.A.R. 100-76-6.



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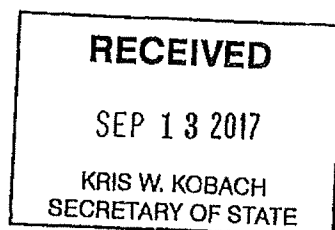
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(f) Each violation of subsection (a), (c), or (d) shall constitute prima facie evidence of unprofessional conduct pursuant to K.S.A. 2016 Supp. 65-7616, and amendments thereto. (Authorized by K.S.A. 2016 Supp. 65-7615; implementing K.S.A. 2016 Supp. 65-7609 and 65-7616; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)



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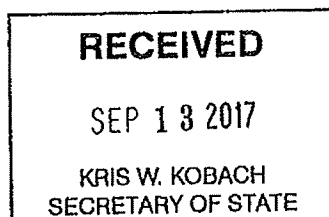
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K.A.R. 100-76-5. Professional liability insurance; active license. (a) Each person applying for an active license in acupuncture shall submit to the board, with the application, evidence that the person has obtained the professional liability insurance coverage required by K.S.A. 2016 Supp. 65-7609, and amendments thereto, for which the limit of the insurer's liability is at least \$300,000 per claim, subject to an annual aggregate of at least \$1,000,000 for all claims made during the period of coverage.

(b) Each licensed acupuncturist with an active license designation shall submit to the board, with the annual application for license renewal, evidence that the licensee has continuously maintained and currently holds the professional liability insurance coverage specified in subsection (a).

(c) Each licensed acupuncturist who submits an application for change of designation to active license designation shall submit to the board, with the application, evidence that the licensee currently holds the professional liability insurance coverage specified in subsection (a). (Authorized by K.S.A. 2016 Supp. 65-7609 and 65-7615; implementing K.S.A. 2016 Supp. 65-7609; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)



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K.A.R. 100-76-6. Continuing education. (a) As a condition of renewal, each licensed acupuncturist shall submit evidence of satisfactory completion within the preceding one-year period of at least 15 contact hours of continuing education for a licensed acupuncturist, in addition to the annual application for renewal of licensure, except as specified in subsection (b).

(b) An individual initially licensed less than 12 months before the renewal date shall not be required to submit the evidence of satisfactory completion of continuing education required by subsection (a) for the first renewal period.

(c) Proof of completion of 15 contact hours of approved continuing education related to the practice of acupuncture, as defined in K.S.A. 2016 Supp. 65-7602 and amendments thereto, may be requested by the board.

(d) A contact hour shall consist of 50 minutes of instruction pertaining to the practice of acupuncture. Meals and breaks shall not be included in the calculation of contact hours.

(e) Each licensed acupuncturist shall maintain evidence of satisfactory completion of all continuing education activities for at least five years. Copies of this documentation may be required by the board at any time. This documentation shall consist of the following:

(1) Documented evidence of any attendance at or successful completion of continuing education activities; and

(2) personal verification of any self-instruction from reading professional literature.

(f) All continuing education activities shall be related to the practice of acupuncture and shall pertain to the following:

(1) Acupuncture clinical skills;

(2) acupuncture techniques;

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(3) educational principles when providing service to patients, families, health professionals, health professional students, or the community;

(4) health care and the health care delivery system; and

(5) problem solving, critical thinking, medical recordkeeping, and ethics.

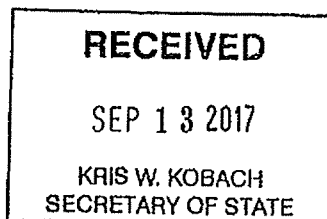
(g) Any applicant for renewal who cannot meet the requirements of subsection (a) may request an extension from the board to submit evidence of continuing education. Each request shall include a plan for completing the continuing education requirements within the requested extension period. An extension of not more than six months may be granted by the board for a substantiated medical condition, natural disaster, death of a spouse or an immediate family member, or any other compelling reason that in the judgment of the board renders the licensee incapable of meeting the requirements of subsection (a).

(h) Continuing education shall be acquired from any of the following:

(1) Offerings approved by the national certification commission for acupuncture and oriental medicine (NCCAOM). Any licensed acupuncturist may obtain all contact hours from any continuing education offerings approved by the NCCAOM and its state affiliates, or any other continuing education offerings approved by the board, subject to the limitations specified in paragraphs (h)(2) through (h)(11).

(2) Lecture. "Lecture" shall mean a live discourse for the purpose of instruction given before an audience. One contact hour shall be awarded for each hour of instruction.

(3) Panel. "Panel" shall mean the presentation multiple views by several professional individuals on a given subject, with none of the views considered a final solution. One contact hour shall be awarded for each hour of panel presentation.



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(4) Workshop. "Workshop" shall mean a series of meetings designed for intensive study, work, or discussion in a specific field of interest. One contact hour shall be awarded for each hour of workshop meeting.

(5) Seminar. "Seminar" shall mean directed advanced study or discussion in a specific field of interest. One contact hour shall be awarded for each hour of seminar.

(6) Symposium. "Symposium" shall mean a conference of more than a single session organized for the purpose of discussing a specific subject from various viewpoints and by various speakers. One contact hour shall be awarded for each hour of symposium.

(7) In-service training. "In-service training" shall mean an educational presentation given to employees during the course of employment that pertains solely to the enhancement of acupuncture skills in the evaluation, assessment, or treatment of patients. One contact hour shall be awarded for each hour of in-service training.

(8) Administrative training. "Administrative training" shall mean a presentation that enhances the knowledge of an acupuncturist on the topic of quality assurance, risk management, reimbursement, statutory requirements, or claim procedures. One contact hour shall be awarded for each hour of administrative training.

(9) Self-instruction.

(A) "Self-instruction" shall mean either of the following:

(i) Reading professional literature directly related to the practice of acupuncture. A maximum of two contact hours shall be awarded for reading professional literature; or

(ii) completion of a home study, correspondence, audio, video, or internet course for which a printed verification of successful completion is provided by the person or organization

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offering the course. One contact hour shall be awarded for each hour of coursework for each completed course. On-line courses labeled as "live course" shall be considered self-instruction.

(B) No more than seven contact hours shall be awarded each year for self-instruction.

(11) Continuing education program presentation. "Continuing education program presentation" shall mean the preparation and presentation of a continuing education program that meets the requirements of this subsection. Three contact hours shall be awarded for each hour spent presenting.

(i) No contact hours shall be awarded for any repeated continuing education activity on the same topic within a 24-month period. (Authorized by K.S.A. 2016 Supp. 65-7615; implementing K.S.A. 2016 Supp. 65-7609; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)

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K.A.R. 100-76-7. Unprofessional conduct; definitions. Each of the following terms, as used in K.S.A. 2016 Supp. 65-7616 and amendments thereto and this article of the board's regulations, shall have the meaning specified in this regulation:

(a) "Unprofessional conduct" shall mean any of the following:

(1) Soliciting patients through the use of fraudulent or false advertisements or profiting by the acts of those representing themselves to be agents of the licensee;

(2) representing to a patient that a manifestly incurable disease, condition, or injury can be permanently cured;

(3) assisting in the care or treatment of a patient without the consent of the patient or the patient's legal representative;

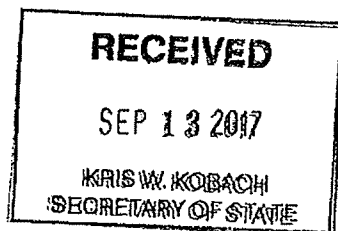
(4) using any letters, words, or terms as an affix on stationery or in advertisements or otherwise indicating that the person is entitled to practice any profession regulated by the board or any other state licensing board or agency for which the person is not licensed;

(5) willful betrayal of confidential information;

(6) advertising professional superiority or the performance of professional services in a superior manner;

(7) advertising to guarantee any professional service or to perform any professional service painlessly;

(8) engaging in conduct related to the practice of acupuncture that is likely to deceive, defraud, or harm the public;



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(9) making a false or misleading statement regarding the licensee's skill or the efficacy or value of the treatment or remedy prescribed by the licensee or at the licensee's direction, in the treatment of any disease or other condition of the body or mind;

(10) commission of any act of sexual abuse, misconduct, or other improper sexual contact that exploits the licensee-patient relationship, with a patient or a person responsible for health care decisions concerning the patient;

(11) using any false, fraudulent, or deceptive statement in any document connected with the practice of acupuncture, including the intentional falsifying or fraudulent altering of a patient record;

(12) obtaining any fee by fraud, deceit, or misrepresentation;

(13) failing to transfer a patient's records to another licensee when requested to do so by the patient or by the patient's legally designated representative;

(14) performing unnecessary tests, examinations, or services that have no legitimate purpose;

(15) charging an excessive fee for services rendered;

(16) repeated failure to engage in the practice of acupuncture with that level of care, skill, and treatment that is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances;

(17) failure to keep written medical records that accurately describe the services rendered to each patient, including patient histories, pertinent findings, examination results, and test results;

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(18) delegating professional responsibilities to a person if the licensee knows or has reason to know that the person is not qualified by training, experience, or licensure to perform those professional responsibilities;

(19) failing to properly supervise, direct, or delegate acts that constitute the practice of acupuncture to persons who perform professional services pursuant to the licensee's direction, supervision, order, referral, delegation, or practice protocols;

(20) committing fraud or misrepresentation in applying for or securing an original, renewal, or reinstated license;

(21) willfully or repeatedly violating the act, any implementing regulations, or any regulations of the secretary of health and environment that govern the practice of acupuncture;

(22) unlawfully practicing any profession regulated by the board in which the licensed acupuncturist is not licensed to practice;

(23) failing to report or reveal the knowledge required to be reported or revealed pursuant to K.S.A. 2016 Supp. 65-7621, and amendments thereto;

(24) failing to furnish the board, or its investigators or representatives, any information legally requested by the board;

(25) incurring any sanction or disciplinary action by a peer review committee, a governmental agency or department, or a professional association or society for conduct that could constitute grounds for disciplinary action under the act or this article of the board's regulations;

(26) failing to maintain a policy of professional liability insurance as required by K.S.A. 2016 Supp. 65-7609, and amendments thereto, and K.A.R. 100-76-5;

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(27) knowingly submitting any misleading, deceptive, untrue, or fraudulent representation on a claim form, bill, or statement;

(28) giving a worthless check or stopping payment on a debit or credit card for fees or moneys legally due to the board;

(29) knowingly or negligently abandoning medical records;

(30) engaging in conduct that violates patient trust and exploits the licensee-patient relationship for personal gain; or

(31) obstructing a board investigation, including engaging in one or more of the following acts:

(A) Falsifying or concealing a material fact;

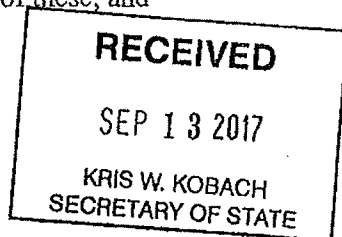
(B) knowingly making or causing to be made any false or misleading statement or writing; or

(C) committing any other acts or engaging in conduct likely to deceive or defraud the board.

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

(c) "False advertisement" shall mean any advertisement that is false, misleading, or deceptive in a material respect. In determining whether any advertisement is misleading, the following shall be taken into account:

(1) Representations made or suggested by statement, word, design, device, or sound, or any combination of these; and



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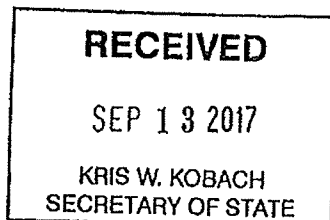
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K.A.R. 100-76-7  
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(2) the extent to which the advertisement fails to reveal facts material in the light of the representations made. (Authorized by K.S.A. 2016 Supp. 65-7615; implementing K.S.A. 2016 Supp. 65-7616; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)



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K.A.R. 100-76-8. Professional incompetency; definition. As used in K.S.A. 2016 Supp. 65-7616 and amendments thereto and this article of the board's regulations, professional incompetency shall mean any of the following:

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

(b) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or

(c) a pattern of practice or other evidence of incapacity or incompetence to engage in the practice of acupuncture. (Authorized by K.S.A. 2016 Supp. 65-7615; implementing K.S.A. 2016 Supp. 65-7616; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)

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K.A.R. 100-76-9. Patient records; adequacy. (a) Each licensed acupuncturist shall maintain an adequate record for each patient for whom the licensee performs a professional service.

(b) Each patient record shall meet the following requirements:

(1) Be legible;

(2) contain only those terms and abbreviations that are or should be comprehensible to similar licensees;

(3) contain adequate identification of the patient;

(4) indicate the date on which each professional service was provided;

(5) contain all clinically pertinent information concerning the patient's condition;

(6) document what examinations, vital signs, and tests were obtained, performed, or ordered and the findings and results of each;

(7) specify the patient's initial reason for seeking the licensee's services and the initial diagnosis;

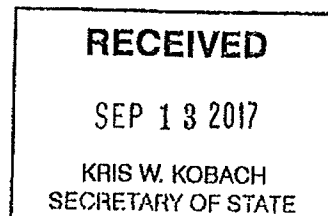
(8) specify the treatment performed or recommended;

(9) document the patient's progress during the course of treatment provided by the licensee; and

(10) include all patient records received from other health care providers, if those records formed the basis for a treatment decision by the licensee.

(c) Each entry shall be authenticated by the person making the entry, unless the entire patient record is maintained in the licensee's own handwriting.

(d) Each patient record shall include any writing intended to be a final record, but shall not require the maintenance of rough drafts, notes, other writings, or recordings once this



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information is converted to final form. The final form shall accurately reflect the care and services rendered to the patient.

(e) For purposes of the act and this regulation, an electronic patient record shall be deemed to be a written patient record if both of the following conditions are met:

- (1) Each entry in the electronic record is authenticated by the licensee.
- (2) No entry in the electronic record can be altered after authentication. (Authorized by K.S.A. 2016 Supp. 65-7615; implementing K.S.A. 2016 Supp. 65-7616; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)

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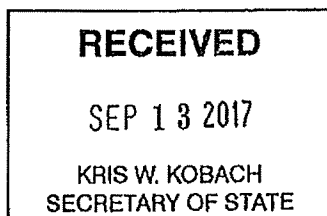


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K.A.R. 100-76-10. Release of records. (a) Except as specified in this subsection or prohibited by law, each licensed acupuncturist shall, upon receipt of a signed release from a patient, furnish a copy of the patient record to the patient, to another licensee designated by the patient, or to the patient's legally designated representative. However, if the licensee reasonably determines that the information within the patient record is detrimental to the mental or physical health of the patient, the licensee may withhold the record from the patient and furnish the record to another licensee designated by the patient.

(b) Any licensee may charge a person or entity for the reasonable costs to retrieve or reproduce a patient record. A licensee shall not condition the furnishing of a patient record to another licensee upon prepayment of these costs.

(c) Each violation of this regulation shall constitute prima facie evidence of unprofessional conduct pursuant to K.S.A. 2016 Supp. 65-7616, and amendments thereto. (Authorized by K.S.A. 2016 Supp. 65-7615; implementing K.S.A. 2016 Supp. 65-7616; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)



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K.A.R. 100-76-11. Free offers. Each licensed acupuncturist who offers to perform a free examination, service, or procedure for a patient shall perform only the examination, service, or procedure specified in the offer. Before any additional examination, service, or procedure is performed, the licensee shall explain the nature and purpose of the examination, service, or procedure and specifically disclose to the patient, to the greatest extent possible, the cost of the additional examination, service, or procedure. (Authorized by K.S.A. 2016 Supp. 65-7615; implementing K.S.A. 2016 Supp. 65-7616; effective, T-\_\_\_\_\_, \_\_\_\_\_; effective P-\_\_\_\_\_.)

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**K.A.R. 100-76-12. Business transactions with patients; unprofessional conduct.** (a) Non-health-related goods or services. A licensed acupuncturist offering to sell a non-health-related product or service to a patient from a location at which the licensee regularly engages in the practice of acupuncture shall have engaged in unprofessional conduct, unless otherwise allowed by this subsection. A licensed acupuncturist shall not have engaged in unprofessional conduct by offering to sell a non-health-related product or service if all of the following conditions are met:

- (1) The sale is for the benefit of a public service organization.
- (2) The sale does not directly or indirectly result in financial gain to the licensee.
- (3) No patient is unduly influenced to make a purchase.

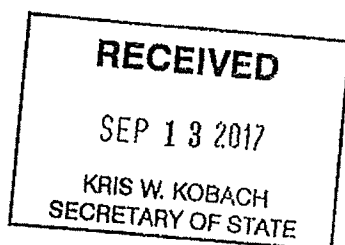
(b) Business opportunity. A licensed acupuncturist shall have engaged in unprofessional conduct if all of the following conditions are met:

(1) The licensee recruits or solicits a patient either to participate in a business opportunity involving the sale of a product or service or to recruit or solicit others to participate in a business opportunity.

(2) The sale of the product or service directly or indirectly results in financial gain to the licensee.

(3) The licensee recruits or solicits the patient at any time that the patient is present in a location at which the licensee regularly engages in the practice of acupuncture. (Authorized by K.S.A. 2016 Supp. 65-7615; implementing K.S.A. 2016 Supp. 65-7616; effective, T-

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**KANSAS STATE BOARD OF HEALING ARTS  
ECONOMIC IMPACT STATEMENT**

**K.A.R. 100-76-1, 100-76-2, 100-76-3, 100-76-4,  
100-76-5, 100-76-6, 100-76-7, 100-76-8, 100-76-9, 100-76-10,  
100-76-11, 100-76-12**

Pursuant to the requirements of K.S.A. 77-416(b), the Kansas State Board of Healing Arts submits the following Economic Impact Statement relating to twelve (12) new proposed regulations that implement the necessary and required regulations to appropriately regulate acupuncturists to practice acupuncture as set forth in the Acupuncture Licensure Act ("L.Ac. Act") which was drafted during the 2016 legislative session.

**I. Summary of Proposed Regulations:**

**K.A.R. 100-76-1. new – Fees**

The purpose of this regulation is to establish fees to be collected by the Board for initial applications for licensure from acupuncturists, renewal of licensure, late renewals, reinstatement of licensure, certified copy of license, written verification of licensure, and conversions from one type of licensure to another.

**K.A.R. 100-76-2. new – Licensure by Examination**

The purpose of this regulation is to advise potential applicants of the examination requirements set by the Board. This regulation explains which components of the national certification commission for acupuncture and oriental medicine ("NCCAO"). It also advises applicants of the requirement of having a clean needle technique ("CNT") certificate issued within the previous six years.

**K.A.R. 100-76-3. new – Waiver of Examination and Education**

The purpose of this regulation is to provide guidance to applicants who are applying for licensure through the grandfathering option. This regulation provides information regarding the documentation required by the Board to determine the applicant's prior education and examinations and whether they qualify based upon this information for licensure without having formal education and/or training.

**K.A.R. 100-76-4. new – Exempt License; unprofessional conduct**

The purpose of this regulation is to advise individuals with an exempt license the limitations that are imposed on that license. The regulation also provides information

regarding the continuing duties of the license to advise the Board of any changes in their proposed professional activities. This regulation also sets forth the continuing education requirements for an individual who has held an exempt license for less than two years to convert the license to an active license.

**K.A.R. 100-76-5. new - Professional Liability Insurance**

The purpose of this regulation is to advise applicants for licensure in acupuncture that they are required to maintain professional liability insurance while they have an active license. This regulation also sets for the minimum coverage requirements.

**K.A.R. 100-76-6. new – Continuing Education**

The purpose of this regulation is to give guidance to licensees regarding the required continuing education necessary to maintain licensure. The regulation gives information regarding the number of hours and the types of hours accepted as proof of continuing education.

**K.A.R. 100-76-7. new – Unprofessional conduct; definitions**

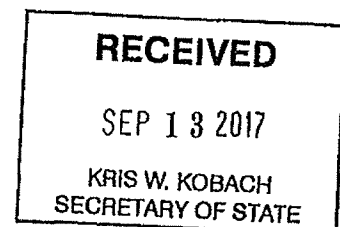
The purpose of this regulation is to advise acupuncture licensees of conduct that the Board has determined to be prohibited.

**K.A.R. 100-76-8. new – Professional incompetency; definition**

The purpose of this regulation is to advise acupuncture licensees of the definition of incompetency and the multitude of ways that incompetency can be determined, by either gross or ordinary negligence.

**K.A.R. 100-76-9. new – Patient records**

The purpose of this regulation is to advise acupuncture licensees of the specific requirements that are to be contained in each patient record.



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**K.A.R. 100-76-10. new – Release of records**

The purpose of this regulation is to advise acupuncture licensees of their obligation to provide to provide copies of patient records to the patient or a patient's legal representative upon a signed release. It also advises licensees that under certain circumstances they can refuse to release the records directly to the patient, but can provide the records to another licensee designated by the patient. Additionally, the regulation advises licensees that they may charge for copying patient records, but are not allowed to condition the furnishing of the record to the patient upon prepayment of these costs.

**K.A.R. 100-76-11. new – Free offers**

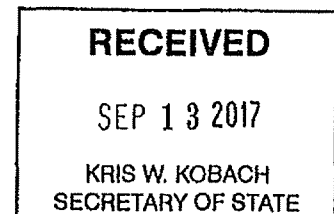
The purpose of this regulation is to advise acupuncture licensees of the limitations on performing free examinations, services or procedures and that if the appointment with the patient expands beyond the free offer, the licensee must explain to the patient any additional examination, service or procedure and the approximate cost of such examination, service or procedure before proceeding.

**K.A.R. 100-76- 12. new – Business transactions with patients; unprofessional conduct**

This regulation advises acupuncture licensees of the limitations on entering into or offering other business opportunities to their patients. It also advises licensees that offering to sell non-health related goods or services to a patient at the location the licensee regularly practices is considered unprofessional conduct. The regulation provides exceptions to this rule.

**II. Federal Mandate:**

These regulations are not mandated by any federal law.



**III. Anticipated Economic Impact upon the Kansas Board of Healing Arts:**

Costs to the State Board of Healing Arts are expected to be minimal for the daily administration of this license. Additional costs will be incurred by the Board for investigation of complaints made to the Board regarding acupuncturists, as well as additional costs for litigation of investigations deemed to show that such licensee of the Board has violated the practice act.

**IV. Anticipated Economic Impact upon Other Governmental Agencies and upon Private Business or Individuals:**

There are no anticipated costs to other Governmental Agencies or upon private businesses. Individuals who wish to practice acupuncture in the state of Kanas will now be required to obtain licensure from the Board to engage in that profession, therefore the acupuncturists will bear the costs of licensure. There may be a minimal economic impact to the public if the practitioners choose to pass these costs on to their patients.

**V. Less Costly or Intrusive Methods That Were Considered, but Rejected, and the Reason for Rejection:**

No other less costly or less intrusive methods were identified or considered for the purpose of these regulations.

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