

***Kansas Dental Practices
Act***

***Statutes, Regulations
and Related Law
Relating to
Dentists
and
Dental Hygienists***

Revised

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Chapter 65. --PUBLIC HEALTH
Article 14. --REGULATION OF DENTISTS AND DENTAL HYGIENISTS

K.S.A. 65-1421. License required to practice dentistry or dental hygiene. It shall be unlawful for any person to practice dentistry or dental hygiene in the state of Kansas, except:

- (a) Those who are now duly licensed dentists, pursuant to law;
- (b) those who are now duly licensed dental hygienists, pursuant to law;
- (c) those who may hereafter be duly licensed as dentists or dental hygienists, pursuant to the provisions of this act.

History: L. 1943, ch. 221, § 4; L. 2000, ch. 169, § 1; July 1.

Source or prior law:

65-1401, 65-1404.

Research and Practice Aids:

Physicians and Surgeons (West Key) 5(1).

C.J.S. Physicians and Surgeons § 6 et seq.

Attorney General's Opinions:

Act inapplicable to certain practices, acts and operations; exceptions. 89-70.

CASE ANNOTATIONS

1. Section applied; defendant in violation of permanent injunction. *Bongers v. Madrigal*, 1 K.A.2d 198, 563 P.2d 515.

Law Review and Bar Journal References:

"Reconsidering the Regulation of Health Professionals in Kansas," Lisa E. Bartra, 5 Kan. J.L. & Pub. Pol'y, No. 3, 155, 158, 159, 166, 171, 172 (1996).

Attorney General's Opinions:

Dental act not applicable to certain practices, acts and operations. 95-29.

Board of dental examiners; changing number of members constituting a quorum. 96-32.

65-1422. Persons deemed to be practicing dentistry. A person shall be deemed to be practicing dentistry:

- (a) Who performs, or attempts or professes to perform, any dental operation or oral surgery or dental service of any kind, gratuitously or for a salary, fee, money or other remuneration paid, or to be paid directly or indirectly, to such person or to any other person or agency who is a proprietor of a place where dental operations, oral surgery or dental services are performed; or
- (b) who directly or indirectly, by any means or method, takes impression of the human tooth, teeth, jaws or performs any phase of any operation incident to the replacement of a part of a tooth; or
- (c) who supplies artificial substitutes for the natural teeth, or who furnishes, supplies, constructs, reproduces or repairs any prosthetic denture, bridge, appliance or any other structure to be worn in the human mouth, except on the written prescription of a licensed dentist; or
- (d) who places such appliance or structure in the human mouth, or adjusts or attempts or professes to adjust the same, or delivers the same to any person other than the dentist upon whose prescription the work was performed; or
- (e) who professes to the public by any method to furnish, supply, construct, reproduce or repair any prosthetic denture, bridge, appliance or other structure to be worn in the human mouth; or
- (f) who diagnoses, or professes to diagnose, prescribe for, or professes to prescribe for, treats, or professes to treat, disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws, or adjacent structure; or

(g) who extracts, or attempts to extract, human teeth, or corrects or attempts to correct, malformations of teeth or of the jaws; or

(h) who repairs or fills cavities in the human teeth; or

(i) who diagnoses, makes and adjusts appliances to artificial casts or malposed teeth for treatment of the malposed teeth in the human mouth, with or without instruction; or

(j) who uses a roentgen or x-ray machine for the purpose of taking dental x-rays or roentgenograms; or

(k) who gives, or professes to give, interpretations or readings of dental x-rays or roentgenograms; or

(l) who administers an anesthetic of any nature in connection with a dental operation; or

(m) who uses the words dentist, dental surgeon, oral surgeon, or the letters D.D.S., D.M.D., or any other words, letters, title or descriptive matter which in any way represents oneself as being able to diagnose, treat, prescribe or operate for any disease, pain, deformity, deficiency, injury or physical condition of the teeth or jaws or adjacent structures; or

(n) who states, or professes, or permits to be stated or professed by any means or method whatsoever that such person can perform or will attempt to perform dental operations or render a diagnosis connected therewith.

History: L. 1943, ch. 221, § 5; L. 2000, ch. 169, § 2; July 1.

Source or prior law:

65-1405.

Research and Practice Aids:

Physicians and Surgeons (West Key) 6(2).

C.J.S. Physicians and Surgeons §§ 10, 23.

Attorney General's Opinions:

Act inapplicable to certain practices, acts and operations; exceptions. 89-70.

Attorney General's Opinions:

Dental hygienists; dental hygiene practice defined; rules and regulations; supervision; permits for dental screening. 93-151.

Sale of teeth whitening kits not practice of dentistry. 2000-7.

CASE ANNOTATIONS

1. Dental board has authority to reinstate previously revoked license although no express statutory language so provides. *Pitts v. Kansas Dental Board*, 267 K. 775, 778, 987 P.2d 348 (1999).

65-1423. Act inapplicable to certain practices, acts and operations; definitions. (a) Nothing in this act shall apply to the following practices, acts and operations:

(1) To the practice of a person licensed to practice medicine and surgery under the laws of this state, unless such person practices dentistry as a specialty;

(2) to the performance by a licensed nurse of a task as part of the administration of an anaesthetic for a dental operation under the direct supervision of a licensed dentist or person licensed to practice medicine and surgery so long as the anaesthetic given under the direct supervision of a licensed dentist is consistent with the anaesthetic the dentist is authorized to administer under K.S.A. 65-1444 and amendments thereto and consistent with subsection (a) of K.S.A. 65-1162 and amendments thereto and subsection (e) of K.S.A. 65-1163 and amendments thereto;

(3) to the giving by a registered nurse anesthetist of an anaesthetic for a dental operation in an interdependent role as a member of a physician or dentist directed health care team;

(4) the practice of dentistry in the discharge of their official duties by graduate dentists or dental surgeons in the United States army, navy, air force, marines, public health service, coast guard or veterans' administration;

(5) the practice of dentistry by a licensed dentist or licensed dental hygienist of other states or countries at meetings of the Kansas state dental association or components thereof, or other like dental organizations approved by the board, while appearing as clinicians;

(6) to the filling of prescriptions of a licensed dentist or licensed dental hygienist as hereinafter provided by any person or persons, association, corporation or other entity, for the construction, reproduction or repair of prosthetic dentures, bridges, plates or appliances to be used or worn as substitutes for natural teeth, provided that such person or persons, associations, corporation or other entity, shall not solicit or advertise, directly or indirectly by mail, card, newspaper, pamphlet, radio or otherwise, to the general public to construct, reproduce or repair prosthetic dentures, bridges, plates or other appliances to be used or worn as substitutes for natural teeth;

(7) to the use of roentgen or x-ray machines or other rays for making radiograms or similar records, of dental or oral tissues under the supervision of a licensed dentist or physician except that such service shall not be advertised by any name whatever as an aid or inducement to secure dental patronage, and no person shall advertise that such person has, leases, owns or operates a roentgen or x-ray machine for the purpose of making dental radiograms of the human teeth or tissues or the oral cavity, or administering treatment thereto for any disease thereof;

(8) except as hereinafter limited to the performance of any dental service of any kind by any person who is not licensed under this act, if such service is performed under the supervision of a dentist licensed under this act at the office of such licensed dentist except that such nonlicensed person shall not be allowed to perform or attempt to perform the following dental operations or services:

(A) Any and all removal of or addition to the hard or soft tissue of the oral cavity;

(B) any and all diagnosis of or prescription for treatment for disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws, or adjacent structure;

(C) any and all correction of malformation of teeth or of the jaws;

(D) any and all administration of general or local anesthesia of any nature in connection with a dental operation;

or

(E) a prophylaxis, except that individuals who are not licensed but who are operating under the direct supervision of a dentist may (i) coronal polish teeth as defined by rules and regulations of the board and (ii) coronal scale teeth above the gum line as long as such procedure is not performed on a patient who has undergone local or general anesthesia at the time of the procedure, is undertaken by a nonlicensed person who has successfully completed necessary training for performing such dental procedure in a course of study approved by the board, which course of study is consistent with American dental association accreditation standards and includes but is not limited to adequate instruction on scaling the teeth and recognition of periodontal disease, is undertaken by a person who has met the experience requirements for performing such procedures as established by the board;

(9) the practice of dentistry by a dental student, the practice of dental hygiene by a dental hygiene student or the performance of duties permitted under the dental practices act to unlicensed persons by a dental assisting student, provided that (i) the procedures are performed as part of the educational program of dental, dental hygiene or dental assisting that has been approved by the board and in a facility operated or overseen by the approved program and (ii) the student is under the supervision of a dentist or dental hygienist who is either licensed in the state of Kansas or who is eligible to be licensed in Kansas and has an application to be licensed in Kansas pending, serving as a faculty member of the program;

(10) the actions of persons while they are taking examinations for licensure administered or approved by the board; or

(11) the actions of persons while administering examinations approved by the board.

(b) As used in this section:

(1) "Removal of or addition to the hard or soft tissue of the oral cavity" means: (A) A surgical or cutting procedure on hard or soft tissues; (B) the grafting of hard or soft tissues; (C) the final placement or intraoral adjustment of a fixed crown or fixed bridge; and (D) root planing or the smoothing of roughened root surfaces.

(2) "Diagnosis of or prescription for treatment for disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws or adjacent structure" means: (A) A comprehensive examination; (B) diagnosis and treatment planning; and (C) the prescription of a drug, medication or work authorization.

(3) "Correction of malformation of teeth or the jaws" means surgery, cutting or any other irreversible procedure.

(4) "General or local anesthesia of any nature in connection with a dental operation" means any general anaesthetic and any local anaesthetic whether block or infiltration but shall not include the administration and monitoring of the analgesic use of nitrous oxide or oxygen, or both.

History: L. 1943, ch. 221, § 6; L. 1967, ch. 341, §1; L. 1994, ch. 169, § 1; L. 1997, ch. 30, § 1; L. 1998, ch. 141, § 1; L. 2000, ch. 169, § 3; L. 2001, ch. 145, §1, July 1; L. 2008, ch. 36, § 1.

Source or prior law:

65-1405.

Attorney General's Opinions:

Act inapplicable to certain practices, acts and operations; exceptions. 89-70.

Attorney General's Opinions:

Dental hygienists; dental hygiene practice defined; rules and regulations; supervision; permits for dental screening. 93-151.

Dental act not applicable to certain practices, acts and operations. 95-29.

Scaling and coronal polishing performed by an unlicensed dental assistant; regulation of dental assistants. 1998-50.

Sale of teeth whitening kits not practice of dentistry. 2000-7.

CASE ANNOTATIONS

1. Noted in dissent assertion that expert witness licensed in different profession from defendant should not be allowed to testify in medical malpractice action. *Tompkins v. Bise*, 259 K. 39, 52, 910 P.2d 185 (1996).

65-1424. Proprietor defined; revocation of license, when. The term "proprietor" as used in this act includes any person who:

(a) Employs dentists or dental hygienists in the operation of a dental office; or

(b) places in possession of a dentist or dental hygienists or other agent such dental material or equipment as may be necessary for the management of a dental office on the basis of a lease or any other agreement for compensation for the use of such material, equipment or offices; or

(c) retains the ownership or control of dental equipment or material or office and makes the same available in any manner for the use by dentists or dental hygienists or other agents except that nothing in this subsection (c) shall apply to bona fide sales of dental equipment or material secured by a chattel mortgage or retain title agreement.

A licensee of dentistry who enters into any of the above-described arrangements with an unlicensed proprietor may have such license suspended or revoked by the board.

The estate or agent for a deceased or substantially disabled dentist may employ dentists, for a period of not more than one year, to provide service to patients until the practice can be sold.

History: L. 1943, ch. 221, § 7; L. 1996, ch. 85, § 1; L. 2000, ch. 169, § 4; July 1.

Attorney General's Opinions:

Dentally indigent person; entities authorized to employ or contract with licensees under dental practices act for services for such persons. 97-84.

65-1425. Corporations not to practice dentistry; exception; employee to display name. Except as provided in K.S.A. 17-2706 *et seq.*, no corporation shall practice, offer, or undertake to practice or hold itself out as practicing dentistry. Every person practicing dentistry as an employee of another shall cause his name to be conspicuously displayed and kept in a conspicuous place at the entrance of the place where such practice is conducted: *Provided, however,* That nothing herein contained, shall prohibit a licensed dentist from practicing dentistry as the agent or employee of another licensed dentist in this state, or from practicing dentistry as the agent or employee of any state hospital or state institution where his only remuneration is from the state, or from any corporation which provides dental service for its employees at no profit to the corporation.

History: L. 1943, ch. 221, § 8; L. 1974, ch. 250, § 1; July 1.

Source or prior law:

65-1416.

Research and Practice Aids:

Corporations (West Key) 370(1).

C.J.S. Corporations § 941.

65-1426. Application for license; temporary license; qualifications of applicants; approval of dental schools or colleges.

(a) Except as otherwise provided in subsection (c) or subsection (d), every person who desires to practice dentistry in this state shall file with the executive director of the board a written application for a license, and furnish satisfactory proof that the applicant is at least 21 years of age, of good moral character and a graduate of a dental school or college approved by the board. Such application shall be upon the form prescribed and furnished by the board and verified by the oath of the applicant and shall be accompanied by the required fee and a recent unmounted, autographed photograph of the applicant.

(b) The board shall approve only those dental schools or colleges which require the study of dentistry and dental surgery and which the board determines have standards of education not less than that required for accreditation by the commission on dental accreditation of the American dental association or its equivalent.

(c) Notwithstanding the provisions of subsection (a), the board shall consider an application of: Any graduate of a dental school which has not been approved by the board if the applicant successfully completes a course of remedial or refresher instruction offered by a dental school or college where both the course and the school have been approved by the board.

(d) Any graduate of an accredited dental school, dental college or dental department of a college or university, who: (1) Has a D.D.S. or D.M.D. degree and is otherwise qualified; (2) is not licensed to practice dentistry in Kansas; and (3) holds a license to practice in the state from which they are applying, upon application, may be issued a temporary license of not more than 14 calendar days to provide dental services under subsection (f)(4) of K.S. A. 75-6102, and amendments thereto.

(e) The board is hereby authorized and empowered to adopt such further rules in regard to the qualifications of applicants for licensure, not in conflict with this section, as it from time to time may deem necessary and proper.

(f) The board shall adopt rules and regulations establishing the criteria which a school shall satisfy in meeting the standards of education established under subsection (b). The board may send a questionnaire developed by the board to any school for which the board does not have sufficient information to determine whether the school meets the requirements of subsection (b) and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the school to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in

obtaining information about schools. In entering such contracts the authority to approve schools shall remain solely with the board.

History: L. 1943, ch. 221, § 9; L. 1978, ch. 237, § 1; L. 1981, ch. 246, § 1; L. 1983, ch. 209, § 1; L. 1988, ch. 243, § 4; L. 2002, ch. 38, subsection 1; L. 2003, ch. 82, subsection 1; July 1.

65-1427. Specialists; standards and qualifications; certificate fee; limiting practice; misdemeanor; suspension or revocation of license. (a) No dentist shall announce or hold out to the public that such dentist is a specialist, or is specially qualified in any particular branch of dentistry, or as giving special attention to any branch of dentistry, or limiting such dentist's practice to any branch of dentistry, unless such dentist has complied with additional requirements established by the board, and has been issued a certificate of qualification authorizing such dentist to do so.

(b) The board is hereby empowered to establish higher standards and additional requirements for any dentist who desires to announce or hold out to the public that such dentist is specially qualified in any particular branch of dentistry. The board is hereby empowered to give such examination as it may deem necessary to determine the qualifications of applicants and may secure such assistance as the board may deem advisable in determining the qualifications of applicants.

(c) Upon application to the board of any licensed dentist in this state, the board may issue a certificate of qualification to such dentist authorizing the applicant to hold out, or to announce, to the public that such dentist is specially qualified in, or limits such dentist's practice to, or gives special attention to any one of the recognized branches of dentistry. The application to the board shall be upon such form and contain such information as the board may require and shall be accompanied by a certificate fee to assist in defraying the expenses in connection with the issuance of such certificates of qualification fixed by the board pursuant to K.S.A. 65-1447.

(d) Any dentist holding a certificate of qualification under this section of the act may announce the limitation of such dentist's practice by using such terms and in such manner as the board may approve, together with the name of such branch of dentistry for which such dentist is authorized to hold out to the public that such dentist has special qualifications. Any dentist who shall hold out, or announce in any manner, by the use of any terms signifying or indicating to the public that such dentist's practice is limited, or is specially qualified in any particular branch of dentistry, or that such dentist gives special attention to any particular branch of dentistry, or shall use equivalent words or phrases to announce the same, without having obtained a certificate of qualification therefor, shall be guilty of a misdemeanor, and the license of such dentist to practice dentistry shall be subject to suspension or revocation. Any announcement in the manner indicated in this section shall be prima facie evidence that such dentist is practicing in one branch of dentistry.

History: L. 1943, ch. 221, § 10; L. 1953, ch. 289, § 1; L. 1980, ch. 189, § 1; July 1.

Research and Practice Aids:

Physicians and Surgeons (West Key) 4, 6(2), 11(2).

C.J.S. Corporations § 956; Physicians and Surgeons §§ 10, 17, 23.

65-1428. Examination of applicants; examination subjects and results; licenses. (a) Each applicant for licensure as a dentist shall be examined by the board or by a testing organization or an organization of one or more state boards formed for the purpose of conducting a standard clinical examination of candidates for licensure as dentists if the board has approved each such organization and determined that the examinations given meet the requirements of this act. For such testing organizations or organization of one or more state boards that certify the test results for a limited period of time, the examination must have been taken and passed no longer before the date of application than the certification period. All examinations provided for in this act shall be conducted in a fair and wholly impartial manner. The examination shall be both theoretical and clinical, and shall thoroughly test the qualifications of each applicant to practice dentistry.

(b) The examination shall include the following subjects: Pathology, radiology, bacteriology, treatment planning, clinical dentistry, operative dentistry, prosthetics, crown and bridge technique, orthodontia, materials in dentistry, diet and nutrition, oral hygiene and prophylaxis, preventive medicine, periodontia, anesthesia, oral surgery, oral medicine, principles of medicine and pharmacology, anatomy, physiology, histology, chemistry, embryology and such subdivisions of these general subjects as relate to the practice of dentistry and laws of this state regulating the practice of dentistry.

The results of all such examinations shall be filed with the executive director of the board and kept for reference and inspection for a period of not less than two years.

(c) Each applicant who has attained a passing grade on each examination required by the board and has met all other requirements for licensure set forth in this act shall be granted a license by the board. Every license issued under this act shall be in the form prescribed by the board. A license to practice dentistry shall not be construed as a

property right, but a valuable right contingent upon the practice of the licensee in accordance with the provisions of law relating to the practice of dentistry and any rules and regulations adopted pursuant thereto.

History: L. 1943, ch. 221, § 11; L. 1983, ch. 209, § 2; L. 2000, ch. 169, § 5; L. 2002, ch 38, §2, July 1.

Source or prior law:

65-1404, 65-1404a.

Research and Practice Aids:

Physicians and Surgeons (West Key) 5(2).

C.J.S. Physicians and Surgeons §§ 13, 23.

65-1429. Subsequent examination upon failure to pass; fee. Any applicant who fails to pass one or more sections of an examination given or approved by the board upon the first trial shall have a right to retake the examination. Any applicant who fails to pass the examination upon the first trial may be given credit for such sections of the examination as the board determines have been successfully completed by the applicant, but such credits shall be extended only to the succeeding examination. If the applicant shall fail to pass the examination on the second trial the applicant shall complete such additional or remedial instruction and training as the board shall, by rules and regulations, require prior to a third trial. After the third trial the board, within its discretion, may deny the applicant another examination.

History: L. 1943, ch. 221, § 12; L. 1955, ch. 290, § 1; L. 1980, ch. 189, § 2; L. 1983, ch. 209, § 3; July 1.

Source or prior law:

65-1404a.

65-1430. Display of name and license. Every practitioner of dentistry within the meaning of this act shall post and keep conspicuously displayed the dentist's name, license and current license renewal certificate in each office in which the dentist practices, in plain sight of patients, and if there is more than one dentist practicing or employed in any office the manager or proprietor of such office shall post or display, or cause to be posted and displayed, in like manner the name and license of each dentist so practicing or employed in such office.

History: L. 1943, ch. 221, § 14; L. 2000, ch. 169, § 6; July 1.

Source or prior law:

65-1419.

KSA 65-1431. Renewal of license; application; continuing education; biennial license renewal fee; cancellation; penalty fee; waiver for retired or disabled persons; examination for persons returning to active practice after retirement or disability. (a) Each license to practice as a dentist or dental hygienist issued by the board, shall expire on December 1 of the year specified by the board for the expiration of the license and shall be renewed on a biennial basis. Each application for renewal shall be made on a form prescribed and furnished by the board. Every licensed dentist or dental hygienist shall pay to the board a renewal fee fixed by the board as provided in K.S.A. 65-1447, and amendments thereto.

(b) To provide for a staggered system of biennial renewal of licenses, the board may renew licenses for less than two years.

(c) On or before December 1 of the year, in which the licensee's license expires, the licensee shall transmit to the board a renewal application, upon a form prescribed by the board, which shall include such licensee's signature, post office address, the number of the license of such licensee, whether such licensee has been engaged during the preceding licensure period in active and continuous practice whether within or without this state, and such other information as may be required by the board, together with the biennial licensure fee for a dental hygienist which is fixed by the board pursuant to K.S.A. 65-1447 and amendments thereto.

(d) The board shall require every licensee to submit with the renewal application evidence of satisfactory completion of a program of continuing education required by the board. The board by duly adopted rules and regulations shall establish the requirements for such program of continuing education as soon as possible after the effective date of this act.

(e) Upon fixing the biennial license renewal fee, the board shall immediately notify all licensees of the amount of the fee for the ensuing licensure period. Upon receipt of such fee and upon receipt of evidence that the licensee has satisfactorily completed a program of continuing education required by the board, the licensee shall be issued a renewal license authorizing the licensee to continue to practice in this state for a period of no more than two years.

(f) (1) Any license granted under authority of this act shall automatically be canceled if the holder thereof fails to apply for and obtain renewal prior to March 1 of the year following the December in which a renewal application is due.

(2) Any licensee whose license is required to be renewed for the next biennial period may obtain renewal, prior to February 1, by submitting to the board the required renewal application, payment of the biennial renewal fee and proof that such licensee has satisfactorily completed a program of continuing education required by the board. Any licensee whose license is required to be renewed for the next biennial period may obtain renewal, between February 1 and March 1, by submitting to the board the required renewal application, payment of the biennial renewal fee, payment of a penalty fee of not to exceed \$500 as fixed by rules and regulations by the board and proof that such licensee has satisfactorily completed a program of continuing education required by the board. The penalty fee in effect immediately prior to the effective date of this act shall continue in effect until rules and regulations establishing a penalty fee under this section become effective.

(g) Upon failure of any licensee to pay the applicable renewal fee or to present proof of satisfactory completion of the required program of continuing education by February 1 of the year following the December in which a renewal application is due, the board shall notify such licensee, in writing, by mailing notice to such licensee's last registered address. Failure to mail or receive such notice shall not affect the cancellation of the license of such licensee.

(h) The board may waive the payment of biennial fees and the continuing education requirements for the renewal of licenses without the payment of any fee for a person who has held a Kansas license to practice dentistry or dental hygiene if such licensee has retired from such practice or has become temporarily or permanently disabled and such licensee files with the board a certificate stating either of the following:

(1) A retiring licensee shall certify to the board that the licensee is: (A) not engaged, except as provided in K.S.A. 2000 Supp. 65-1466 and amendments thereto, in the provision of any dental service, the performance of any dental operation or procedure or the delivery of any dental hygiene service as defined by the statutes of the state of Kansas; or

(2) a disabled licensee shall certify to the board that such licensee is no longer engaged in the provision of dental services, the performance of any dental operation or the provision of any dental hygiene services as defined by the statutes of the state of Kansas by reason of any physical disability, whether permanent or temporary, and shall describe the nature of such disability.

(i) The waiver of fees under subsection (g) shall continue so long as the retirement or physical disability exists. Except as provided in K.S.A. 2000 Supp. 65-1466 and amendments thereto, in the event the licensee returns to the practice for which such person is licensed, the requirement for payment of fees and continuing education requirements shall be reimposed commencing with and continuing after the date the licensee returns to such active practice. Except as provided in K.S.A. 2000 Supp. 65-1466 and amendments thereto, the performance of any dental service, including consulting service, or the performance of any dental hygiene service, including consulting service, shall be deemed the resumption of such service, requiring payment of license fees.

(j) The Kansas dental board may adopt such rules and regulations requiring the examination and providing means for examination of those persons returning to active practice after a period of retirement or disability as the board shall deem necessary and appropriate for the protection of the people of the state of Kansas except that for an applicant to practice dental hygiene who is returning to active practice after a period of retirement or disability, the board shall authorize as an alternative to the requirement for an examination that the applicant successfully complete a refresher course as defined by the board in an approved dental hygiene school.

History: L. 1943, ch. 221, § 15; L. 1953, ch. 289, § 2; L. 1955, ch. 290, § 3; L. 1963, ch. 315, § 1; L. 1974, ch. 251, § 1; L. 1976, ch. 274, § 2; L. 1980, ch. 189, § 3; L. 1983, ch. 209, § 4; L. 1996, ch. 85, § 2; L. 1996, ch. 210, § 3; L. 1999, ch. 34, § 1; L. 1999, ch. 149, § 5; L. 2000, ch. 169, § 7; L. 2001, ch. 155, § 1; L. 2002, ch. 38, § 3; July 1; L. 2007.

Source or prior law:

65-1406a, 65-1409.

Reviser's Note:

Section was also amended by L. 1996, ch. 210, § 2, but that version was repealed by L. 1996, ch. 210, § 7.

Section was also amended by L. 1999, ch. 11, § 1, but that version was repealed by L. 1999, ch. 149, § 14.

65-1431a. Reinstatement of a revoked license; application form; burden of proof; conditions and restrictions; proceedings; stay of order of revocation of license. (a) A person whose license has been revoked may apply for reinstatement of the license after the expiration of three years from the effective date of the revocation. Application for reinstatement shall be on a form provided by the board and shall be accompanied by a reinstatement of a revoked license fee established by the board under K.S.A. 65-1447 and amendments thereto. The burden of proof by clear and convincing evidence shall be on the applicant to show sufficient rehabilitation to justify reinstatement of the license. The applicant shall comply with all conditions imposed by the board in establishing justification for

rehabilitation. The board may establish conditions or restrictions on the reinstatement of the applicant's license as it deems appropriate. If the board determines a license should not be reinstated, the person shall not be eligible to reapply for reinstatement for three years from the effective date of the denial. All proceedings conducted on an application for reinstatement shall be in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the act for judicial review and civil enforcement of agency actions. The board, on its own motion, may stay the effectiveness of an order of revocation of license.

(b) This section shall be part of and supplemental to the dental practices act.

History: L. 2000, ch. 169, § 20; July 1.

65-1432. Change of practice location address. Every licensed dentist, upon establishing a practice location or upon changing the place at which such licensed dentist practices dentistry shall furnish the executive director of the board within 30 days after such action the new practice location address.

History: L. 1943, ch. 221, § 16; L. 1999, ch. 34, § 2; L. 2002, ch 38, §4; July 1.

65-1433. Duplicate license; fee. In case of a lost or destroyed license, and upon satisfactory proof of the loss or destruction thereof, the board may issue a duplicate license upon payment of the duplicate license fee fixed by the board pursuant to K.S.A. 65-1447 and amendments thereto.

History: L. 1943, ch. 221, § 17; L. 1980, ch. 189, § 4; L. 2000, ch. 169, § 8; July 1.

65-1434. Licenses issued without examination; qualifications of applicants; appearance before board; "applicant" defined. (a) The board, without examination, may issue a license as a dentist or dental hygienist to an applicant holding a license in another state upon compliance with the requirements of professional qualification and experience set forth in subsection (b). The board shall prepare and adopt a form of application to be submitted by an applicant for a license to be issued under this section. On the receipt of any such application, the board shall conduct such review, verification or other investigation of the applicant and the professional qualifications, background, experience and practice of the applicant as the board deems necessary to assure full compliance with the requirements of this section. Any license so issued may be revoked by the board upon evidence that an applicant has obtained a license under this section through misrepresentation or omission of a material fact in the application or other information submitted to the board.

(b) Each applicant for licensure under this section must evidence the qualifications and meet the following requirements:

(1) Each applicant for licensure as a dentist under this section must meet the requirements set forth in K.S.A. 65-1426 and amendments thereto. Each applicant for licensure as a dental hygienist must meet any applicable requirements set forth in K.S.A. 65-1455 and amendments thereto.

(2) Each applicant shall show evidence of having successfully completed both a national board examination or an equivalent examination accepted by the state in which the applicant has been previously licensed, and a clinical examination, administered by any state or clinical dental testing agency, of equivalent merit to the clinical examination accepted by the board at the time such applicant completed such examinations.

(3) Each applicant for licensure as a dentist under this section shall have held a license to practice dentistry in one or more other states of the United States for the five-year period immediately preceding the date of application and shall have engaged in the active practice of dentistry for at least five years prior to the date of application. Each applicant for licensure as a dental hygienist under this section shall have held a license to practice dental hygiene in another state of the United States for the three-year period immediately preceding the date of application and shall have engaged in the active practice of dental hygiene for at least three years prior to the date of application. Successive and continuous periods of active practice in other states will comply with the active practice requirements of this paragraph (3). For the purpose of determining the period of practice, periods of military service will be considered to the extent approved by the Kansas dental board. Service as a full-time faculty member in a school of dentistry will be considered the practice of dentistry to the extent service involved full-time instruction in dentistry including clinical dentistry. Service as a faculty member in a school of dental hygiene will be considered the practice of dental hygiene to the extent such service involved instruction in dental hygiene including clinical dental hygiene. To be considered for the purposes of this statute, any such school of dentistry or dental hygiene must be approved by the Kansas dental board within the meaning of K.S.A. 65-1426 and amendments thereto.

(4) Each such applicant shall show evidence that the applicant has fully complied with all continuing education requirements imposed by the state or states in which the applicant has been licensed and has practiced during the five years immediately preceding the date of the application. In the event the state or states in which the applicant has been licensed and practiced has no such requirement, the applicant shall provide such information concerning continuing education received by the applicant during the five-year period preceding application as may be required by the board. All applicants must have completed continuing education sufficient to comply with that continuing

education required of Kansas licensees during the twenty-four-month period prior to the date of the application for licensure unless the Kansas dental board determines, for good cause shown, that the requirement will work an undue hardship upon the applicant and the requirement is not necessary for the protection of the people of Kansas based upon the training and experience of the applicant.

(5) The applicant shall provide such other information concerning the applicant and the dental education, qualification, experience and professional conduct of the applicant as the board in its discretion deems necessary to its determination to issue a license.

(6) Each applicant shall provide a certificate of the secretary of the board or other agency governing licensure of dentists or dental hygienists of the state in which the applicant has been licensed and has practiced during the required period preceding the date of the application. Such certificate shall state that: (A) The applicant is licensed to practice dentistry or dental hygiene in the state; (B) the license of the applicant has never been suspended or revoked; (C) the applicant has never been the subject of any proceeding for suspension, revocation or other disciplinary action initiated by the board of licensure of any such state during the period the applicant has held a license to practice dentistry or dental hygiene in such state; and (D) no complaint has been filed against the applicant of such substance as, in the judgment of the board of licensure of such state, has required the initiation of proceedings against the applicant. In the event the applicant has practiced dentistry or dental hygiene in more than one other state in the United States, the applicant shall file a similar certificate with respect to such period or periods during which the applicant has practiced in each such state.

(c) The Kansas dental board may direct an applicant to appear before the board at a date, time and place to be determined by the Kansas dental board to answer questions and provide such information concerning the qualifications, background, experience and practice of the applicant as the Kansas dental board may deem necessary.

(d) The term "applicant" as used in this section shall apply to both applicants for licensure as a dentist and applicants for licensure as a dental hygienist unless the context otherwise indicates.

History: L. 1943, ch. 221, § 18; L. 1983, ch. 209, § 5; L. 1984, ch. 229, § 1; L. 1999, ch. 34, § 3; L. 2002, ch. 38, § 5; L. 2008, ch. 36, § 2

Source or prior law:

65-1404b.

Research and Practice Aids:

Physicians and Surgeons (West Key) 5(1).

C.J.S. Physicians and Surgeons § 6 et seq.

Attorney General's Opinions:

Dentists and dental hygienists; qualifications; licensure; appearance before board; applicant defined. 94-40.

65-1435. Improper use of certain names by dentists; exceptions; unlawful acts; suspension or revocation of license. (a) Except as otherwise provided in this section, it shall be unlawful for any person or persons to practice or offer to practice dentistry under any name except such person's own name, which shall be the name used on the license granted to such person as a dentist as provided in this act, or to use the name of any company, association, corporation, clinic, trade name or business name in connection with the practice of dentistry as defined in this act.

(b) A licensed dentist may use the name of any association, corporation, clinic, trade name or business name in connection with the practice of dentistry, as defined in this act, except that such name may not misrepresent the dentist to the public as determined by the Kansas Dental Board.

(c) Nothing herein contained shall be construed to prevent two or more licensed dentists:

(1) From associating together for the practice of dentistry, each in such person's own proper name; or

(2) from associating together for the practice of dentistry, each as owners, in a professional corporation, organized pursuant to the professional corporation law of Kansas, or, each as owners, in a limited liability company organized pursuant to the Kansas revised limited liability company act, and using a name that may or may not contain the proper name of any such person or persons if such name has been approved by the board and from employing non knowing licensees; or

(3) from associating together with persons licensed to practice medicine and surgery in a clinic or professional association under a name that may or may not contain the proper name of any such person or persons and may contain the word "clinic."

(d) It shall be unlawful, and a licensee may have a license suspended or revoked, for any licensee to conduct a dental office in the name of the licensee, or to advertise the licensee's name in connection with any dental office or offices, or to associate together for the practice of dentistry with other licensed dentists in a professional corporation or limited liability company, under a name that may or may not contain the proper name of any such person or persons or to associate together with persons licensed to practice medicine and surgery in a clinic or professional association under a name that may or may not contain the proper name of any such person or persons and may contain the word "clinic," unless such licensee is personally present in the office operating as a dentist or personally

overseeing such operations as are performed in the office or each of the offices during a majority of the time the office or each of the offices is being operated.

(e) Nothing in this section shall be construed to permit the franchise practice of dentistry.

(f) The violation of any of the provisions of this section by any dentist shall subject such dentist to suspension or revocation of a license.

(g) Notwithstanding the provisions of subsections (d) and (e), a licensee shall be permitted to own two dental offices in addition to the licensee's primary office location under the following conditions:

(1) The licensee's secondary dental office is located within a 125 mile radius of the licensee's primary office; and

(2) the licensee's secondary dental office is located in a county with a population of less than 10,000 according to the 2000 United States census.

History: L. 1943, ch. 221, § 19; L. 1984, ch. 230, § 1; L. 2000, ch. 169, § 9; L. 2008, ch 29, § 1 .

Research and Practice Aids:

Physicians and Surgeons (West Key) 11(2).

C.J.S. Physicians and Surgeons § 17.

Initial interview of client, Kansas Practice Methods § 1033.

Attorney General's Opinions:

Practice under corporate name; associating together. 95-106.

65-1436. Grounds for refusal to issue license or for action against license of dentist or dental hygienist; disciplinary action by board; notice and hearing; professionally incompetent defined; physical or mental examination. (a) The Kansas dental board may refuse to issue the license provided for in this act, or may take any of the actions with respect to any dental or dental hygiene license as set forth in subsection (b), whenever it is established, after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, that any applicant for a dental or dental hygiene license or any licensed dentist or dental hygienist practicing in the state of Kansas has:

(1) Committed fraud, deceit or misrepresentation in obtaining any license, money or other thing of value;

(2) habitually used intoxicants or drugs which have rendered such person unfit for the practice of dentistry or dental hygiene;

(3) been determined by the board to be professionally incompetent;

(4) committed gross, wanton or willful negligence in the practice of dentistry or dental hygiene;

(5) employed, allowed or permitted any unlicensed person or persons to perform any work in the licensee's office which constitutes the practice of dentistry or dental hygiene under the provisions of this act;

(6) willfully violated the laws of this state relating to the practice of dentistry or dental hygiene or the rules and regulations of the secretary of health and environment or of the board regarding sanitation;

(7) engaged in the division of fees, or agreed to split or divide the fee received for dental service with any person for bringing or referring a patient without the knowledge of the patient or the patient's legal representative, except the division of fees between dentists practicing in a partnership and sharing professional fees, or in case of one licensed dentist employing another;

(8) committed complicity in association with or allowed the use of the licensed dentist's name in conjunction with any person who is engaged in the illegal practice of dentistry;

(9) been convicted of a felony or a misdemeanor involving moral turpitude in any jurisdiction and the licensee fails to show that the licensee has been sufficiently rehabilitated to warrant the public trust;

(10) prescribed, dispensed, administered or distributed a prescription drug or substance, including a controlled substance, in an excessive, improper or inappropriate manner or quantity outside the scope of practice of dentistry or in a manner that impairs the health and safety of an individual;

(11) prescribed, purchased, administered, sold or given away prescription drugs, including a controlled substance, for other than legal and legitimate purposes;

(12) violated or been convicted of any federal or state law regulating possession, distribution or use of any controlled substance;

(13) failed to pay license fees;

(14) used the name "clinic," "institute" or other title that may suggest a public or semipublic activity except that the name "clinic" may be used as authorized in K.S.A. 65-1435 and amendments thereto;

(15) committed, after becoming a licensee, any conduct which is detrimental to the public health, safety or welfare as defined by rules and regulations of the board;

(16) engaged in a misleading, deceptive, untrue or fraudulent misrepresentation in the practice of dentistry or on any document connected with the practice of dentistry by knowingly submitting any misleading, deceptive, untrue or

fraudulent misrepresentation on a claim form, bill or statement, including the systematic waiver of patient co-payment or co-insurance;

(17) failed to keep adequate records;

(18) the licensee has had a license to practice dentistry revoked, suspended or limited, has been censured or has had other disciplinary action taken, an application for license denied, or voluntarily surrendered the license after formal proceedings have been commenced by the proper licensing authority or another state, territory or the District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof;

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

(20) assisted suicide in violation of K.S.A. 21-3406 and amendments thereto as established by any of the following:

(A) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406 and amendments thereto.

(B) A copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 1999 Supp. 60-4404 and amendments thereto.

(C) A copy of the record of a judgment assessing damages under K.S.A. 1999 Supp. 60-4405 and amendments thereto.

(b) Whenever it is established, after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, that a licensee is in any of the circumstances or has committed any of the acts described in subsection (a), the Kansas dental board may take one or any combination of the following actions with respect to the license of the licensee:

(1) Revoke the license.

(2) Suspend the license for such period of time as may be determined by the board.

(3) Restrict the right of the licensee to practice by imposing limitations upon dental or dental hygiene procedures which may be performed, categories of dental disease which may be treated or types of patients which may be treated by the dentist or dental hygienist. Such restrictions shall continue for such period of time as may be determined by the board, and the board may require the licensee to provide additional evidence at hearing before lifting such restrictions.

(4) Grant a period of probation during which the imposition of one or more of the actions described in subsections (b)(1) through (b)(3) will be stayed subject to such conditions as may be imposed by the board including a requirement that the dentist or dental hygienist refrain from any course of conduct which may result in further violation of the dental practice act or the dentist or dental hygienist complete additional or remedial instruction. The violation of any provision of the dental practice act or failure to meet any condition imposed by the board as set forth in the order of the board will result in immediate termination of the period of probation and imposition of such other action as has been taken by the board.

(c) As used in this section, "professionally incompetent" means:

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

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

(3) a pattern of dental or dental hygienist practice or other behavior which demonstrates a manifest incapacity or incompetence to practice dentistry.

(d) In addition to or in lieu of one or more of the actions described in subsections (b)(1) through (b)(4) or in subsection (c) of K.S.A. 65-1444, and amendments thereto, the board may assess a fine not in excess of \$10,000 against a licensee. All fines collected pursuant to this subsection shall be remitted to the state treasurer. Of the amount so remitted, an amount equal to the board's actual costs related to fine assessment and enforcement under this subsection, as certified by the president of the board to the state treasurer, shall be credited to the dental board fee fund and the balance shall be credited to the state general fund.

(e) The board, upon its own motion or upon the request of any licensee who is a party to a licensure action, may require a physical or mental examination, or both, of such licensee either prior to a hearing to be held as a part of a licensure action or prior to the termination of any period of suspension or the termination of any restrictions imposed upon the licensee as provided in subsection (b).

History: L. 1943, ch. 221, § 20; L. 1972, ch. 231, § 11; L. 1975, ch. 462, § 86; L. 1983, ch. 209, § 6; L. 1984, ch. 230, § 2; L. 1984, ch. 313, § 99; L. 1986, ch. 234, § 1; L. 1996, ch. 85, § 3; L. 1997, ch. 81, § 2; L. 1998, ch. 142, § 9; July 1; L. 2007.

Source or prior law:

65-1407, 65-1417.

Attorney General's Opinions:

Act inapplicable to certain practices, acts and operations; exceptions. 89-70.

Law Review and Bar Journal References:

"Recent Developments in Kansas Bioethics Law: The Kansas Prevention of Assisted Suicide Act," Kevin J. Breer and Cherie Leigh Durst, 38 W.L.J. 557 (1999).

Attorney General's Opinions:

Dentally indigent person; entities authorized to employ or contract with licensees under dental practices act for services for such persons. 97-84.

Scaling and coronal polishing performed by an unlicensed dental assistant; regulation of dental assistant; regulation of dental assistants. 1998-50.

65-1437. Advertising; prohibitions; rules and regulations; "licensee" defined. (a) A person licensed to practice dentistry by the Kansas dental board shall not on such licensee's own behalf, a licensee's partner, associate or any other licensee affiliated with the licensee or the licensee's practice, use or participate in the use of any form of advertising which:

(1) Contains false, fraudulent, misleading or deceptive statements or claims;

(2) represents that the licensee is specially qualified in or limits the practice of the licensee to a branch of dentistry which is a specialty recognized by the Kansas dental board unless the licensee holds a special certificate of qualification within such specialty authorized under K.S.A. 65-1427 and amendments thereto; or

(3) contains statements regarding the professional superiority or the performance of professional services in a superior manner by the licensee or group of licensees, unless each statement can be factually substantiated.

(b) The board may adopt rules and regulations for the administration of this section and may provide as part of such rules and regulations guidelines and examples of conduct allowed and prohibited under this section.

(c) The term "licensee" as used in this section means a person licensed to practice dentistry in this state by the Kansas dental board.

History: L. 1943, ch. 221, § 21; L. 1983, ch. 209, § 7; July 1.

Source or prior law:

65-1417.

Research and Practice Aids:

Physicians and Surgeons (West Key) 10.

C.J.S. Physicians and Surgeons §§ 31 to 35.

65-1438. Using services of unlicensed person; written prescription; misdemeanors; suspension or revocation of license. (A) Any dentist who shall use the services of any person (which word when used in this section shall include all legal entities) not licensed to practice dentistry in this state, to construct, alter, repair or duplicate any denture, plate, partial plate, bridge, splint, orthodontic or prosthetic appliance, shall first furnish such unlicensed person with a written prescription, on forms prescribed by the board, which shall contain: (1) The name and address of such unlicensed person. (2) The patient's name or number. In event such number is used, the name of the patient shall be written upon the duplicate copy of such prescription retained by the dentist. (3) The date on which it was written. (4) A prescription [description] of the work to be done, with diagrams if necessary. (5) A specification of the type and quality of materials to be used. (6) The signature of the dentist, and the number of his Kansas license. Such unlicensed person shall retain the original prescription and the dentist shall retain a duplicate copy thereof for inspection by the board, or its agent, for two years.

(B) Any dentist who shall: (1) Use any such service of any such licensed [unlicensed] person without first having furnished him such prescription; or (2) fail to retain a duplicate copy thereof for two years; or (3) refuse to allow the board, or its agent, to inspect it during such time, shall be guilty of a misdemeanor, and the board may revoke or suspend his license therefor.

(C) Any such unlicensed person who shall: (1) Perform any such service without first having obtained such prescription; or (2) fail to retain the original thereof for two years; or (3) refuse to allow the board, or its agent, to inspect it during such time shall be guilty of a misdemeanor.

History: L. 1943, ch. 221, § 22; June 28.

CASE ANNOTATIONS

1. Section not unconstitutional; does not violate privilege against self-incrimination. *Bongers v. Madrigal*, 1 K.A.2d 198, 201, 563 P.2d 515.

65-1439. Unlawful advertising or use of dental services and appliances; misdemeanor; revocation of license.

(a) Any person (which word when used in this section shall include all legal entities) who shall advertise in any manner to the general public that he can or will sell, supply, furnish, construct, reproduce or repair prosthetic

dentures, bridges, plates or other appliances to be used or worn as substitutes for natural teeth, or for the regulation thereof, shall be guilty of a misdemeanor, and the board may enjoin such person from so doing.

(b) Any person not licensed to practice dentistry in this state who shall sell or offer any such services or products to the general public shall be guilty of a misdemeanor, and the board may enjoin such person from so doing.

(c) The board may revoke the license of any dentist who shall: (1) Advertise such services or dental appliances to the general public in any manner, or (2) use such services or dental appliances of any such unlicensed person who has violated any of the provisions of this or the preceding section.

History: L. 1943, ch. 221, § 23; June 28.

65-1440. History: L. 1943, ch. 221, § 24; Repealed, L. 1969, ch. 180, § 21-4701; July 1, 1970.

Reviser's Note:

Later act, see 21-3824.

65-1441. Sale, offer to sell, procurement or alteration of diploma or license; misdemeanor; fraud or cheating.

Whoever sells or offers to sell a diploma conferring a dental degree, or a license granted pursuant to this act, or procures such diploma or license with intent that it be used as evidence of the right to practice dentistry or dental hygiene, as defined by law, by a person other than the one upon whom it was conferred, or to whom such license certificate or renewal certificate was granted, or with fraudulent intent alters such diploma or license certificate or renewal certificate, or uses or attempts to use it when it is so altered, shall be deemed guilty of a misdemeanor. The board may refuse to grant a license to practice dentistry or dental hygiene to any person found guilty of making a false statement, or cheating or of fraud or deception either in applying for a license or in taking any of the examinations provided for under the dental practices act.

History: L. 1943, ch. 221, § 25; L. 2000, ch. 169, § 10; July 1.

65-1442. Board to assist prosecuting officers. The board and its members and officers shall assist prosecuting officers in the enforcement of this act, and it shall be the duty of the board, its members and officers, to furnish the proper prosecuting officer with such evidence as it or they may ascertain to assist him in the prosecution of any violation of this act, and the board is authorized for that purpose to make such reasonable expenditure from the funds in its hands as it may deem necessary in ascertaining and furnishing such evidence.

History: L. 1943, ch. 221, § 26; June 28.

65-1443. History: L. 1943, ch. 221, § 27; Repealed, L. 1971, ch. 176, § 22; July 1.

65-1444. Drugs; surgery; anesthetics; appliances; qualifications for administering intravenous sedation and general anesthetics; rules and regulations; assistant administering and monitoring nitrous oxide or oxygen, requirements.

(a) A dentist shall have the right to prescribe drugs or medicine, perform such surgical operations, administer analgesia, local anesthetics and use such appliances as may be necessary to the proper practice of dentistry. Dentists may be authorized by the board to administer sedation and general anaesthetics subject to rules and regulations concerning qualifications of such dentists as may be adopted by the board. The board shall have authority to issue sedation permits to administer sedation and general anaesthetics. The board may establish different requirements and qualifications based upon the type of sedation or general anaesthetics the dentist is authorized by the board to use. The board may also establish by rules and regulations the requirement that the authorization to administer sedation and general anaesthetics be periodically renewed and the requirements that must be met to obtain such renewal. Any office of a dentist who is authorized by the board to administer sedation or general anaesthetics shall be subject to inspection by the board for purposes of determining if the dentist is in compliance with the board's rules and regulations.

(b) A dentist may utilize an assistant not licensed by the board in the administration and monitoring of nitrous oxide or oxygen, or both, if that person is certified in cardiopulmonary resuscitation and has satisfactorily completed a course of instruction which has been approved by the board. To be approved by the board, the course of instruction shall include a minimum of six hours of instruction at a teaching institution accredited by the American dental association and include satisfactory completion of courses which offer both didactic and clinical instruction in: (A) Theory of pain control; (B) anatomy; (C) medical history; (D) pharmacology; and (E) emergencies and complications.

(c) The board may deny, revoke, suspend or limit a sedation permit for violation by the permit holder of the requirements established by the board by rules and regulations or in lieu thereof or in addition thereto may assess a fine in accordance with K.S.A. 65-1436, and amendments thereto.

History: L. 1943, ch. 221, § 28; L. 1994, ch. 169, § 2; L. 1997, ch. 30, § 2; L. 2004, ch.58, § 1; July 1, 2005; L. 2007.

65-1445. Druggists may fill prescriptions. Druggists in this state may fill prescriptions of legally licensed dentists in this state for any drugs necessary for the practice of dentistry.

History: L. 1943, ch. 221, § 29; June 28.

Research and Practice Aids:

Druggists (West Key) 5.

C.J.S. Druggists § 6.

65-1446. Title and letters. Any licensed dentist of this state being a graduate of a reputable dental college recognized by the board shall have the right to use the title "doctor" or abbreviation thereof before his name, or appended to his name the letters "B.D.S.," "M.D.S.," "L.D.S.," "D.D.S.," "D.M.D.," or equivalent letters signifying the dental degree conferred upon him.

History: L. 1943, ch. 221, § 30; June 28.

65-1447. Fees; fixed by board, guidelines and limitations. (a) On or before October 1 of each year, the Kansas dental board shall determine the amount of funds which will be required during the ensuing fiscal year to properly administer the laws which the board is directed to enforce and administer and shall fix fees in accordance with this section in such reasonable sums as may be necessary for such purposes, within the limitations prescribed by subsection (b).

(b) The board shall collect fees provided for in this act as follows:

Examination fee for dental applicants--not more than.....	\$200
Subsequent examination fee for dental applicants--not more than.....	100
Examination fee for specialty qualifications--not more than.....	200
Credentials/qualifications fee--not more than.....	300
Duplicate certificate fee--not more than.....	25
Certificate fee, including certificate for credentials/qualifications, for dentists and dental hygienists—not more not more than	25
Biennial license renewal fee for dentists--not more than.....	325
Examination fee for dental hygienist applicants--not more than.....	100
Subsequent examination fee for dental hygienist applicants--not more than.....	100
Biennial license renewal fee for dental hygienists--not more than.....	160
Reinstatement of a revoked license--not more than.....	2,000
Processing fee for failure to notify of change of address—not more than.....	100
Registration fee to operate a mobile dental facility or portable dental operation – not more than....	500
Biennial registration renewal fee for mobile dental facility or portable dental operation- not more than.....	350
Sedation permit – not more than	200

(c) The amounts of fees in effect on the day preceding the effective date of this act and the act of which this section is amendatory shall remain in effect until fixed in different amounts by the board under this section. The board may adopt rules and regulations for the proration of fees for a license issued for a period of time less than the biennial licensure period.

History: L. 1943, ch. 221, § 31; L. 1955, ch. 290, § 2; L. 1963, ch. 315, § 2; L. 1974, ch. 251, § 2; L. 1980, ch. 189, § 5; L. 1996, ch. 85, § 4; L. 2000, ch. 169, § 11; L. 2001, ch. 155, § 2; L. 2005, ch. 115, § 1; July 1; L. 2007.

65-1448. Wartime fee remittance rules. The board by rules shall provide for the remittance of fees otherwise required by this act while a licensee is in the active duty with any of the armed forces of the United States during a state of war.

History: L. 1943, ch. 221, § 32; June 28.

65-1449. Revocation or suspension of license, statement of charges; emergency adjudication; temporary suspension or limitation. (a) Except as provided by subsection (b), no action to revoke or suspend a license shall be taken until the licensee has been furnished a statement in writing of the charges against the licensee, together with a notice of the time and place of the hearing. The statement of charges and notice shall be served upon the licensee in accordance with the provisions of the Kansas administrative procedure act.

(b) If the board determines that there is probable cause to revoke or suspend the license of a dentist or dental hygienist for any reason that exists pursuant to K.S.A. 65-1436, and amendments thereto, and if the licensee's continued practice would constitute an imminent danger to public health and safety, the board may initiate administrative proceedings for an emergency adjudication under the provisions of the Kansas administrative procedure act.

In no case shall a temporary suspension or temporary limitation of a license under this section be in effect for more than 90 days. At the end of such period of time, the licensee shall be reinstated to full licensure unless the board has revoked or suspended the license of the licensee after notice and hearing, provided in accordance with the provisions of the Kansas administrative procedure act.

History: L. 1943, ch. 221, § 33; L. 1981, ch. 246, § 2; L. 1984, ch. 313, § 100; July 1, 1985.

Source or prior law:

65-1407.

Law Review and Bar Journal References:

"Rethinking Kansas Administrative Procedure," Marilyn V. Ainsworth and Sidney A. Shapiro, 28 K.L.R. 419, 430 (1980).

65-1450

History: L. 1943, ch. 221, § 34; Repealed, L. 1984, ch. 313, § 157; July 1, 1985.

CASE ANNOTATIONS

1. Mentioned; under former law, board's order revoking license could not be enjoined. *Bohl v. Teall*, 157 K. 239, 242, 139 P.2d 418.

2. Cited in holding 60-2101(a) does not permit trial de novo in district court from order of administrative agency. *Copeland v. Kansas State Board of Examiners in Optometry*, 213 K. 741, 742, 518 P.2d 377.

65-1451. Injunctions. When it appears to the board that any person is violating any of the provisions of this act, the board may in its own name bring an action in a court of competent jurisdiction for an injunction. Any such action shall be taken in accordance with the provisions of the act for judicial review and civil enforcement of agency actions.

History: L. 1943, ch. 221, § 35; L. 1984, ch. 313, § 101; July 1, 1985.

Research and Practice Aids:

Injunction (West Key) 89(5).

C.J.S. Injunction § 123 et seq.

CASE ANNOTATIONS

1. Dental board initiated proceedings under this section; not limited to penalties prescribed for a misdemeanor. *Bongers v. Madrigal*, 1 K.A.2d 198, 202, 563 P.2d 515.

65-1452. Subpoenas and testimony. In all matters pending before it, the board shall have the power to issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books and records, documentary evidence and materials. Any person failing or refusing to appear or testify regarding any matter about which such person may be lawfully questioned or to produce any papers, books, records, documentary evidence or materials in the matter to be heard, after having been required by order of the board or by a subpoena of the board to do so may, upon application to any district judge of the state of Kansas be ordered to comply therewith, and upon failure to comply with the order of district judge, the court may compel obedience by attachment as for contempt as in case of disobedience of a similar order or subpoena issued by said court. A subpoena may be served upon any person named therein, anywhere within the state of Kansas with the same fees and mileage by any officer authorized to serve subpoenas in civil actions, in the same manner as is prescribed by the code of civil procedure for subpoenas issued out of the district courts of this state.

History: L. 1943, ch. 221, § 36; L. 1984, ch. 313, § 102; July 1, 1985.

Source or prior law:

65-1418.

65-1453. Taking of depositions. Depositions may be taken within or without the state of Kansas in the manner provided for by the code of civil procedure for the taking of depositions in matters pending in the district courts of this state. Said depositions shall be returnable to the clerk of the district court of the county wherein said hearing before the board is pending, and said clerk shall deliver said depositions to the board upon request, and said depositions may be opened by the parties to said proceedings the same as is provided for in matters pending before the district courts. The district court shall, upon request of any interested party in any proceeding before the state

board, issue commissions for the taking of depositions in the same manner as is provided for the issuance of commissions for the taking of depositions in matters pending before the district courts of this state.

History: L. 1943, ch. 221, § 37; June 28.

65-1454. Witnesses; incriminating testimony compelled; exempt from prosecution. No person shall be excused from testifying in any proceeding before the board under this act, or in any civil proceeding under this act before a court of competent jurisdiction, on the ground that his testimony may incriminate him, but any person shall not be prosecuted on account of any transaction or matter or thing concerning which he shall be compelled to testify, nor shall such testimony be used against him in any prosecution for any crime under the laws of this state.

History: L. 1943, ch. 221, § 38; June 28.

65-1455. Licensing of dental hygienists; examination, fee; license fee; temporary license; qualifications; display of license; approval of schools of dental hygiene, criteria; unlawful practice of dental hygiene, penalties. (a) No person shall practice as a dental hygienist in this state until such person has passed an examination by the board under such rules and regulations as the board may adopt. The board shall accept clinical board examination results for graduates of dental hygiene schools approved by the board from all nationally recognized regional dental hygiene clinical testing agencies and from individual state dental hygiene licensure authorities. The fee for such examination shall be fixed by the board pursuant to K.S.A. 65-1447 and amendments thereto. A license fee shall be paid to the board in the amount fixed by the board pursuant to K.S.A. 65-1447 and amendments thereto.

(b) Any graduate of an accredited dental hygiene school, dental college or dental department of a college or university who: (1) Has a R.D.H. (registered dental hygienist) or L.D.H (licensed dental hygienist) and is otherwise qualified; (2) is not licensed to practice as a dental hygienist in Kansas; and (3) holds a license to practice in the state from which they are applying, upon application, may be issued a temporary license of not more than 14 days to provide dental hygienist services under subsection (f)(4) of K.S.A. 75-6102, and amendments thereto.

(c) The board shall issue licenses as dental hygienists to those who have passed the examination in a manner satisfactory to the board. Each license shall be posted and displayed in the office in which the hygienist is employed, but no person shall be entitled to such license unless such person is more than 18 years of age, of good moral character and a graduate of a school approved by the board for dental hygienists. The board shall approve only those dental hygiene schools which require the study of dental hygiene and which the board determines have standards of education not less than that required for accreditation by the commission on dental accreditation of the American dental association or its equivalent.

(d) The board shall adopt rules and regulations establishing the criteria which a school for dental hygienists shall satisfy in meeting the standards of education established under subsection (b). The board may send a questionnaire developed by the board to any school for dental hygienists for which the board does not have sufficient information to determine whether the school meets the requirements of subsection (b) and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the school to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about schools. In entering such contracts the authority to approve schools shall remain solely with the board.

(e) Any person practicing dental hygiene in violation of the provisions of this act shall be guilty of a misdemeanor, and the board may revoke or suspend such person's license therefor.

History: L. 1943, ch. 221, § 39; L. 1953, ch. 289, § 3; L. 1955, ch. 290, § 4; L. 1972, ch. 161, § 16; L. 1980, ch. 189, § 6; L. 1988, ch. 243, § 5; L. 1988, ch. 247, § 2; L. 1988, ch. 245, § 1; L. 1999, ch. 11, § 2; L. 2000, ch. 169, § 12; L. 2003, ch. 82, § 2; July 1.

65-1456. Dental hygienists; suspension or revocation of licenses, when; notice and hearing; practice of dental hygiene defined; rules and regulations; supervision defined; where performance of practice authorized, issuance of permits therefor; authorized activities, requirements. (a) The board may suspend or revoke the license of any dentist who shall permit any dental hygienist operating under such dentist's supervision to perform any operation other than that permitted under the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, or acts amendatory thereof, and may suspend or revoke the license of any hygienist found guilty of performing any operation other than those permitted under article 14 of chapter 65 of the Kansas Statutes Annotated, or acts amendatory thereof. No license of any dentist or dental hygienist shall be suspended or revoked in any administrative proceedings without first complying with the notice and hearing requirements of the Kansas administrative procedure act.

(b) The practice of dental hygiene shall include those educational, preventive, and therapeutic procedures which result in the removal of extraneous deposits, stains and debris from the teeth and the rendering of smooth surfaces of the teeth to the depths of the gingival sulci. Included among those educational, preventive and therapeutic

procedures are the instruction of the patient as to daily personal care, protecting the teeth from dental caries, the scaling and polishing of the crown surfaces and the planing of the root surfaces, in addition to the curettage of those soft tissues lining the free gingiva to the depth of the gingival sulcus and such additional educational, preventive and therapeutic procedures as the board may establish by rules and regulations.

(c) Subject to such prohibitions, limitations and conditions as the board may prescribe by rules and regulations, any licensed dental hygienist may practice dental hygiene and may also perform such dental service as may be performed by a dental assistant under the provisions of K.S.A. 65-1423 and amendments thereto.

(d) Except as otherwise provided in this section, the practice of dental hygiene shall be performed under the direct or general supervision of a licensed dentist at the office of such licensed dentist. The board shall designate by rules and regulations the procedures which may be performed by a dental hygienist under direct supervision and the procedures which may be performed under general supervision of a licensed dentist. As used in this section: (1) "Direct supervision" means that the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure and before dismissal of the patient evaluates the performance; and (2) "general supervision" means a Kansas licensed dentist may delegate verbally or by written authorization the performance of a service, task or procedure to a licensed dental hygienist under the supervision and responsibility of the dentist, if the dental hygienist is licensed to perform the function, and the supervising dentist examines the patient at the time the dental hygiene procedure is performed, or during the 12 calendar months preceding the performance of the procedure, except that the licensed hygienist shall not be permitted to diagnose a dental disease or ailment, prescribe any treatment or a regimen thereof, prescribe, order or dispense medication or perform any procedure which is irreversible or which involves the intentional cutting of the soft or hard tissue by any means. A dentist is not required to be on the premises at the time a hygienist performs a function delegated under part (2) of this subsection.

(e) The practice of dental hygiene may be performed at an adult care home, hospital long-term care unit, state institution, local health department or indigent health care clinic on a resident of a facility, client or patient thereof so long as:

- (1) A licensed dentist has delegated the performance of the service, task or procedure;
- (2) the dental hygienist is under the supervision and responsibility of the dentist;
- (3) either the supervising dentist is personally present or the services, tasks and procedures are limited to the cleaning of teeth, education and preventive care;
- (4) the supervising dentist examines the patient at the time the dental hygiene procedure is performed or has examined the patient during the 12 calendar months preceding performance of the procedure; and

(f) The practice of dental hygiene may be performed with consent of the parent or legal guardian, on children participating in residential and non-residential centers for therapeutic services, on all children in families which are receiving family preservation services, on all children in the custody of the secretary of social and rehabilitation services or the commissioner of juvenile justice authority and in an out-of-home placement residing in foster care homes, on children being served by runaway youth programs and homeless shelters; and on children birth to five and children in public and nonpublic schools kindergarten through grade 12 regardless of the time of year and children participating in youth organizations, so long as such children birth to five, in public or nonpublic schools or participating in youth organizations also meet the requirements of medicaid, healthwave, or free or reduced lunch programs or Indian health services; at any state correctional institution, local health department or indigent health care clinic, as defined in K.S.A. 65-1466, and amendments thereto, and at any federally qualified health center, federally qualified health center look-alike or a community health center that receives funding from section 330 of the health center consolidation act, on a person, inmate, client or patient thereof and on other persons as may be defined by the board; so long as:

(1) The dental hygienist has received an "extended care permit" from the Kansas dental board specifying that the dental hygienist has performed 1,200 hours of dental hygiene care within the past three years or has been an instructor at an accredited dental hygiene program for two academic years within the past three years;

(2) the dental hygienist shows proof of professional liability insurance;

(3) the dental hygienist is sponsored by a dentist licensed in the state of Kansas, including a signed agreement stating that the dentist shall monitor the dental hygienist's activities, except such dentist shall not monitor more than five dental hygienists with an extended care permit;

(4) the tasks and procedures are limited to: (A) removal of extraneous deposits, stains and debris from the teeth and the rendering of smooth surfaces of the teeth to the depths of the gingival sulci; (B) the application of topical anesthetic if the dental hygienist has completed the required course of instruction approved by the dental board; (C) the application of fluoride; (D) dental hygiene instruction; (E) assessment of the patient's apparent need for further evaluation by a dentist to diagnose the presence of dental caries and other abnormalities; and (F) other duties as may be delegated verbally or in writing by the sponsoring dentists consistent with this act;

(5) the dental hygienist advises the patient and legal guardian that the services are preventive in nature and do not constitute a comprehensive dental diagnosis and care;

(6) the dental hygienist provides a copy of the findings and the report of treatment to the sponsoring dentist and any other dental or medical supervisor at a participating organization found in this subsection; and supervisor at a participating organization found in this subsection; and

(7) any payment to the dental hygienist for dental hygiene services is received from the sponsoring dentist or the participating organization found in this subsection.

(g) The practice of dental hygiene may be performed on persons with developmental disabilities and on persons who are 65 years and older who live in a residential center, an adult care home, subsidized housing, hospital long-term care unit, state institution or are served in a community senior service center, elderly nutrition program or at the home of a homebound person who qualifies for the federal home and community based service (HCBS) waiver on a resident of a facility, client or patient thereof so long as:

(1) The dental hygienist has received an "extended care permit II" from the Kansas dental board specifying that the dental hygienist has: (A) performed 1,800 hours of dental hygiene care or has been an instructor at an accredited dental hygiene program for two academic years within the past three years; and (B) completed six hours of training on the care of special needs patients or other training as may be accepted by the board;

(2) the dental hygienist shows proof of professional liability insurance;

(3) the dental hygienist is sponsored by a dentist licensed in the state of Kansas, including a signed agreement stating that the dentist shall monitor the dental hygienist's activities, except such dentist shall not monitor more than five dental hygienists with an extended care permit II;

(4) the tasks and procedures are limited to: (A) removal of extraneous deposits, stains and debris from the teeth and the rendering of smooth surfaces of the teeth to the depths of the gingival sulci; (B) the application of topical anesthetic if the dental hygienist has completed the required course of instruction approved by the dental board; (C) the application of fluoride; (D) dental hygiene instruction; (E) assessment of the patient's apparent need for further evaluation by a dentist to diagnose the presence of dental caries and other abnormalities; and (F) other duties as may be delegated verbally or in writing by the sponsoring dentist consistent with this act;

(5) the dental hygienist advises the patient and legal guardian that the services are preventive in nature and do not constitute comprehensive dental diagnosis and care;

(6) the dental hygienist provides a copy of the findings and the report of treatment to the sponsoring dentist and any other dental or medical supervisor at a participating organization found in this subsection;

(7) any payment to the dental hygienist for dental hygiene services is received from the sponsoring dentist or the participating organization found in this subsection; and

(8) the dental hygienist completes a minimum of six hours of education in the area of special needs care within the board's continuing dental education requirements for re-licensure.

(h) In addition to the duties specifically mentioned in subsection (b) of K.S.A. 65-1456, and amendments thereto, any duly licensed dental hygienist may:

(1) Give fluoride treatments as a prophylactic measure, as defined by the United States public health service and as recommended for use in dentistry;

(2) remove overhanging restoration margins and periodontal surgery materials by hand scaling instruments; and

(3) administer local block and infiltration anesthesia and nitrous oxide. (A) The administration of local anaesthesia shall be performed under the direct supervision of a licensed dentist except that topically applied local anaesthesia, as defined by the board, may be administered under the general supervision of a licensed dentist. (B) Each dental hygienist who administers local anesthesia regardless of the type shall have completed courses of instruction in local anesthesia and nitrous oxide which have been approved by the board.

(i) (1) The courses of instruction required in subsection (h)(3)(B) shall provide a minimum of 12 hours of instruction at a teaching institution accredited by the American dental association.

(2) The courses of instruction shall include courses which provide both didactic and clinical instruction in: (A) Theory of pain control; (B) anatomy; (C) medical history; (D) pharmacology; and (E) emergencies and complications.

(3) Certification in cardiac pulmonary resuscitation shall be required in all cases.

(j) The board is authorized to issue to a qualified dental hygienist an extended care permit or extended care permit II as provided in subsections (f) and (g) of this section.

(k) Nothing in this section shall be construed to prevent a dental hygienist from providing dental hygiene instruction or visual oral health care screenings or fluoride applications in a school or community based setting regardless of the age of the patient.

New Sec 5. A dental hygienist who meets the requirements of subsections (f)(1) or (g)(1)(A) of K.S.A. 65-1456, and amendments thereto, prior to a period of retirement or disability, but not within the past three years, and is returning to active practice after such period of retirement or disability under K.S.A. 65-1431(i), and amendments thereto, or who has retained a license to practice but has not practiced in the past three or more years may qualify for an extended care permit by completing a refresher course approved by the board under K.A.R. 71-3-8 or

performing 200 hours of dental hygiene care within the last 12 months under the supervision of dentists licensed in the state of Kansas and provides the board with a letter of endorsement from one of the supervising dentists.

History: L. 1943, ch. 221, § 40; L. 1976, ch. 269, § 1; L. 1984, ch. 313, § 103; L. 1996, ch. 210, § 4; L. 1997, ch. 30, § 3; L. 1998, ch. 141, § 2; L. 2000, ch. 169, § 13; L. 2001, ch. 155, § 3; L. 2003, ch. 125, § 1; July 1; L. 2007.

Source or prior law: 65-1414

Attorney General's Opinions:

Act inapplicable to certain practices, acts and operations; exceptions. 89-70.

Dental hygienists; dental hygiene practice defined; rules and regulations; supervision; permits for dental screening. 93-151.

Dental act not applicable to certain practices, acts and operations. 95-29.

Dentists providing anesthesia services operate independently and with same qualifications to supervise as anesthesiologist M.D. and D.O. 1998-57.

65-1457. Licensure required to practice dental hygiene. It shall be the duty of all licensed dental hygienists who engage in the practice of dental hygiene to be licensed. Except as otherwise provided under the dental practices act, the form, method and all provisions relating to the renewal of licenses of dentists shall apply to the renewal of licenses of dental hygienists.

History: L. 1943, ch. 221, § 41; L. 2000, ch. 169, § 14; July 1.

65-1458. Dentists and dental hygienists; revocation or suspension of licenses; hearing; review. The board shall revoke or suspend the license of any licensed dental hygienist who is found guilty of using or attempting to use in any manner whatsoever any prophylactic lists, call lists, records, reprints or copies of same, or information gathered therefrom, of the names or patients whom the hygienist might have served in the office of a prior employer, unless such names appear upon the bona fide call or prophylactic list of the hygienist's present employer and were caused to so appear through the legitimate practice of dentistry as provided for in this act. The board shall also suspend or revoke the license of any licensed dentist who is found guilty of aiding or abetting or encouraging a dental hygienist employed by such dentist to make use of a so-called prophylactic call list, or the calling by telephone or by use of written letters transmitted through the mails to solicit patronage from patients formerly served in the office of any dentist formerly employing such hygienist. No order of suspension or revocation provided in this section shall be made or entered except after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act. Any final order of suspension or revocation of a license shall be reviewable in accordance with the act for judicial review and civil enforcement of agency actions.

History: L. 1943, ch. 221, § 42; L. 1984, ch. 313, § 104; L. 2000, ch. 169, § 15; July 1.

Research and Practice Aids:

Physicians and Surgeons (West Key) 11(1).

C.J.S. Physicians and Surgeons § 16.

CASE ANNOTATIONS

1. Mentioned; under former law, board's order revoking license could not be enjoined. *Bohl v. Teall*, 157 K. 239, 242, 139 P.2d 418.

65-1459. Dental interns; rules and regulations; revocation of permits. (a) The board shall have authority, upon presentation of satisfactory credentials and under such rules and regulations as the board may prescribe, to issue a permit to a graduate of an approved dental school or college who has not been licensed to practice dentistry in this state, and who has not failed to pass an examination for licensure in this state, to serve as a dental intern for a period of not more than one year in state maintained and operated hospitals, or the department of health and environment of the state of Kansas that may offer such a position if such hospitals maintain a recognized resident staff of one or more licensed dentists. Such intern shall function under the supervision and direction of the dental staff of such hospitals, the intern's work shall be limited to the patients confined to the hospital in which such intern serves, and such intern shall serve without fee or compensation other than that received in salary or other remuneration from such hospitals.

(b) The board shall have the power to revoke the permit of any such intern at any time within the year for which it is issued upon the recommendation of such procedure by the executive officer of the resident dental staff of the hospital in which such intern serves or for any other reason which the board may deem justifiable. Such limited permits granted for the purpose of internships shall automatically expire at the end of one year and shall not be subject to renewal.

History: L. 1943, ch. 221, § 43; L. 1975, ch. 462, § 87; L. 2000, ch. 169, § 16; July 1.

65-1460. Penalties for violations. Any person who shall practice dentistry or dental hygiene in this state within the meaning of this act without having first obtained a license from the board, or who violates any of the provisions of this act, the penalty for which is not herein specifically provided, shall be deemed guilty of a misdemeanor. Anyone convicted of a misdemeanor under this act shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than twelve months, or by both such fine and imprisonment, in the discretion of the court.

History: L. 1943, ch. 221, § 44; June 28.

Source or prior law:

65-1407.

CASE ANNOTATIONS

1. Dental board initiated proceedings under 60-1451; not limited to penalties prescribed for a misdemeanor. *Bongers v. Madrigal*, 1 K.A.2d 198, 201, 202, 563 P.2d 515.

65-1461. Invalidity of part. If any clause, section, phrase or word of this act be declared unconstitutional or invalid for any reason by any court of competent jurisdiction, the remaining portion or portions of this act shall be and remain in full force and as valid as if such clause, section, phrase or word had not been incorporated therein.

History: L. 1943, ch. 221, § 45; June 28.

Research and Practice Aids:

Statutes (West Key) 64(2).

C.J.S. Statutes § 96 et seq.

65-1462. Immunity from liability in civil actions for reporting, communicating and investigating certain information concerning alleged malpractice incidents and other information; conditions. (a) No person reporting to the Kansas dental board under oath and in good faith any information such person may have relating to alleged incidents of malpractice or the qualifications, fitness or character of a person licensed to practice dentistry shall be subject to a civil action for damages as a result of reporting such information.

(b) Any state, regional or local association of licensed dentists or licensed dental hygienists, and the individual members of any committee thereof, which in good faith investigates or communicates information pertaining to the alleged incidents of malpractice or the qualifications, fitness or character of any licensee to the Kansas dental board or to any committee or agent thereof, shall be immune from liability in any civil action, that is based upon such investigation or transmittal of information if the investigation and communication was made in good faith and did not represent as true any matter not reasonably believed to be true.

History: L. 1976, ch. 261, § 3; L. 1998, ch. 141, § 6; July 1.

Cross References to Related Sections:

Limited liability for certain associations of health care providers, review organizations and committee members thereof, see 65-4909.

Research and Practice Aids:

Physicians and Surgeons (West Key) 16.

C.J.S. Physicians, Surgeons, and Other Health-Care Providers §§ 70, 81 to 86, 97 to 102.

Law Review and Bar Journal References:

"Recent Legislation: The Kansas Approach to Medical Malpractice," Nancy Neal Scherer and Robert P. Scherer, 16 W.L.J. 395, 407 (1977).

65-1463.

History: L. 1982, ch. 253, § 1; Repealed, L. 1996, ch. 85, § 6; July 1.

65-1464. Citation of dental practices act. The acts contained in article 14 of chapter 65 and article 14 of chapter 74 of the Kansas Statutes Annotated and any acts amendatory thereof or made specifically supplemental thereto shall be construed together and may be cited as the dental practices act.

History: L. 1983, ch. 209, § 8; July 1.

65-1465. Denture or dental prosthesis to be marked with name or social security number, or both, of patient.

(a) Every complete upper and lower denture or removable dental prosthesis fabricated by a practitioner of dentistry or fabricated pursuant to such practitioner's work order, shall be marked with the name or social security number, or both, of the patient for whom the prosthesis is intended. The markings shall be done during fabrication and shall be permanent, legible and cosmetically acceptable. The exact location of the markings and method used to apply or implant the markings shall be determined by the dentist or dental laboratory fabricating the prosthesis. If in the

professional judgment of the dentist, this full identification is not possible, the name or social security number may be omitted.

(b) Any removable dental prosthesis in existence prior to the effective date of this act, which was not marked in accordance with subsection (a), shall be so marked at the time of any subsequent rebasing or duplication.

History: L. 1983, ch. 203, § 1; July 1.

65-1466. Dental services for dentally indigent persons; entities authorized to employ or contract with persons licensed under dental practices act for such services; reports by federally qualified health centers and clinics employing a national health service corps dentist; requirements for retired dentists providing such dental services.

(a) (1) Notwithstanding any other provision of the dental practices act, a not-for-profit corporation having the status of an organization under 26 United States Code Annotated 501(c)(3) which is also a facility qualified under subsection (b) of K.S.A. 65-431 and amendments thereto to select and employ professional personnel, an indigent health care clinic as defined by the rules and regulations of the secretary of health and environment, or a local health department may employ or otherwise contract with a person licensed under the dental practices act to provide dental services to dentally indigent persons.

(2) Notwithstanding any other provision of the dental practices act, a federally qualified health center or national health service corps site may employ or otherwise contract with a person licensed under the dental practices act to provide services to any person except that a federally qualified health center and a clinic employing a national health service corps dentist shall report annually to the health care reform legislative oversight committee indicating the income level of their patients and the percentage of patients covered by dental insurance in the preceding year.

(b) Dentally indigent persons are those persons who are: (1) Determined to be a member of a family unit earning at or below 200% of poverty income guidelines based on the annual update of "poverty income guidelines" published in the federal register by the United States department of health and human services and are not indemnified against costs arising from dental care by a policy of accident and sickness insurance or an employee health benefits plan; or (2) eligible for Medicaid; or (3) eligible for the Kansas federal children's health insurance program; or (4) eligible for other publicly funded health care programs as defined by the Kansas dental board; or (5) qualified for Indian health services. This subsection shall not be construed to prohibit an entity under subsection (a) which enters into an arrangement with a licensee under the dental practices act for purposes of providing services to dentally indigent persons pursuant to subsection (a) from defining "dentally indigent persons" more restrictively than such term is defined under this subsection.

(c) A licensee under the dental practices act who enters into an arrangement with an entity under subsection (a) to provide dental services pursuant to subsection (a): (1) Shall not be subject to having the licensee's license suspended or revoked by the board solely as a result of such arrangement; and (2) may not permit another person who is not licensed in Kansas as a dentist, and is not otherwise competent, to engage in the clinical practice of dentistry. No entity under subsection (a) or any other person may direct or interfere or attempt to direct or interfere with a licensed dentist's professional judgment and competent practice of dentistry.

(d) A dentist who is classified as "retired" by the Kansas dental board is not required to pay the biennial renewal fee or comply with the dental continuing education requirements if the dentist elects to provide dental services to the indigent through one of the entities specified in subsection (a). A "retired" dentist providing such services shall be required to comply with the renewal requirements of the Kansas dental board.

(e) The Kansas dental board may adopt rules and regulations as necessary to carry out the provisions of this section, except that no such rule and regulation shall alter or affect the intent of paragraph (2) of subsection (a).

(f) This section shall be part of and supplemental to the dental practices act.

History: L. 1996, ch. 210, § 1; L. 1998, ch. 141, § 4; L. 2000, ch. 169, § 17; July 1.

Cross References to Related Sections:

Donated dental services program, see 75-5371.

Attorney General's Opinions:

Dentally indigent person; entities authorized to employ or contract with licensees under dental practices act for services for such persons. 97-84.

65-1467. Dental board complaints and related information confidential, limited disclosure authorized. (a) Any complaint or report, record or other information relating to a complaint which is received, obtained or maintained by the Kansas dental board shall be confidential and shall not be disclosed by the board or its employees in a manner which identifies or enables identification of the person who is the subject or source of the information except the information may be disclosed:

(1) In any proceeding conducted by the board under the law or in an appeal of an order of the board entered in a proceeding, or to any party to a proceeding or appeal or the party's attorney;

(2) to the person who is the subject of the information or to any person or entity when requested by the person who is the subject of the information, but the board may require disclosure in such a manner that will prevent identification of any other person who is the subject or source of the information;

(3) to a state or federal licensing, regulatory or enforcement agency with jurisdiction over the subject or the information or to an agency with jurisdiction over acts or conduct similar to acts or conduct which would constitute grounds for action under this act. Any confidential complaint or report, record or other information disclosed by the board as authorized by this section shall not be redisclosed by the receiving agency except as otherwise authorized by law.

(b) This section shall be part of and supplemental to the Kansas dental practices act.

History: L. 1997, ch. 81, § 1; July 1.

65-1468. Professional liability insurance required to practice dentistry.

(a) A policy of professional liability insurance issued by an insurer duly authorized to transact business in this state shall be maintained in effect by each licensed dentist actively practicing in this state as a condition to rendering professional services as a dentist in this state, except that a dentist shall not be required to maintain professional liability insurance if such person's dental practice is limited to providing dental services under subsection (f) of K.S.A. 75-6102 and amendments thereto.

(b) This section shall be part of and supplemental to the dental practices act.

History: L. 2004, ch. 58, § 2; July 1, 2005.

65-1469. Mobile dental facility or portable dental operation; registration; application of this section. As used in this section:

(a) "Mobile dental facility or portable dental operation" means either of the following:

(1) Any self-contained facility in which dentistry will be practiced, which may be moved, towed or transported from one location to another.

(2) Any non-facility in which dental equipment, utilized in the practice of dentistry, is transported to and utilized on a temporary basis at an out-of-office location, including, but not limited to: (A) Other dentists' offices; (B) patients' homes; (C) schools; (D) nursing homes; or (E) other institutions.

(b) (1) No person shall operate a mobile dental facility or portable dental operation in this state unless registered in accordance with this section.

(2) In order to operate a mobile dental facility or portable dental operation, the operator shall be a person or entity that is authorized to own a dental practice under Kansas law and possess a current registration issued by the board.

(3) To become registered, the operator shall:

(A) Complete an application in the form and manner required by the board; and

(B) pay a registration fee in the amount established by the board pursuant to K.S.A. 65-1447 and amendments thereto.

(c) (1) The registration under this section shall be renewed on March 1 of even-numbered years in the form and manner provided by the board by rules and regulations.

(2) The registrant shall pay a registration renewal fee in the amount fixed by the board under K.S.A. 65-1447 and amendments thereto.

(d) The board shall adopt rules and regulations as necessary to carry out the provisions of this act. The rules and regulations shall include, but not be limited to, requirements relating to the official address and telephone number of the mobile dental facility or portable dental operation, the proper maintenance of dental records, procedures for emergency follow-up care for patients, appropriate communications facilities, appropriate authorizations for treatment by dental patients, follow-up treatment and services, personnel and address changes, notice to be provided on cessation of operation and such other matters as the board deems necessary to protect the public health and welfare.

(e) The board may refuse to issue a registration under this section or may revoke or suspend a registration upon a finding by the board that an applicant or person registered under this section has failed to comply with any provision of the section or any rules and regulations adopted pursuant to this section. No order refusing to issue a registration or order of suspension or revocation shall be made or entered except after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act. Any final order of suspension or revocation of a license shall be reviewable in accordance with the act for judicial review and civil enforcement of agency actions.

(f) (1) This section applies to each operator of a mobile dental facility or portable dental operation that provides dental services except those specifically exempted by subsection (2).

(2) This section shall not apply to:

(A) Dentists providing dental services for federal, state and local governmental agencies;

(B) dentists licensed to practice in Kansas providing emergency treatment for their patients of record;

(C) dentists who are not employed by or independently contracting with a mobile dental facility or portable dental operation who provide non-emergency treatment for their patients of record outside the dentist's physically stationary office fewer than 30 days per calendar year;

(D) dental hygienists who are providing dental hygiene services as authorized by the Kansas dental act and the board's rules and regulations;

(E) a dentist who is providing dental services as a charitable health care provider under K.S.A. 75-6102, and amendments thereto;

(F) a dental hygienist who is providing dental hygiene services as a charitable health care provider under K.S.A. 75-6102, and amendments thereto; and

(G) a not-for-profit organization providing dental services.

(g) This section shall be part of and supplemental to the dental practices act.

History: L. 2005, ch. 115, § 2; July 1.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 14.--KANSAS DENTAL BOARD

74-1404. Kansas dental board; appointment; terms; qualifications; vacancies. (a) In order to accomplish the purpose and to provide for the enforcement of this act, there is hereby created the Kansas dental board. The board shall be vested with authority to carry out the purposes and enforce the provisions of this act. The board shall consist of the following: (1) Six licensed and qualified resident dentists; (2) two licensed and qualified resident dental hygienists; and (3) one representative of the general public. At least 30 days before the expiration of any term, other than that of the member appointed from the general public or a member who is a dental hygienist, the Kansas dental association or its successor shall submit to the governor a list of three names of persons of recognized ability who have the qualifications prescribed for the dentist board members. At least 30 days before the expiration of the term of the dental hygienist member of the board, the Kansas dental hygiene association shall submit to the governor a list of three names of persons of recognized ability who have the qualifications prescribed for the dental hygienist member. For the four new members to be appointed under this act, such names shall be submitted within 10 days after the effective date of this act. The governor shall consider such list of persons in making the appointment to the board.

(b) The members shall be appointed by the governor in the manner hereinafter prescribed for terms of four years and until their successors are appointed and qualified. Of the six licensed dentists on the board, one shall be appointed from each congressional district and two shall be appointed from the state at large. On and after the effective date of this act, no person shall be appointed for more than two consecutive four-year terms. No person in any way connected with a dental supply or dental laboratory business shall be eligible for appointment to the board. No person shall be eligible for appointment to the board who has been convicted of a violation of any of the provisions of this or any other prior dental practice act or who has been convicted of a felony. A dentist who is an officer of the Kansas dental association shall not be eligible for appointment to the Kansas dental board. A dental hygienist who is an officer of the Kansas dental hygienists association shall not be eligible for appointment to the Kansas dental board. No dentist or dental hygienist shall be appointed to the board who has not been engaged in the active practice of dentistry or dental hygiene in the state of Kansas for at least five years next preceding appointment. Whenever a vacancy occurs it shall be filled by appointment for the remainder of the unexpired term in the same manner as an original appointment is made.

(c) Upon the effective date of this act, in order to expand the membership to the prescribed six dentists and two dental hygienists, the governor shall appoint three additional dentists and one additional hygienist to the board in the manner described in this section. Of the three new dental members, one shall serve until April 30, 2000, one shall serve until April 30, 2001 and one shall serve until April 30, 2002, as designated by the governor. Thereafter, all terms shall be four-year terms beginning May 1 of the appointment year and expiring April 30 four years later. When the terms of the existing dentist members which expire May 1, 2000, and May 1, 2001 conclude, then successors shall be appointed for four year terms beginning May 1 and expiring April 30 four years later. The additional dental hygienist appointed upon the effective date of this act shall serve until April 30, 2002, and thereafter the successor shall serve a four-year term beginning May 1 and expiring April 30 four years later. Upon the expiration of terms of office of members, successors shall be appointed in the same manner as original appointments for terms of four years.

History: L. 1943, ch. 221, § 1; L. 1975, ch. 399, § 1; L. 1978, ch. 308, § 55; L. 1981, ch. 299, § 51; L. 1996, ch. 85, § 5; L. 1998, ch. 141, § 5; July 1.

Source or prior law:

74-1401.

Research and Practice Aids:

Physicians and Surgeons (West Key) 5(1).

C.J.S. Physicians and Surgeons § 6 et seq.

Attorney General's Opinions:

State departments; public officers and employees; open public meetings; meeting location. 86-153.

Law Review and Bar Journal References:

"Reconsidering the Regulation of Health Professionals in Kansas," Lisa E. Bartra, 5 Kan. J.L. & Pub. Pol'y, No. 3, 155, 159, 166, 167, 171-173 (1996).

Attorney General's Opinions:

Board of dental examiners; changing number of members constituting a quorum. 96-32.

74-1405. Officers; seal; meetings; office; service of process; compensation and expenses; executive director, duties and compensation; national affiliation; disposition of moneys; dental board fee fund. (a) The board at its first meeting day of each year shall elect from its members a president, vice-president and secretary. The board shall have a common seal. The board shall hold two regular meetings each year at times to be fixed by the board, and special meetings at such other times as may be necessary.

(b) Members of the Kansas dental board attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, or conducting examinations for dental or dental hygienists licenses or conducting inspections of dental laboratories required by K.S.A. 65-1438 and amendments thereto shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto. Members of the board conducting examinations for dental or dental hygienists licenses may receive amounts for compensation, subsistence allowances, mileage or other expenses from a nonstate agency for conducting such examinations but no member receiving any such amounts shall be paid any compensation, subsistence allowances, mileage or other expenses under this section for conducting such examinations.

(c) The official office of the board shall be in Topeka. Meetings shall be held in Topeka or at such other places as the board shall determine to be most appropriate. Service of process may be had upon the board by delivery of process to the secretary of state who shall mail the same by registered or certified mail to the executive director of the board.

(d) The board may appoint an executive director who shall be in the unclassified service of the Kansas civil service act. The executive director shall receive an annual salary fixed by the board and approved by the governor. The executive director shall be the legal custodian of all property, money, minutes, records, and proceedings and seal of the board.

(e) The board in its discretion may affiliate as an active member with the national association of dental examiners and any organization of one or more state boards for the purpose of conducting a standard examination of candidates for licensure as dentists or dental hygienists and pay regular dues to such association or organization, and may send members of the board to the meetings of said national association and the meetings of any organization of state boards of dental examiners organized for the purpose of conducting a standard examination of candidates for licensure as dentists and dental hygienists.

(f) The executive director shall remit all moneys received by or for him or her from fees, charges or penalties to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent (20%) of each such deposit shall be credited to the state general fund and the balance shall be credited to the dental board fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person or persons designated by him or her.

History: L. 1943, ch. 221, § 2; L. 1953, ch. 289, § 4; L. 1956, ch. 52, § 17; L. 1957, ch. 431, § 12; L. 1963, ch. 315, § 3; L. 1963, ch. 398, § 19; L. 1967, ch. 416, § 1; L. 1973, ch. 309, § 27; L. 1974, ch. 348, § 50; L. 1976, ch. 338, § 1; L. 1979, ch. 240, § 1; July 1.

Source or prior law:

65-1420, 74-1402, 74-1403.

Cross References to Related Sections:

Reports, see, also 75-3044 et seq.

Purpose and limitation on moneys credited to state general fund, see 75-3170a.

Attorney General's Opinions:

State departments; public officers and employees; open public meetings; meeting location. 86-153.

74-1406. Powers and duties. The board shall exercise, subject to the provisions of this act, the following powers and duties:

- (a) Adopt such rules for its governance, as it may deem proper.
- (b) Adopt rules and regulations for qualification and licensing of dental hygienists.
- (c) Adopt rules and regulations regarding sanitation.
- (d) Conduct examinations to ascertain the qualification and fitness of applicants for licenses as dentists or certificates as specialists in dentistry.
- (e) Pass upon the qualifications of applicants for reciprocal licenses.
- (f) Prescribe rules and regulations for examination of candidates.
- (g) Formulate rules and regulations by which dental schools and colleges shall be approved.
- (h) Grant licenses, issue license certificates as specialists in dentistry and issue renewal licenses and certificates as specialists in dentistry in conformity with this act to such applicants and dentists as have been found qualified.
- (i) Conduct hearings or proceedings to revoke or suspend and to revoke or suspend a license, certificate or renewal license or certificate granted under the authority of this act or previous acts.
- (j) Employ such persons as it may deem necessary to assist in carrying out the duties of the board in the administration and enforcement of this act, and to provide offices, furniture, fixtures, supplies, printing or secretarial service, and may expend such funds as may be deemed necessary therefor, and may appoint an attorney to advise and assist in the carrying out and enforcing of the provisions of this act.
- (k) Investigate violations of the act that may come to the knowledge of the board, and institute or cause to be instituted before the board or in a proper court appropriate proceedings in connection therewith.
- (l) Adopt rules and regulations to carry out and make effective the provisions of this act and modify or repeal such rules and regulations whenever in the discretion of the board it is deemed necessary.

History: L. 1943, ch. 221, § 3; L. 2000, ch. 169, § 18; July 1.

Cross References to Related Sections:

Rules as to qualifications of applicants see 65-1426.

Dishonorable conduct, see 65-1436.

Wartime fee remittance rules see 65-1448.

Dental hygienist examinations see 65-1455.

Dental interns, see 65-1459.

Attorney General's Opinions:

State departments; public officers and employees; open public meetings; meeting location. 86-153.

Attorney General's Opinions:

Dental hygienists; dental hygiene practice defined; rules and regulations; supervision; permits for dental screening. 93-151.

Board of dental examiners; changing number of members constituting a quorum. 96-32.

74-1407. Record book of licensees; copy as evidence; fee for certified copies, approval. (a) The executive director of the board shall keep a record book in which shall be entered the names of all persons to whom licenses and certificates as specialists in dentistry, and renewal licenses and certificates have been granted under this act, the numbers of such licenses and certificates, the dates of granting the same and other matters of record, the book so provided and kept to be deemed a book of records. A photo static copy of such records, or a copy of such records certified by the executive director and under the seal of the board, shall be admitted in any of the courts of this state as prima facie evidence of the facts contained in such records and in lieu of the records of the board.

(b) A certificate that there is not entered in such record books the name and number of and date of granting such license or certificate or license or renewal certificate to a person charged with a violation of any of the provisions of this act, under the hand of the executive director and the seal of the board, shall be prima facie evidence of the facts contained therein and in the records of the board. Such certificates shall be admitted in any of the courts of this state in lieu of the records of the board.

(c) The original books, records and papers of the board shall be kept at the office of the executive director of such board, which office shall be at such place as may be designated by the board. The executive director shall furnish to any person making application therefor a copy of any part thereof, certificated by the executive director, upon payment of a fee in an amount fixed by the executive director and approved by the director of accounts and reports under K.S.A. 45-219 and amendments thereto.

History: L. 1943, ch. 221, § 13; L. 1978, ch. 347, § 15; L. 2000, ch. 169, § 19; July 1.

Source or prior law:

65-1402.

74-1408. Report to legislature on plans for increasing number of dental hygienists. The state board of education, the state board of regents and the Kansas dental board shall report to the legislature on or before January 11, 1999, on plans for increasing the number of persons in this state being trained as dental hygienists.
History: L. 1998, ch. 141, § 3; July 1.

**Kansas Dental Board
Permanent Administrative
Regulations**

Article 1.--EXAMINATIONS

K.A.R. 71-1-1. Retention of applicants' work (Authorized by K.S.A. 65-1428, 65-1429; effective Jan. 1, 1966; revoked Feb. 20, 2004.)

71-1-2. Passing grade. (Authorized by K.S.A. 65-1427, 65-1428; effective Jan. 1, 1966; amended, E-77-9, March 19, 1976; amended Feb. 15, 1977; amended May 1, 1980; revoked Feb. 20, 2004.)

71-1-3. Examinations required by the board. (Authorized by K.S.A. 65-1426; implementing K.S.A. 65-1427, 65-1428, 74-1405; effective Jan. 1, 1966; amended May 1, 1983; amended Nov. 7, 1997; revoked Feb. 20, 2004.)

71-1-4. Requirements for re-examination. (a) Each applicant who, upon taking any examination or any section thereof a second time, fails to obtain a passing grade on that examination or section of an examination shall obtain additional or remedial instruction. The dental board shall determine the amount and type of such required instruction based upon the performance of the applicant on the prior examinations. The required instruction shall be completed in a course and at a school of dentistry or dental hygiene approved by the board. The applicant shall submit a written statement, signed by an authorized member of the faculty of that school of dentistry or dental hygiene, advising the board or its designee that the applicant is qualified for re-examination.

(b) If any applicant fails to pass the examination or any section thereof on re-examination, following compliance with subsection (a) above, the board may, for good cause shown by the applicant, authorize further re-examination. In such case, the board may accept the results of any re-examination of that applicant conducted thereafter by the national board of dental examiners or by any other testing agency, the results of which are otherwise accepted by the board. (Authorized by and implementing K.S.A. 1983 Supp. 65-1429; effective Jan. 1, 1966; amended May 1, 1984.)

71-1-5. (Authorized by K.S.A. 65-1434; effective Jan. 1, 1966; amended, E-77-9, March 19, 1976; amended Feb. 15, 1977; amended May 1, 1980; amended May 1, 1981; revoked May 1, 1985.)

71-1-6. (Authorized by K.S.A. 65-1434; effective Jan. 1, 1966; amended May 1, 1981; revoked May 1, 1985.)

71-1-7. (Authorized by K.S.A. 65-1426, 65-1428; effective Jan. 1, 1966; revoked May 1, 1981.)

71-1-8. Time for holding specialist examination. (Authorized by K.S.A. 65-1427; effective Jan. 1, 1966; amended May 1, 1979; revoked Feb. 20, 2004.)

71-1-9. Examination on dental law of Kansas. All candidates for a Kansas dental license as well as all candidates for a Kansas dental hygienist's license will be required to pass a satisfactory examination on the pertinent provisions of the Kansas dental law pertaining to the practice of dentistry and the practice of dental hygiene. (Authorized by K.S.A. 65-1426, 65-1427, 65-1428, 65-1455; effective Jan. 1, 1966.)

71-1-10. Dental interne permit requirements. (Authorized by K.S.A. 65-1459; effective Jan. 1, 1966; revoked Feb. 20, 2004.)

71-1-11. Examination fee. (Authorized by K.S.A. 65-1427, 65-1429, 65-1447; effective Jan. 1, 1966; revoked Feb. 20, 2004.)

71-1-12. (Authorized by K.S.A. 65-1431; effective Jan. 1, 1966; revoked May 1, 1985.)

71-1-13. (Authorized by and implementing K.S.A. 65-1438, 74-1406; effective May 1, 1980; revoked March 6, 1995.)

71-1-14. (Authorized by and implementing K.S.A. 65-1437; effective May 1, 1984; amended May 1, 1986; revoked May 1, 1988.)

71-1-15. Dental recordkeeping requirements. For the purposes of K.S.A. 65-1436 and amendments thereto, each licensee shall maintain for each patient an adequate dental record for 10 years after the date any professional service was provided. Each record shall disclose the justification for the course of treatment and shall meet all of the following minimum requirements:

- (a) It is legible.
- (b) It contains only those terms and abbreviations that are comprehensible to similar licensees.
- (c) It contains adequate identification of the patient.
- (d) It indicates the date any professional service was provided.
- (e) It contains pertinent and significant information concerning the patient's condition.
- (f) It reflects what examinations, vital signs and tests were obtained, performed or ordered and the findings and results of each.
- (g) It indicates the initial diagnosis and the patient's initial reason for seeking the licensee's services.
- (h) It indicates the medications prescribed, dispensed or administered and the quantity and strength of each.
- (i) It reflects the treatment performed or recommended.
- (j) It documents the patient's progress during the course of treatment provided by the licensee.

(Authorized by K.S.A. 74-1406; implementing K.S.A. 65-1436; effective May 1, 1988; amended Feb. 20, 2004.)

71-1-16. (Authorized by K.S.A. 74-1406(l); implementing K.S.A. 65-1423(g); effective May 10, 1993; amended Sept. 6, 1994; revoked Nov. 7, 1997.)

71-1-17. (Authorized by K.S.A. 74-1406(l); implementing K.S.A. 65-1423(g); effective May 10, 1993; amended Sept. 6, 1994; revoked Nov. 7, 1997.)

71-1-18. Sterilization and infection control. (a) As used in this regulation, the following definitions shall apply:

(1) "Dental health care worker" means dentist, dental hygienist, dental assistant, or other employee of the dentist, or any other person who performs or participates in an invasive or exposure-prone procedure or functions ancillary to invasive procedures.

(2) "Exposure-prone procedure" means a procedure in which there is an increased risk of percutaneous injury to the dental health care worker by virtue of digital palpation of a needle tip or other sharp instrument in a body cavity or simultaneous presence of the dental health care worker's fingers and a needle or other sharp instruments in a poorly visualized or highly confined anatomic site, or any other circumstance in which there is a significant risk of contact between the blood or body fluids of the dental health care worker and the blood or body fluids of the patient.

(3) "HbeAg seropositive" means that the presence of the hepatitis B antigen has been confirmed by a test meeting the criteria of federal centers for disease control.

(4) "HBV" means the hepatitis B virus.

(5) "HIV" means the human immunodeficiency virus.

(6) "HIV" seropositive" means that the presence of HIV antibodies has been confirmed by a test meeting the criteria of the federal centers for disease control.

(7) "Invasive procedure" means any surgical or other diagnostic or therapeutic procedure involving manual or instrumental contact with or entry into any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane, or percutaneous wound of the human body.

(b) Each dental health care worker who performs or participates in an invasive or exposure-prone procedure shall observe and adhere to infection control practices and universal blood and body fluid precautions. For the purpose of infection control, all dental staff members and all patients shall be considered potential carriers of communicable diseases. Infection control procedures shall be required to prevent disease transmission from patient to doctor and staff, doctor and staff to patient, and patient to patient. Each dentist shall be required to comply with the applicable standard of care in effect at the time of treatment. Precautions shall include the following minimum standards.

- (1) Each dental health care worker shall routinely use protective barriers and surface decontamination.

(A) Gloves shall be used by the dentist and direct care staff during any treatment involving procedures or contact with items potentially contaminated with the patient's bodily fluids or other dental debris. Fresh gloves shall be used for each patient. Gloves that have been used for dental treatment shall not be reused for any other purpose.

(B) Surgical masks and protective eyewear or chin-length plastic face shields shall be worn to protect the face, the oral mucosa, and the nasal mucosa when splashing or splattering of blood or other body fluids is likely.

(C) Reusable or disposable gowns, laboratory coats, or uniforms shall be worn when clothing is likely to be soiled with blood or other body fluids. If reusable gowns are worn, they may be washed, using a normal laundry cycle. Gowns shall be changed at least daily or when visibly soiled with blood.

(D) Surface decontamination and disinfection or protective barriers shall be used in areas of the dental operatory that may be contaminated by blood or saliva during treatment and are not removable to be sterilized. Contaminated surface coverings shall be removed, discarded, and then replaced with clean material between patients. Surfaces to be covered or decontaminated and disinfected shall include the following:

- (i) The delivery unit;
- (ii) chair controls;
- (iii) light handles;
- (iv) the high-volume evacuator handle;
- (v) x-ray heads and controls;
- (vi) headrests; and
- (vii) instrument trays.

(E) Dental health care workers shall wash their hands after glove removal if the hands have been contaminated by bodily fluids or other dental debris.

(F) Dental health care workers who have exudative lesions or weeping dermatitis shall refrain from all direct patient care and from handling patient care devices used in exposure-prone invasive procedures, unless covered by an effective barrier.

(2) Dental health care workers shall take appropriate precautions to prevent injuries caused by needles, scalpels, and other sharp instruments during and after procedures. If during a single visit a patient needs multiple injections over time from a single syringe, the needle shall be recapped or placed in a sterile field between each use to avoid the possibility of needlestick injury or needle contamination. Used sharp items shall be placed in puncture-resistant containers for disposal.

(3) Any heat-stable instrument or device that enters tissue or contacts the mucous membranes shall be sterilized. Dental health care workers shall comply with the following sterilization requirements.

(A) Before sterilization, all instruments shall be decontaminated to remove all visible surface contamination, including blood, saliva, tooth and dental restorative material cuttings and debris, soft tissue debris, and bacterial plaque. Decontamination of instruments may be accomplished by a thorough scrubbing with soap and water or detergent, or by using a mechanical device, including an ultrasonic cleaner. Persons involved in cleaning instruments shall take reasonable precautions to prevent injuries.

(B) Heat-stable dental instruments shall be routinely sterilized between patient use by one of the following methods:

- (i) Steam under pressure autoclaves;
- (ii) heat plus pressurized chemical (unsaturated formaldehyde or alcohol);
- (iii) vapor chemoclave;
- (iv) prolonged dry heat exposure;
- (v) dry heat convection sterilizers;
- (vi) ethylene oxide sterilizers; or
- (vii) other equivalent methods.

(C) Biological spore testing devices shall be used on each sterilization unit after each six days of use, but not less often than each month, to verify that all pathogens have been killed. A log of spore testing shall be kept for three years for each sterilization unit.

(D) Items to be sterilized shall include the following:

- (i) Low-speed handpiece contra-angles and prophylaxis-angles;
- (ii) high-speed handpieces;
- (iii) hand instruments;
- (iv) burs;
- (v) endodontic instruments;
- (vi) air-water syringe tips;
- (vii) high-volume evacuator tips;
- (viii) surgical instruments; and
- (ix) sonic or ultrasonic periodontal scalers.

(E) When sterilizing the heat-stable instruments or devices listed in paragraphs (b)(3)(D)(i) through (ix), each instrument or device shall be placed in a closed bag or container for sterilization and thereafter maintained in that bag or container until immediately before use.

(F) Following the sterilization of heat-stable instruments or devices not listed in paragraphs(b)(3)(D)(i) through (ix), each instrument or device shall be maintained in covered storage until immediately before use.

(G) Nondisposable items used in noninvasive procedures that cannot be heat sterilized shall be decontaminated and disinfected with a chemical sterilant that has been registered by the U.S. Environmental Protection Agency and is tuberculocidal.

(H) Materials, impressions, and intra-oral appliances shall be decontaminated and disinfected before being sent to and upon return from a commercial dental laboratory.

(I) A dental health care worker who is HbeAg seropositive or HIV seropositive, or who otherwise knows or should know that the worker carries and is capable of transmitting HBV or HIV, shall not thereafter perform or participate directly in an exposure-prone procedure unless the worker has sought counsel from an expert review panel. The expert review panel shall be composed of these individuals:

(i) The dental health care worker's personal physician;

(ii) an infectious disease specialist with expertise in HIV and HBV transmission;

(iii) a dentist licensed in the state of Kansas with expertise in procedures performed by the health care worker; and

(iv) a state of Kansas or local public health official.

(c) Reports and information furnished to the Kansas dental board relative to the HbeAg or HIV status of a dental health care worker shall not be deemed to constitute a public record but shall be deemed and maintained by the board as confidential and privileged as a medical record. These reports and this information shall not be subject to disclosure by means of subpoena in any judicial, administrative, or investigative proceeding, if the dental health care worker adheres to the regulations of the board and is willing to participate in counseling and be reviewed and monitored by the board or its designated agent.

(d) When the board learns that a dental health care worker is HbeAg or HIV seropositive, contact shall be made with that dental health care worker to review the regulations of the board and develop a process of monitoring that individual's practice.

(e) The monitoring of a dental health care worker's HIV or HBV status and discipline of the dental health care worker shall be reported to the Kansas department of health and environment, but shall remain confidential.

(f) During business hours, the office of a licensed dentist may be inspected by the Kansas dental board or its duly authorized agents and employees in order to evaluate compliance with this regulation. A written evaluation shall be given to the licensed person or office representative, and a copy shall be filed with the Kansas dental board. (Authorized by K.S.A. 74-1406; implementing K.S.A. 1998 Supp. 65-1436; effective Dec. 27, 1993; amended Jan. 3, 2000.)

71-1-19 Proration of fees. (a) Beginning June 1, 1997, each dentist applying for licensure on or after the first day of January shall pay 1/24th of the biennial renewal fee for each full month remaining in the renewal period, in addition to the application fee.

(b) Beginning June 1, 1997, each dental hygienist applying for licensure on or after the first day of January shall pay 1/24th of the renewal fee for each full month remaining in the renewal period, in addition to the application fee. (Authorized by K.S.A. 65-1447 and 74-1406; implementing K.S.A. 65-1447; effective Nov. 7, 1997.)

71-1-20. Reinstatement of license fee. The penalty fee to be paid by any licensee seeking reinstatement of a cancelled license pursuant to K.S.A. 65-1431(e)(2) , and amendments thereto, shall be \$200. (Authorized by K.S.A. 65-1426; implementing K.S.A. 1998 Supp. 65-1431, as amended by L. 1999, Ch. 149, § 5; effective May 5, 2000.)

71-1-21. Suspension, termination, or denial of licensee's authority to practice when found in contempt of court pursuant to K.S.A. 20-1204a(f).

(a)(1) Within 30 days after receipt of a court-ordered notice and a copy of the court order finding an individual in contempt of court in a child support proceeding, the individual shall be notified by the board in writing of the board's intent to suspend, deny, or withhold renewal of a license and of the individual's rights and duties under K.S.A. 74-147 and amendments thereto.

(2) If the notice accompanied by the court order provides inadequate information identifying the person in contempt, the person serving the notice shall be promptly contacted by the board for additional information. The 30-day notice shall commence when sufficient information identifying the person to contact is received.

(b) Notice to licensee. The written notice issued by the board shall inform the licensee of the following:

(1) The board's intent to deny, refuse to renew, or suspend the license commencing six months after the date the notice is issued unless the licensee furnishes to the board a court order releasing the individual from the contempt citation; and

(2) if the individual does not furnish the release before the expiration of the six-month period, the board's intent to commence proceedings to deny the issuance of, to refuse to renew, or to suspend the license following the summary procedure stated in K.S.A. 77-537 and amendments thereto.

(c) Temporary license.

(1) If an individual has applied for issuance or renewal of a license and is otherwise eligible, a temporary license shall be issued by the board and shall accompany the notice issued pursuant to subsection (b). The temporary license shall be valid for six months after the date of the notice issued according to subsection (b).

(2) If a licensee is eligible to request renewal of a license and has previously received the notice required by subsection (b), the temporary license shall be valid only for the remainder of the six-month period that commenced upon issuance of the notice.

(3) Each temporary license shall include a date of issuance and a date of expiration.

(4) A temporary license shall not be extended, unless the board decides to extend the temporary license for up to 30 days to prevent extreme hardship for a patient of the licensee.

(5) The licensee shall obtain a release from the court that found the individual in contempt before the permanent license may be issued or renewed by the board.

(6) The release shall be furnished to the board before the expiration of the temporary license. If the release is not finished within the six-month period of time, the temporary license shall expire, and either of the following shall occur:

(A) Summary proceedings to deny issuance shall be commenced by the board.

(B) Renewal of the permanent license may be refused by the board.

(d) Hearing.

(1) If the licensee does not provide a copy of the release as specified in paragraph (c)(5) to the board within the six-month time period, the permanent license shall be denied, refused for renewal, or suspended by the board in accordance with the summary proceedings of K.S.A. 77-537 and amendments thereto.

(2)(A) The issues at the hearing shall be limited to the following:

(i) The identity of the individual;

(ii) the validity of the notices pursuant to K.S.A. 74-147 and amendments thereto; and

(iii) the validity of any additional conditions imposed by the board if the conditions are otherwise subject to review.

(B) Any issues related to child support shall not be subject to the board's jurisdiction.

(3) If the board issues an order denying, refusing to renew, or suspending a permanent license of an individual as specified in this subsection, the individual may apply for reinstatement of the application or license, as appropriate, if the individual furnishes a court order releasing the individual from the contempt citation and it is determined by the board that the individual is otherwise eligible for a license.

(e) Fees. If a license is denied, refused for renewal, or suspended, any fees paid by the individual shall not be refunded. (Authorized by K.S.A. 74-1406(l); implementing K.S.A. 1999 Supp. 74-146 and K.S.A. 1999 Supp. 74-147; effective May 5, 2000.)

Article 2. -- SPECIALISTS

71-2-1. Time for filing applications. (Authorized by and implementing K.S.A. 65-1427; effective Jan. 1, 1966; amended, E-77-9, March 19, 1976; amended Feb. 15, 1977; amended May 1, 1980; amended March 27, 1989; revoked Feb. 20, 2004.)

71-2-2. Branches of dentistry. The recognized branches of dentistry for which application may be made for a specialist's certificate shall be the following: dental public health, endodontics, oral and maxillofacial pathology, oral and maxillofacial radiology, oral and maxillofacial surgery, orthodontics, pediatric dentistry, periodontics and prosthodontics. These branches of dentistry shall be defined as follows:

(a) "Dental public health" means that branch of dentistry relating to the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. Dental public health is the form of dental practice that serves the community rather than individual patients. This branch of dentistry is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care programs as well as the prevention and control of dental diseases on a community basis.

(b) "Endodontics" means that branch of dentistry concerning the morphology, physiology, and pathology of the human dental pulp and periradicular tissues. The study and practice encompass the basic and clinical sciences,

including the biology of the normal pulp; the etiology, diagnosis, prevention, and treatment of diseases and injuries of the pulp; and associated periradicular conditions.

(c) “Oral and maxillofacial pathology” means that branch of dentistry concerning the nature, identification, and management of diseases affecting the oral and maxillofacial regions. This branch is a science that investigates the causes, processes, and effects of these diseases. The practice of oral and maxillofacial pathology includes the research and diagnosis of diseases using clinical, radiographic, microscopic, biochemical, and other examinations.

(d) “Oral and maxillofacial radiology” means that branch of dentistry concerning the production and interpretation of images and data produced by all forms of radiant energy that are used for the diagnosis and management of diseases, disorders, and conditions of the oral and maxillofacial region.

(e) “Oral and maxillofacial surgery” means that branch of dentistry concerning the diagnosis and the surgical and adjunctive treatment of disease, injuries, and defects involving both the functional and aesthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

(f) “Orthodontics,” which shall include “dentofacial orthopedics,” means that branch of dentistry concerning the diagnosis, prevention, interception and correction of malocclusion, as well as neuromuscular and skeletal abnormalities of the developing or mature orofacial structures.

(g) “Pediatric dentistry” means the branch of dentistry that is the age-defined specialty providing both primary and comprehensive prevention and therapeutic oral health care for infants and children through adolescence, including those with the special health care needs.

(h) “Periodontics” means that branch of dentistry concerning the prevention, diagnosis, and treatment of diseases of the supporting and surrounding tissues of the teeth or their substitutes and the maintenance of the health, function, and esthetics of these structures and tissues.

(i) “Prosthodontics” means that branch of dentistry concerning the diagnosis, treatment planning, rehabilitation, and maintenance of the oral function, comfort, appearance, and health of patients with clinical conditions associated with missing or deficient teeth or oral and maxillofacial tissues, or both, using biocompatible substitutes. (Authorized by K.S.A. 74-1406; implementing K.S.A. 65-1427; effective Jan. 1, 1966; amended, E-77-9, March 19, 1976; amended Feb. 15, 1977; amended May 1, 1980; amended March 27, 1989; amended April 1, 2005; amended Dec. 30, 2005.)

71-2-3. Committee for specialists examination. After the election of officers of the board each year, an examining committee for each of the recognized branches of dentistry shall be appointed by the board. Each committee shall consist of two members, each of whom shall be licensed dentists holding a specialist's certificate in the specialty for which the committee is appointed. Each committee shall conduct the specialists' examination in its specialty. One of the committee members shall be designated chairman of the committee by the board. (Authorized by and implementing K.S.A. 65-1427; effective Jan. 1, 1966; amended May 1, 1980; amended March 27, 1989.)

71-2-4. Manner of processing applications. (Authorized by and implementing K.S.A. 65-1427; effective Jan. 1, 1966; amended May 1, 1981; amended March 27, 1989 revoked Feb. 20, 2004.)

71-2-5. Qualifications and requirements of an applicant for certification as a specialist.

(a) Each applicant shall be licensed to practice dentistry in the state of Kansas.

(b) Each applicant shall have successfully completed a graduate program in the specialty for which certification is sought in a dental school, college or other dental specialty training program approved by the board and which the board determines has standards of education not less than that required for accreditation by the commission on dental accreditation of the American dental association, or its equivalent, applicable for the year in which the training was completed.

(c) Any applicant who meets either of the following requirements may request a waiver of the board's requirement to pass a Kansas specialty examination:

(1) Holds a Kansas license to practice dentistry, holds a specialist certificate that is in the specialty for which certification is sought and that has been granted by a duly authorized licensing agency of another state, and has actively practiced in that specialty for the five-year period immediately before submitting an application for certification as a specialist in Kansas; or

(2) is a diplomat of the American board of the specialty for which certification is sought.

(d) To be eligible to take a specialty examination, each applicant shall file with the board an application, upon a form provided by the board, along with payment of the nonrefundable specialty certificate examination fee. (Authorized by and implementing K.S.A. 65-1427, 65-1434; effective Jan. 1, 1966; amended May 1, 1979; amended May 1, 1980; amended May 1, 1981; amended March 27, 1989; amended June 4, 2004.)

71-2-6. Fee for specialty examination. (Authorized by and implementing K.S.A. 65-1427; effective Jan. 1, 1966; amended May 1, 1979; amended May 1, 1980; amended May 1, 1985; amended March 27, 1989; revoked June 4, 2004.)

71-2-7. Additional requirements and qualifications for specialist. Unless a waiver is granted pursuant to K.A.R. 71-2-5, in addition to any other requirement of either the dental act or these regulations, each applicant for a specialist certificate shall meet the following requirements:

(a) Submit with the application a transcript of all graduate-level dental education completed and a letter of reference from a practicing dentist who has personal knowledge of the applicant's experience and qualifications in the specialty for which a specialist certificate is sought; and

(b) pass a board-approved specialist examination for the specialty sought.

(Authorized by and implementing K.S.A. 65-1427; effective Jan. 1, 1966; amended May 1, 1979; amended May 1, 1980; amended May 1, 1981; amended March 27, 1989; amended June 4, 2004.)

71-2-8. (Authorized by K.S.A. 65-1427; effective Jan. 1, 1966; revoked May 1, 1980.)

71-2-9. Specialist examinations.

(Authorized by and implementing K.S.A. 65-1427; effective Jan. 1, 1966; amended May 1, 1980; amended March 27, 1989; revoked Feb. 20, 2004.)

71-2-10. (Authorized by K.S.A. 65-1427; effective Jan. 1, 1966; revoked May 1, 1981.)

71-2-11. Revocation of specialist certificate. Any dental specialist certificate may be revoked or suspended for any of the grounds upon which the board may discipline a dental licensee. (Authorized by and implementing K.S.A. 65-1427; effective Jan. 1, 1966; amended March 27, 1989; amended Sept. 17, 2004.)

71-2-12. Evidence supporting qualifications. (Authorized by and implementing K.S.A. 65-1427; effective Jan. 1, 1966; amended March 27, 1989; revoked Feb. 20, 2004.)

71-2-13. (Authorized by and implementing K.S.A. 65-1427; effective Jan. 1, 1966; revoked March 27, 1989.)

Article 3.--DENTAL HYGIENISTS

71-3-1. Prohibited advertising. All independent advertising by a dental hygienist is hereby prohibited. (Authorized by K.S.A. 65-1456, 65-1457, 65-1458; effective Jan. 1, 1966.)

71-3-2. Permitted advertising. All advertising by a dental hygienist shall include the name of a Kansas-licensed dentist with whom the dental hygienist is employed or associated. If the name of the dental hygienist is used in advertising, the name shall be accompanied by the designation "R.D.H." or "dental hygienist." (Authorized by K.S.A. 65-1455, 65-1456, 65-1457, 65-1458; effective Jan. 1, 1966; amended May 1, 1979; amended Sept. 17, 2004.)

71-3-3. (Authorized by K.S.A. 65-1456 and K.S.A. 74-1406(1); implementing K.S.A. 65-1456; effective Jan. 1, 1966; amended May 24, 1993; amended Sept. 6, 1994; revoked Nov. 7, 1997.)

71-3-4. Duty to notify board of residence and office address. Each dental hygienist shall notify the board in writing of any change in the following, within 30 days of the change:

- (a) The hygienist's residence address;
- (b) the hygienist's employer or employers; and
- (c) the hygienist's practice location or locations.

(Authorized by K.S.A. 65-1455, 65-1456, 65-1457, 65-1458; effective Jan. 1, 1966; amended Sept. 17, 2004.)

71-3-5. Use of letters to designate dental hygienist registration.

(Authorized by K.S.A. 65-1455, 65-1456, 65-1457, 65-1458; effective Jan. 1, 1966; revoked Feb. 20, 2004.)

71-3-6. (Authorized by K.S.A. 1979 Supp. 65-1456; effective Jan. 1, 1966; revoked May 1, 1980.)

71-3-7. Procedures that may be performed under general supervision. Any hygienist licensed in Kansas may perform, under direct or general supervision, any procedure that a hygienist is authorized by the Kansas dental practices act to perform, except the administration of local anesthesia, which shall be performed only under direct supervision. (Authorized by K.S.A. 74-1406 and implementing K.S.A. 1997 Supp. 65-1456(d), as amended by L. 1998, Ch. 141, Sec. 2; effective Feb. 12, 1999.)

71-3-8. Refresher course. (a) An eligible dental hygienist may, except as provided in subsection (e) below, return to the practice of dental hygiene without the requirement of a clinical examination, upon submitting an application on a form provided by the board and providing proof of having successfully completed a refresher course approved by the board.

(b) For purposes of this regulation, an eligible dental hygienist shall be an individual who meets the following requirements:

(1) Was previously licensed to practice dental hygiene;

(2) has not been disciplined by the licensing board in any state in which the individual has been licensed to practice dental hygiene;

(3) has practiced dental hygiene; and

(4) meets the other requirements for licensure set forth in K.S.A. 65-1455, and amendments thereto.

(c) For a refresher course to be approved by the board, it shall meet the following minimum criteria:

(1) Be taught at a dental hygiene school approved by the board;

(2) consist of a minimum of 48 clock hours, including a minimum of 32 clock hours of clinical instruction;

(3) include didactic coursework, which may be presented in a classroom or independent study setting, or both, and clinical coursework covering the following:

(i) infection control and sterilization;

(ii) patient assessment, including the taking of health histories, an oral inspection and evaluation, and charting;

(iii) radiographic techniques;

(iv) instrumentation techniques, including periodontal procedures and instrument sharpening;

(v) current techniques in the polishing of teeth and the application of fluoride;

(vi) patient education;

(vii) emergency situations; and

(viii) the current Kansas dental laws; and

(4) include final written and clinical evaluations that require a minimum passing score of 75 percent.

(d) As a further condition of returning to the practice of dental hygiene, the dental hygienist may be required to appear before the board.

(e) A formerly retired or disabled dental hygienist who is returning to the practice of dental hygiene, without the requirement of a clinical examination, may not administer local anesthesia or nitrous oxide until having completed courses of instruction in local anesthesia and nitrous oxide approved by the board. (Authorized by K.S.A. 1999 Supp. 65-1431, as amended by L. 2000, ch. 169, sec. 7 and K.S.A. 74-1406, as amended by L. 2000, ch. 169, sec. 18; implementing K.S.A. 1999 Supp. 65-1431, as amended by L. 2000, ch. 169, sec. 7; effective Sept. 1, 2000.)

71-3-9. Extended care permits. (a) Definitions.

(1) "Extended care permit I" shall mean a permit issued pursuant to K.S.A. 65-1456(f), and amendments thereto.

(2) "Extended care permit II" shall mean a permit issued pursuant to K.S.A. 65-1456(g), and amendments thereto.

(3) "Extended care permit treatment" shall mean the treatment that a hygienist may provide if the hygienist has a valid extended care permit I or II.

(4) "Patient assessment report" shall mean the report of findings and treatment required by K.S.A. 65-1456(f)(6) or (g)(6), and the amendments thereto.

(5) "Sponsoring dentist" shall mean a dentist who fulfills the requirements of K.S.A. 65-1456(f)(3) or (g)(3), and amendments thereto.

(b) Application for permit. Each applicant for an extended care permit I or II shall file with the board a completed application on a form provided by the board.

(c) Notice of practice location to sponsoring dentist. Before provided extended care permit treatment at a new location, each hygienist shall inform the sponsoring dentist, orally or in writing, of the new address and the type of procedures to be performed there.

(d) Patient assessment reports.

(1) Each required patient assessment report shall include a description of the extended care permit treatment, the date or dates of treatment, and the hygienist's assessment of the patient's apparent need for further evaluation by a dentist.

(2) No later than 30 days from the date on which extended care permit treatment is completed, the hygienist providing the treatment shall cause the required patient assessment report to be delivered to the sponsoring dentist.

(3) When providing extended care permit treatment at a location operated by an organization with a dental or medical supervisor, the dental hygienist providing the extended care permit treatment shall also cause the required patient assessment report to be delivered to the dental or medical supervisor within 30 days from the date on which the extended care permit treatment is completed.

(e) Suspension of extended care permit treatment. If a hygienist's sponsoring dentist cannot or will not continue to function as a sponsoring dentist, the hygienist shall cease providing extended care permit treatment until the hygienist obtains a written agreement with a replacement sponsoring dentist.

(f) Review of patient assessment reports. A sponsoring dentist shall review each patient assessment report within 30 days of receiving the report. (Authorized by K.S.A. 74-1406(e); implementing K.S.A. 2003 Supp. 65-1456; effective Sept. 17, 2004.)

Article 4.--CONTINUING EDUCATION REQUIREMENTS

71-4-1. Continuing education credit hours required for renewal license of dentist and dental hygienist. (a) Each dentist licensee shall submit to the board, with the license renewal application, evidence of satisfactory completion of at least 60 hours of continuing education courses that qualify for credit. Each dentist licensee who holds a specialist certificate shall provide evidence satisfactory to the board that at least 40 of the required 60 hours of continuing education are in courses in the specialty for which the licensee holds a specialist certificate. Each required course hour shall be completed in the 24-month period immediately preceding the date of expiration of the license. The term "courses" as used in article 4 of these regulations includes courses, institutes, seminars, programs and meetings.

(b) Each dental hygienist licensee shall submit, with the license renewal application, evidence of satisfactory completion of a minimum of 30 hours of continuing dental education courses that qualify for credit. Each course shall have been completed in the 24-month period immediately preceding the date of expiration of the dental hygienist license.

(c) An extension of time to complete the dental educational requirements may be granted by the board if it finds that good cause has been shown. (Authorized by K.S.A. 74-1406 and K.S.A. 65-1431, as amended by L. 1996, ch. 210, sec. 3; implementing K.S.A. 65-1431, as amended by L. 1996, ch. 210, sec. 3; effective May 1, 1978; amended May 1, 1986; amended March 27, 1989; amended Dec. 27, 1996, Feb. 20, 2004.)

71-4-2. Approved continuing dental education. The following general standards shall be used by the board in determining which courses will qualify for continuing dental education credits required as a condition for the annual renewal of dental and dental hygienist licenses:

(a) *Eligibility.* Only those courses which increase the dentist's or dental hygienist's clinical and theoretical dental knowledge or ability to provide care and treatment to patients shall qualify for credit in computing the required hours of continuing dental education. Any person or organization may apply in writing to the board for approval of any courses.

(b) *Courses.* Subject to the eligibility standards set forth in paragraph (a) above, all courses, both within and without the state of Kansas, offered by any of the following organizations shall be approved for credit:

- (1) any college or university;
- (2) the American dental association, the national dental association, or their component and constituent societies and associations;
- (3) the American dental hygienists association and national dental hygienists association or their component and constituent societies and associations;
- (4) the academies and specialty organizations recognized by the dental board;
- (5) local dental society and dental hygiene society meetings;
- (6) dental or dental hygiene study club meetings; and
- (7) programs that are sponsored by the veterans administration or the armed forces and given at a United States government facility. One hour of credit shall be given for each hour in actual attendance at such courses.

(c) *Advanced study.* A waiver of continuing dental education requirements shall be granted if a licensee is engaged as a full-time student in graduate study, internships or a residency program in dentistry, any of the specialties of dentistry recognized by the board, or dental hygiene.

(d) *New graduates.* A waiver of the continuing dental education requirements shall be granted for the first year after a licensee graduates and becomes licensed.

(e) *Lecturing, presenting papers, or clinics, teaching.* Any licensee may receive a maximum of 10 hours of credit annually for any combination of lecturing, presenting papers or clinics or teaching subjects related to dentistry and dental hygiene. Credit for teaching courses involving repeated presentation of similar subject matters shall be limited to the time spent in one presentation.

(f) *Commercially sponsored courses.* Continuing dental education courses sponsored by any person, corporation, association or other entity on a profit-making basis shall be approved by the board for continuing dental education credit subject to the eligibility standards set forth in paragraph (a) above.

(g) Credit for programs of home study shall be allowed for eligible courses based upon the hours of continuing dental education credit established by the sponsor or producers of the course, subject to prior review and determination of the allowable hours of credit by the board.

(h) Credit may be granted, upon the application of any licensee, for authorship of published dental articles or books or for teaching any approved dental education course. The hours of credit to be allowed shall be determined by the board. The maximum number of hours allowed shall be:

- (1) 10 hours for any single article;
- (2) 20 hours for any book; and
- (3) five hours for teaching a course.

(i) Disabled or retired dentists.

(1) The dental education requirements shall be waived for licensees who are disabled or retired, as those terms are defined by statute. In order to return to active practice, after a period of disability or retirement, each licensee shall complete continuing dental education credit hours according to the following schedule:

(A) Licensed dentists

(i)	five or more years disability or retirement	100 hours
(ii)	four years disability or retirement	80 hours
(iii)	three years disability or retirement	70 hours
(iv)	two years disability or retirement	60 hours
(v)	one year disability or retirement	30 hours

(B) Licensed dental hygienists

(i)	five or more years disability or retirement	50 hours
(ii)	four years disability or retirement	40 hours
(iii)	three years disability or retirement	35 hours
(iv)	two years of disability or retirement	30 hours
(v)	one year of disability or retirement	15 hours

(2) Upon application of a licensee, all or any portion of the continuing dental education hours required of a licensee returning to practice may be waived if the licensee passes an examination determined by the board. Such an examination may be required in addition to completion of the continuing dental education hours required above. The examination may be written, oral or clinical, or all of these, at the board's determination. (Authorized by K.S.A. 74-1406 and K.S.A. 1984 Supp. 65-1431; implementing K.S.A. 1984 Supp. 65-1431; effective May 1, 1978; amended May 1, 1986.)

71-4-3. Continuing dental education reports. (Authorized by K.S.A. 74-1406 and K.S.A. 1995 Supp. 65-1431, as amended by L. 1996, ch. 210, sec. 3; implementing K.S.A. 1995 Supp. 65-1431, as amended by L. 1996, ch. 210, sec. 3; effective May 1, 1978; amended May 1, 1986; amended Dec. 27, 1996; revoked Feb. 20, 2004.)

Article 5 - SEDATIVE AND GENERAL ANAESTHESIA

71-5-1. Definitions. As used in these regulations and for the purpose of administering Article 5, the terms in this regulation shall be defined as follows.

(a) "Conscious sedation" means a minimally depressed level of consciousness in which the patient retains the ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command.

(b) "Deep sedation" means a controlled state of depressed consciousness, accompanied by partial loss of protective reflexes, with occasional inability to respond purposefully to verbal command and maintain an adequate airway.

(c) "General anesthesia" means a controlled state of unconsciousness, accompanied by a partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command.

(d) "Board" means the Kansas dental board.

(Authorized by K.S.A. 74-1406 and implementing K.S.A. 1994 Supp. 65-144; effective Nov. 27, 1995.)

71-5-2. Level I and II permits; scope of treatment. (a) Level I permit. Except as set out under subsection (b), any licensed dentist who has been issued a Level I permit may administer conscious sedation in a dental office setting in accordance with these regulations. No licensed dentist shall administer intravenous or parenteral inhalation sedation agents other than nitrous oxide without first obtaining a Level I permit issued by the board.

(b) Level I permit; restrictions. A licensed dentist holding a Level I permit shall not be authorized to use any of the following agents:

(1) Ultra-short acting barbiturates, such as:

(A) thiopental; or

(B) methohexitol;

(2) ketamine; or

(3) propofol.

(4) A Level I permit holder shall not use any inhalation anaesthetic agent other than nitrous oxide.

(c) Level II permits. Any licensed dentist who has been issued a Level II permit may administer conscious sedation, deep sedation or general anesthesia in accordance with these regulations. (Authorized by K.S.A. 1994 Supp. 74-1406 and implementing K.S.A. 1994 Supp. 65-1444; effective Nov. 27, 1995.)

71-5-3. Level I permit requirements. (a) A Level I permit for administration of conscious sedation in a dental office shall be issued to each licensed dentist who fulfills these requirements:

(1) meets the education or experience requirements in subsection (b);

(2) meets the requirements regarding facilities set out in subsection (c); and

(3) has current certification in basic life support or its equivalent.

(b) Each licensed dentist applying for a Level I permit shall provide evidence of the following:

(1) satisfactorily completing one of the following:

(A) a minimum of 60 hours of instruction in intravenous conscious sedation, including didactic and supportive courses, provided by a training program approved by the board; or

(B) an internship or residency program that includes supervised experience in intravenous conscious sedation equal to the 60 hours of instruction required in paragraph (A); or

(2) having regularly engaged in the administration of conscious sedation in a competent manner for a period of three years immediately before the effective date of this regulation.

(c) Each licensed dentist applying for a Level I permit shall provide evidence satisfactory to the board that the dentist maintains a properly equipped facility that shall include the following:

(1) a blood pressure monitor and stethoscope;

(2) an oxygen delivery system with full face masks, including connectors capable of delivering oxygen under positive pressure; and

(3) emergency drugs and equipment.

(d) Each Level I permit shall be renewed biennially on July 1 of odd-numbered years, on a form prescribed by the board. The biennial renewal fee shall be \$100.

(e) Each licensed dentist applying for a renewal of a Level I permit shall demonstrate that the dentist has maintained competence in administration of conscious sedation, by providing evidence of having performed a minimum of 20 Level I procedures during the two years preceding renewal. (Authorized by K.S.A. 74-

1406 and implementing K.S.A. 1996 Supp.65-1444; effective Nov. 27, 1995; amended Nov. 7, 1997.)

71-5-4. Level II permit requirements. (a) A Level II permit for administration of deep sedation and general anesthesia shall be issued to each licensed dentist who fulfills these requirements:

- (1) meets the education or experience requirements in subsection (b);
- (2) meets the requirements regarding facilities set out in subsection (c); and
- (3) has current certification in basic life support or its equivalent.

(b) Each licensed dentist applying for a Level II permit shall provide evidence of the following:

(1) meeting the requirements for a Level I permit established under 71-5-3; and satisfactorily completing one of the following::

(i) a course of study and residency program in anesthesia approved by the board of healing arts;

(ii) an advanced oral and maxillofacial surgery program approved by the board; or

(iii) a minimum of one year of advanced training in anesthesiology with standards not less than those established in the "guidelines for teaching the comprehensive control of pain and anxiety in dentistry," as published in 1992 and implemented in July, 1993 by the American dental association; or

(B) having regularly engaged in the administration of deep sedation or general anesthesia in a competent manner for a period of three years immediately before the effective date of this regulation.

(c) Each licensed dentist applying for a Level II permit shall provide evidence satisfactory to the board that the dentist maintains a properly equipped facility that shall include the following:

(1) facilities specified in K.A.R. 71-5-3(c); and

(2) appropriate equipment for intubation and IV infusions.

(d) Each Level II permit shall be renewed biennially on July 1 of odd-numbered years, on a form prescribed by the board. The biennial renewal fee shall be \$100.

(e) Each licensed dentist applying for renewal of a Level II permit shall demonstrate that the dentist has maintained competence in the administration of deep sedation and general anesthesia, by providing evidence of having performed a minimum of 48 Level II procedures during the two years preceding renewal. (Authorized by K.S.A. 74-1406 and implementing K.S.A. 1996 Supp. 65-1444; effective Nov. 27, 1995; amended Nov. 7, 1997.)

71-5-5. Level I and II permits; general requirements and procedures. (a) The dentist responsible for the sedation or anesthesia procedure shall be physically present in the office with the patient at all times during the induction and maintenance of the procedure.

(b) Each licensed dentist holding a Level I or Level II permit shall submit a written report to the board within 30 days of any of the following occurrences related to the use of conscious sedation, deep sedation or general anesthesia:

(1) death;

(2) any adverse occurrence which results in permanent organic brain dysfunction of the patient; or

(3) physical injury causing hospitalization of the patient within 24 hours of the procedure.

(c) Except in extreme emergencies, the licensed dentist shall ensure that the following procedures are completed prior to treatment for each patient requiring sedation or general anesthesia:

(1) a preoperative evaluation by a licensed dentist regarding the choice of anesthesia;

(2) a written medical history signed and dated by the patient or a responsible person; and

(3) laboratory testing, as indicated.

(d) Immediately before induction of the anesthesia or sedation, the dentist performing the procedure shall review the patient's medical history records to determine whether the patient has any allergies to medications and to identify medications currently used by the patient.

(e) Each licensed dentist holding a Level I or Level II permit shall allow the board and its duly authorized agents or employees to inspect the dentist's office during business hours to ensure compliance with Article 5 of these regulations. An examination may be required as part of the inspection. Each office shall be inspected within one year following the issue of the permit and at least once during each five-year period thereafter.

(Authorized by K.S.A. 74-1406 and implementing K.S.A. 1994 Supp. 65-1444; effective Nov. 27, 1995.)

71-5-6. Level I and II permits; revocation, suspension or limitation. (a) Any Level I and II permit may be revoked, suspended or limited by the board upon establishing that a permit holder:

(1) is no longer in compliance with one or more of the requirements of Article 5 of these regulations;

(2) has engaged in negligent or dangerous conduct; or

(3) has been convicted of a crime which would affect the ability of the licensed dentist holding the permit to treat patients using conscious sedation, deep sedation or general anesthesia.

(b) Prior to revocation, suspension or limitation of a Level I or Level II permit by the board, the licensed dentist holding the permit shall be provided notice and an opportunity for a hearing under the provisions of the administrative procedure act, K.S.A. 77-501 et seq., as amended. (Authorized by K.S.A. 74-1406 and implementing K.S.A. 1994 Supp. 65-1449; effective Nov. 27, 1995.)

Article 6.--DENTAL AUXILIARIES

71-6-1. Definitions. As used in these regulations, the following terms shall have the meanings indicated:

(a) "Approved instruction course" means a course of instruction that the board has found to meet the requirements listed in K.A.R. 71-6-3.

(b) "Coronal" means the portion of a tooth or tooth replacement visible above the gum line.

(c) "Coronal polish teeth" means to remove soft accretions and stains from coronal surfaces of teeth or tooth replacements.

(d) "Coronal scale teeth" means to remove hard deposits and accretions from the coronal surfaces of teeth or tooth replacements.

(e) "Direct supervision" means that the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure, and, before dismissal of the patient, evaluates the performance or has it evaluated by another person licensed by the board. (Authorized by K.S.A. 74-1406 and implementing K.S.A. 1997 Supp. 65-1423(h)(5), as amended by L. 1998, Ch. 141, Sec. 1; effective Feb. 12, 1999; amended April 16, 2004.)

71-6-2. Acts restricted. (a)(1) A nonlicensed person shall not perform coronal scaling as part of a prophylaxis without first obtaining a certificate demonstrating successful completion of an approved course of instruction.

(2) The supervising dentist shall not permit a nonlicensed person to perform coronal scaling as part of a prophylaxis until that person's certificate, demonstrating successful completion of an approved course of instruction, is prominently posted at the location where the coronal scaling will be performed.

(b) A nonlicensed person shall not perform coronal scaling as a part of a prophylaxis on a patient who is under local or general anesthesia.

(c) A nonlicensed person may perform coronal scaling only under the direct supervision of a supervising dentist licensed and practicing in Kansas.

(Authorized by K.S.A. 74-1406 and implementing K.S.A. 1997 Supp. 65-1423(h)(5), as amended by L. 1998, Ch. 141, Sec. 1; effective Feb. 12, 1999.)

71-6-3. Approved instruction course. (a) Each private or public educational entity seeking approval by the board, pursuant to L. 1998, Ch. 141, Sec. 1, of an instruction course shall demonstrate that the course meets the following minimum requirements:

(1) Has a student-instructor ratio consistent with the American dental association accreditation standards for dental assisting programs;

(2) encourages enrollment by a geographically diverse population of prospective students;

(3) includes the following course topics:

(A) Dental and gingival anatomy and morphology;

(B) periodontal disease, including recognition and treatment;

(C) dental plaque, stain, and calculus formation;

(D) sterilization and infection control;

(E) oral hygiene, with an emphasis on technique, products, and devices;

(F) topical fluoride application;

(G) the use of instruments, including technique, position, and sharpening;

(H) coronal scaling, including laboratory experience with mechanical and ultrasonic devices; and

(I) coronal polishing, including laboratory experience;

(4) is a minimum of 90 hours;

(5) includes one or more outcome assessment examinations that demonstrate that the student has obtained technical and clinical competency in the coronal scaling of teeth; and

(6) upon successful completion of the course, issuance by the offering educational entity of a certificate identifying the student and the date of successful completion.

(b) Before any proposed changes are made to the required elements of an approved instruction course, the changes shall be approved by the board. (Authorized by K.S.A. 74-1406 and implementing K.S.A. 1997 Supp. 65-1423(h)(5), as amended by L. 1998, Ch. 141, Sec. 1; effective Feb. 12, 1999.)

71-6-4. Subgingival scaling. Whenever coronal scaling is performed as part of a prophylaxis by a nonlicensed person who has a certificate from an educational entity demonstrating successful completion of an approved course of instruction, all subgingival scaling shall be performed by a hygienist or dentist licensed in Kansas. (Authorized by K.S.A. 74-1406 and implementing K.S.A. 1997 Supp. 65-1423 (h)(5), as amended by L. 1998, Ch. 141, Sec. 1; effective Feb. 12, 1999.)

71-6-5. Duty to notify board. Each nonlicensed person who has received a certificate from an educational entity demonstrating successful completion of an approved course of instruction pursuant to K.S.A. 65-1423(a)(8)(E), and amendments thereto, shall meet the following requirements:

- (a) Within 30 days of obtaining the certificate, provide a copy of the certificate to the board;
- (b) notify the board, within 30 days of employment or change in employment, of the names and business addresses of all dentists who are employing or supervising the nonlicensed person; and
- (c) within 30 days of any change in the identity or business location of any dentist employing the nonlicensed person, inform the board of the change. (Authorized by K.S.A. 74-1406 and implementing K.S.A. 1997 Supp. 65-1423 (h)(5), as amended by L. 1998, Ch. 141, Sec. 1; effective Feb. 12, 1999; amended June 4, 2004.)

71-6-6. Coronal polishing. Any dentist licensed and practicing in Kansas may delegate to a nonlicensed person the coronal polishing of teeth if the dentist provides that person with direct supervision and has provided that person with the appropriate training in polishing techniques. (Authorized by K.S.A. 74-1406 and implementing K.S.A. 1997 Supp. 65-1423(h)(5), as amended by L. 1998, Ch. 141, Sec. 1; effective Feb. 12, 1999.)

Article 7.—ADVERTISING

71-7-1. Prior submission to the board. Before a licensee, or anyone else acting on the licensee's behalf or on behalf of any associated or affiliated licensee, uses or participates in the use of any form of advertising that contains one or more statements regarding the professional superiority of or the performance of professional services in a superior manner by the licensee or any associated or affiliated licensees, the licensee shall submit to the board evidence demonstrating the truthfulness of each such statement. (Authorized by and implementing K.S.A. 65-1437; effective Feb. 20, 2004.)

ARTICLE 8. MOBILE DENTAL FACILITIES AND PORTABLE DENTAL OPERATIONS

71-8-1. Applicability of other regulations. Each regulation applicable to a stationary dental office shall also apply to each mobile dental facility or portable dental operation. (Authorized by and implementing L. 2005, ch. 115, § 2; effective Feb. 17, 2006.)

71-8-2. Registration fee. Each applicant for a registration to operate a mobile dental facility or portable dental operation shall pay a registration fee of \$500 per facility. (Authorized by K.S.A. 65-1447, as amended by L. 2005, ch. 115, § 1, and L. 2005, ch. 115, § 2; implementing K.S.A. 65-1447, as amended by L. 2005, ch. 115, § 1; effective Feb. 17, 2006.)

71-8-3. Renewal of registration. (a) Each operator who wants to renew the registration shall submit a renewal application, on a form provided by the board, at least 60 days before the expiration date.
(b) Each registrant shall pay a registration renewal fee of \$350 per facility when submitting the renewal application. (Authorized by K.S.A. 65-1447, as amended by L. 2005, ch. 115, § 1, and L. 2005, ch. 115, § 2; implementing K.S.A. 65-1447, as amended by L. 2005, ch. 115, § 1; effective Feb. 17, 2006.)

71-8-4. Office address and telephone number. (a) Each operator of a mobile dental facility or portable dental operation shall maintain a business or mailing address of record, which shall be filed with the board. This address shall not be a post office box.
(b) Each operator of a mobile dental facility or portable dental operation shall maintain a telephone number of record, which shall be filed with the board.
(c) Each operator shall notify the board within 30 days of any change in the address or telephone number of record.

(d) Each written or printed document available from or issued by the mobile dental facility or portable dental operation shall contain the address and telephone number of record for the mobile dental facility or portable dental operation.

(e) Each operator shall maintain all dental and billing records, when not in transit, at the address of record. (Authorized by and implementing L. 2005, ch. 115, § 2; effective Feb. 17, 2006.)

71-8-5. Written procedures; communication facilities; conformity with requirements; driver requirements; consent forms; follow-up treatment. Each operator of a mobile dental facility or portable dental operation shall ensure that the following conditions and requirements are met:

(a) A written procedure for emergency follow-up care is used for patients treated in the mobile dental facility or portable dental operation, and the procedure includes arrangements for treatment in a health care facility that is permanently established in the area where services were provided.

(b) The mobile dental facility or portable dental operation has communication facilities that will enable the operator to contact necessary parties if a medical or dental emergency occurs. The communications facilities shall enable the patient or the parent or guardian of the patient treated to contact the operator for emergency care, follow-up care, or information about treatment received. The health care provider who renders follow-up care shall also be able to contact the operator and receive treatment information, including radiographs when taken.

(c) The mobile dental facility or portable dental operation and the dental procedures performed meet the requirements of K.A.R. 71-1-18.

(d) The driver of the mobile dental facility or portable dental operation possesses a valid driver's license appropriate for the operation of the vehicle.

(e) No services are performed on minors or individuals for whom a guardian has been established without a signed consent form signed by the parent or guardian that includes the following:

(1) An authorization for the treatment to be provided;

(2) an acknowledgement by the parent or guardian that the treatment of the patient at the mobile dental facility or portable dental operation could affect the future benefits that the patient could receive under any of the following:

(A) Private insurance;

(B) medicaid; or

(C) a children's health insurance program; and

(3) an acknowledgement by the parent or guardian that the parent or guardian has been advised to arrange for continued dental care for the patient.

(f) If the mobile dental facility or portable dental operation accepts any patients and provides preventive treatment, including prophylaxis, radiographs, and fluoride, the operator offers follow-up treatment when this treatment is indicated. (Authorized by and implementing L. 2005, ch. 115, § 2; effective Feb. 17, 2006.)

71-8-6. Identification of personnel; notification of changes in written procedures; display of licenses. (a) Each operator of a mobile dental facility or portable dental operation shall identify and advise the board in writing within 30 days of any personnel change involving the licensed dentists and licensed dental hygienists associated with the mobile dental facility or portable dental operation. The operator shall provide the full name, address, telephone number and license number of each licensed dentist or licensed dental hygienist involved in the personnel change. The operator shall also provide the effective date of each personnel change.

(b) Each operator shall advise the board in writing within 30 days of any change in the written procedure for emergency follow-up care for patients treated in the mobile dental facility or portable dental operation, including arrangements for treatment in a health care facility that is permanently established in the area. The permanent health care facility shall be identified in the written procedure.

(c) Each dentist and dental hygienist providing dental services in the mobile dental facility or portable dental operation shall display that individual's Kansas dental license or Kansas dental hygienist license in plain view of the patients. (Authorized by and implementing L. 2005, ch. 115, § 2; effective Feb. 17, 2006.)

71-8-7. Identification of location of services. (a) Each operator of a mobile dental facility or portable dental operation shall maintain a written or electronic record containing the following information for each location where services are provided:

(1) The street address of the service location;

(2) the date or dates of each session;

(3) the number of patients served; and

(4) the types of dental services provided and number of each type of service provided.

(b) Each operator of a mobile dental facility or portable dental operation shall make the record specified in subsection (a) available to the board or its representative within 10 days of each request. The operator shall submit the record in a format approved by the board. (Authorized by and implementing L. 2005, ch. 115, § 2; effective Feb. 17, 2006.)

71-8-8. Information for patients. (a) During or at the conclusion of each patient's visit to the mobile dental facility or portable dental operation, the patient, parent, or guardian shall be provided with an information sheet. If the patient, parent, or guardian has provided consent for an institutional facility to access the patient's dental health records, the institution shall also be provided with a copy of the information sheet. "Institutional facility" shall include a long-term care facility or school.

(b) Each information sheet shall include the following information:

- (1) The address and telephone number of record required by K.A.R. 71-8-4;
- (2) the name of each dentist and dental hygienist who provided services;
- (3) a description of the treatment rendered, including the billed service codes and fees associated with the treatment, tooth numbers along with surface and quadrant descriptors when appropriate, and the names and telephone numbers of the billing entity and any third party being billed;
- (4) the date of the services and the location where the services were rendered;
- (5) the name and telephone number of the entity to contact for information regarding the processing and payment for billed services; and
- (6) if necessary, referral information to another health care provider. (Authorized by and implementing L. 2005, ch. 115, § 2; effective Feb. 17, 2006.)

71-8-9. Cessation of operations. (a) Upon cessation of operations by the mobile dental facility or portable dental operation, each operator shall notify the board, in writing and within 30 days of the last day of operations, of the final disposition of patient records and charts.

(b) As used in this regulation, "active patient" shall mean an individual whom the mobile dental facility or portable dental operation has examined, treated, cared for, or otherwise consulted with during the two-year period before discontinuing practice or moving from the community.

(c) Upon choosing to discontinue practice or services in a community, each operator of a mobile dental facility or portable dental operation shall perform the following:

(1) Notify all of the operator's active patients in writing, or by publication once a week for three consecutive weeks in a newspaper of general circulation in the community, that the operator intends to discontinue the mobile dental facility or portable dental operation's practice in the community; and

(2) advise each active patient to seek the services of another dentist and document, in the patient's dental record, the date of the advice and the manner in which the advice was provided.

(d) Each operator shall make reasonable arrangements with the active patients of the mobile dental facility or portable dental operation for the transfer of each patient's records, including radiographs or copies, to the succeeding practitioner or, at the written request of the patient, parent, or guardian, to the patient, parent, or guardian.

(e) If the mobile dental facility or portable dental operation is sold, each new operator shall file a registration application and pay the registration fee specified in K.A.R. 71-8-2. Each new operator shall be required to receive board approval before providing services. (Authorized by and implementing L. 2005, ch. 115, § 2; effective Feb. 17, 2006.)

ARTICLE 9 - PRACTICE OF DENTISTRY BY A DENTAL STUDENT

71-9-1. Definitions. As used in this article, the following terms shall have the meanings specified in this regulation:

(a) "Dental student" means a person who meets the following requirements:

(1) Has completed at least 50 percent of the required hours of dental classroom and clinical training at an educational institution; and

(2) is currently enrolled as a student at an educational institution.

(b) "Educational institution" means a dental school approved by the board that has obtained approval from the board to operate an educational program, pursuant to K.S.A. 65-1423(a)(9) and amendments thereto, in which dental students will perform dentistry.

(c) "Supervising dentist" means a dentist who meets the following requirements:

(1)(A) Has an active license to practice dentistry in Kansas; or

(B) is eligible to be licensed in Kansas and has an application to be licensed in Kansas pending;

- (2) has faculty status with an educational institution;
- (3) has been assigned to a department of the educational institution and has agreed in writing to use the department's objectives in supervising and evaluating the work of the dental students; and
- (4) has agreed in writing to confer as necessary, but at least annually, with the department chair and educational institution administrators to ensure that the educational activities supervised by the supervising dentist are being conducted to achieve the educational goals of the educational institution. (Authorized by K.S.A. 74-1406(l); implementing K.S.A. 65-1423(a)(9); effective Jan. 9, 2009.)

71-9-2. Approval of educational program. The administrator of each educational program shall not permit any dental student to perform the practice of dentistry in this state unless the educational program has been approved by the board. (Authorized by K.S.A. 74-1406(l); implementing K.S.A. 65-1423(a)(9); effective Jan. 9, 2009.)

71-9-3. Requirements for approval of educational program. To be approved, pursuant to K.S.A. 65-1423(a)(9) and amendments thereto, as an educational program in which the practice of dentistry may be performed by a dental student, the administrator of each educational program shall ensure that all of the following requirements are met:

- (a) The administrator of the educational program shall file a written application with the executive director of the board. This application shall be submitted upon the form furnished by the board.
- (b) The educational program shall be operated pursuant to a written affiliation agreement between an educational institution and either a licensee or an entity approved by the board. The affiliation agreement shall establish requirements for the educational program and the supervising dentist that are consistent with these regulations.
- (c) Each dental student shall be permitted to practice dentistry only under the direct supervision of a supervising dentist.
- (d) Patient records that meet the requirements of the Kansas dental practice act and the board's regulations shall be maintained.
- (e) The administrator of the educational program shall have policies and procedures in place to ensure appropriate care of each patient treated in the program.
- (f) Each dental student shall have professional liability coverage.
- (g) All dental students performing dentistry shall be evaluated by a supervising dentist using methods approved by the educational institution.
- (h) Before any patient receives dental services from a dental student, the patient shall sign a form indicating that patient's consent to being treated by a dental student. (Authorized by K.S.A. 74-1406(l); implementing K.S.A. 65-1423(a)(9); effective Jan.9, 2009.)

71-9-4. Notice of new location. The administrator of each educational program shall notify the board in writing at least 30 days before establishing a new location at which dental students will be practicing dentistry in the state of Kansas. (Authorized by K.S.A. 74-1406(l); implementing K.S.A. 65-1423(a)(9); effective Jan.9, 2009.)

ARTICLE 10. PRACTICE OF DENTAL HYGIENE BY A DENTAL HYGIENE STUDENT

71-10-1. Definitions. As used in this article, the following terms shall have the meanings specified in this regulation:

- (a) "Dental hygiene student" means a person who meets the following requirements:
 - (1) Has completed at least one semester of full-time dental hygiene education, including all pre-clinical courses, at an educational institution. For purposes of this article, "pre-clinical courses" shall mean the courses that are a prerequisite to academic clinical courses; and
 - (2) is currently enrolled as a student at an educational institution and is not currently licensed by the Kansas dental board.
- (b) "Educational institution" means a dental hygiene school approved by the board that has obtained approval from the board to operate an educational program, pursuant to K.S.A. 65-1423(a)(9) and amendments thereto, in which dental hygiene students will perform dental hygiene.
- (c) "Supervising dental hygienist" means a dental hygienist who meets the following requirements:
 - (1)(A) Has an active license to practice dental hygiene in Kansas; or
 - (B) is eligible to be licensed in Kansas and has an application to be licensed in Kansas pending;
 - (2) has faculty status with an educational institution;

(3) has been assigned to a department of the educational institution and has agreed in writing to use the department's objectives in supervising and evaluating the work of the dental hygiene students supervised; and

(4) has agreed in writing to confer as necessary, but at least annually, with the department chair and educational institution administrators to ensure that the educational activities supervised by the supervising dental hygienist are being conducted to achieve the educational goals of the educational institution.

(d) "Supervising dentist" means a dentist who meets the following requirements:

(1)(A) Has an active license to practice dentistry in Kansas; or

(B) is eligible to be licensed in Kansas and has an application to be licensed in Kansas pending;

(2) has faculty status with an educational institution;

(3) has been assigned to a department of the educational institution and has agreed in writing to use the department's objectives in supervising and evaluating the work of the dental hygiene students; and

(4) has agreed in writing to confer as necessary, but at least annually, with the department chair and educational institution administrators to ensure that the educational activities supervised by the supervising dentist are being conducted to achieve the educational goals of the educational institution. (Authorized by K.S.A. 74-1406(l); implementing K.S.A. 65-1423(a)(9); effective Jan. 9, 2009.)

71-10-2. Approval of educational program. The administrator of each educational program shall not permit any dental hygiene student to perform the practice of dental hygiene in this state unless the educational program has been approved by the board. (Authorized by K.S.A. 74-1406(l); implementing K.S.A. 65-1423(a)(9); effective Jan. 9, 2009.)

71-10-3. Requirements for approval of educational program. To be approved, pursuant to K.S.A. 65-1423(a)(9) and amendments thereto, as an educational program in which the practice of dental hygiene may be performed by a dental hygiene student, the administrator of each educational program shall ensure that all of the following requirements are met:

(a) The administrator of the educational program shall file a written application with the executive director of the board. This application shall be submitted upon the form furnished by the board.

(b) The educational program shall be operated pursuant to a written affiliation agreement between an educational institution and either a licensee or an entity approved by the board. The affiliation agreement shall establish requirements for the educational program and for the supervising dentist or supervising dental hygienist that are consistent with these regulations.

(c) Each dental hygiene student shall be permitted to practice dental hygiene only under the direct supervision of a supervising dentist or a supervising dental hygienist.

(d) Patient records that meet the requirements of the Kansas dental practice act and the board's regulations shall be maintained.

(e) The administrator of the educational program shall have policies and procedures in place to ensure appropriate care of each patient treated in the program.

(f) Each dental hygiene student shall have professional liability coverage.

(g) All dental hygiene students performing dental hygiene shall be evaluated by a supervising dentist or a supervising dental hygienist using methods approved by the educational institution.

(h) Before any patient receives dental hygiene services from a dental hygiene student, the patient shall sign a form indicating that patient's consent to being treated by a dental hygiene student. (Authorized by K.S.A. 74-1406(l); implementing K.S.A. 65-1423(a)(9); effective Jan. 9, 2009.)

71-10-4. Notice of new location. The administrator of each educational program shall notify the board in writing at least 30 days before establishing a new location at which dental hygiene students will be practicing dental hygiene in the state of Kansas. (Authorized by K.S.A. 74-1406(l); implementing K.S.A. 65-1423(a)(9); effective Jan. 9, 2009.)

Article 11. MISCELLANEOUS PROVISIONS

71-11-1. Practice of dentistry. Each nonlicensed person who provides any service or procedure meeting either of the following conditions shall be deemed to be practicing dentistry, unless the person provides the service or procedure under the direct supervision of a dentist licensed and practicing in Kansas:

(a) Alters the color or physical condition of natural, restored, or prosthetic teeth; or

(b) requires the positioning and adjustment of equipment or appliances for the purpose of altering the color or physical condition of natural, restored, or prosthetic teeth. (Authorized by K.S.A. 74-1406(l); implementing K.S.A. 65-1422; effective Aug. 21, 2009)

RELATED LAW

K.S.A. 38-1522. Reporting of certain abuse or neglect of children; persons reporting; reports, made to whom; penalties to report or interference with making of report. (a) When any of the following persons has reason to suspect that a child has been injured as a result of physical, mental or emotional abuse or neglect or sexual abuse, the person shall report the matter promptly as provided in subsection (c) or (e): Persons licensed to practice the healing arts or dentistry; persons licensed to practice optometry; persons engaged in postgraduate training programs approved by the state board of healing arts; licensed psychologists; licensed professional or practical nurses examining, attending or treating a child under the age of 18; teachers, school administrators or other employees of a school which the child is attending; chief administrative officers of medical care facilities; registered marriage and family therapists; persons licensed by the secretary of health and environment to provide child care services or the employees of persons so licensed at the place where the child care services are being provided to the child; licensed social workers; firefighters; emergency medical services personnel; mediators appointed under K.S.A. 23-602 and amendments thereto; juvenile intake and assessment workers; and law enforcement officers. The report may be made orally and shall be followed by a written report if requested. When the suspicion is the result of medical examination or treatment of a child by a member of the staff of a medical care facility or similar institution, that staff member shall immediately notify the superintendent, manager or other person in charge of the institution who shall make a written report forthwith. Every written report shall contain, if known, the names and addresses of the child and the child's parents or other persons responsible for the child's care, the child's age, the nature and extent of the child's injury (including any evidence of previous injuries) and any other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the persons responsible for the injuries.

(b) Any other person who has reason to suspect that a child has been injured as a result of physical, mental or emotional abuse or neglect or sexual abuse may report the matter as provided in subsection (c) or (e).

(c) Except as provided by subsection (e), reports made pursuant to this section shall be made to the state department of social and rehabilitation services. When the department is not open for business, the reports shall be made to the appropriate law enforcement agency. On the next day that the state department of social and rehabilitation services is open for business, the law enforcement agency shall report to the department any report received and any investigation initiated pursuant to subsection (a) of K.S.A. 38-1524 and amendments thereto. The reports may be made orally or, on request of the department, in writing.

(d) Any person who is required by this section to report an injury to a child and who knows of the death of a child shall notify immediately the coroner as provided by K.S.A. 22a-242, and amendments thereto.

(e) Reports of child abuse or neglect occurring in an institution operated by the secretary of social and rehabilitation services or the commissioner of juvenile justice shall be made to the attorney general. All other reports of child abuse or neglect by persons employed by or of children of persons employed by the state department of social and rehabilitation services or the juvenile justice authority shall be made to the appropriate law enforcement agency.

(f) Willful and knowing failure to make a report required by this section is a class B misdemeanor.

(g) Preventing or interfering with, with the intent to prevent, the making of a report required by this section is a class B misdemeanor.

History: L. 1982, ch. 182, § 19; L. 1983, ch. 140, § 19; L. 1985, ch. 147, § 8; L. 1986, ch. 299, § 4; L. 1987, ch. 152, § 1; L. 1988, ch. 140, § 2; L. 1991, ch. 114, § 13; L. 1992, ch. 312, § 38; L. 1996, ch. 229, § 36; L. 1997, ch. 156, § 43; July 1.

Revisor's Note:

Section was amended twice in 1986 Session, see also 38-1522a.

Law Review and Bar Journal References:

"Kansas Enacts New Provisions for Child Support Enforcement--Mandatory Wage Withholding," Yvonne C. Anderson, Richard A. Forster, 25 W.L.J. 91, 115 (1985).

"Keeping the Family Out of Court: Court-Ordered Mediation of Custody Disputes Under the Kansas Statutes," Nancy G. Maxwell, 25 W.L.J. 203, 221, 230, 231 (1986).

"Court-Ordered Mediation: New Opportunities in Family Practice," Brian Moline, 54 J.K.B.A. 97, 104 (1985).

"CASA: A Voice for Children," Derenda Mitchell, 58 J.K.B.A. No. 5, 28, 29 (1989).

"A Law Teacher Looks at the Good Samaritan Story," Paul B. Rasor, 31 W.L.J. 71, 76 (1991).

Attorney General's Opinions:

Investigation of reports of suspected child abuse or neglect. 85-150.

Reporting of certain abuse or neglect of a child; pregnancy. 92-48.

Health services; consent for medical treatment by parents with certain religious beliefs. 93-66.

CASE ANNOTATIONS

1. No private right of action provided by statute for failure to report suspicions of child abuse. *Kansas State Bank & Tr. Co. v. Specialized Transportation Services, Inc.*, 249 K. 348, 372, 819 P.2d 587 (1991).
2. Child in need of care proceedings discussed generally, with emphasis on roles of respective parties thereto. In re *D.D.P., Jr.*, 249 K. 529, 531, 819 P.2d 1212 (1991).

Attorney General's Opinions:

Code for care of children; mandatory abuse reporting statute. 93-90.

Reporting abuse or neglect of children; persons reporting; duty to report; confidentiality. 94-67.

CASE ANNOTATIONS

3. Defendant immune from liability for report of possible sexual abuse of child regarding intentional infliction of emotional distress claim. *Clevenger v. Catholic Social Services of the Archdiocese of Kansas City*, 21 K.A.2d 521, 529, 901 P.2d 529 (1995).
4. Adjudication hearing is required when interested party files CINC (38-1510) petition and no stipulation has been entered into. In re *K.W.*, 24 K.A.2d 724, 726, 953 P.2d 229 (1998).

CONTROLLED SUBSTANCES

68-20-18. Information concerning prescriptions. (a) Persons entitled to issue prescriptions. A prescription for a controlled substance may be issued only by a practitioner who is:

- (1) legally authorized to prescribe controlled substances in Kansas or any other competent jurisdiction; and
 - (2) either registered or exempted from registration under K.S.A. 65-4116(d).
- (b) Purpose of issue of prescription.

(1) To be effective, a prescription for a controlled substance shall be issued for a legitimate medical purpose by a practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances shall be upon the prescribing practitioner, but a corresponding responsibility shall rest with the pharmacist who fills the prescription. The person filling an unlawful prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of the Controlled Substance Act, K.S.A. 65-4101, et. seq.

(2) A prescription shall not be issued in order for a practitioner to obtain controlled substances for supplying himself or any other practitioner for the purpose of general dispensing to patients.

(3) A prescription shall not be issued for the dispensing of narcotic drugs listed in any schedule to a narcotic drug dependent person for the purpose of continuing his dependence upon such drugs, except in the course of conducting an authorized clinical investigation in the development of a narcotic addict rehabilitation program.

(c) Manner of issuance of prescriptions.

(1) Controlled substance prescriptions in schedule II through V shall not be issued on a prescription blank which is preprinted with the name of a propriety preparation or strength or quantity or directions.

(2) All written prescriptions for controlled substances shall be dated and manually signed on the day issued, shall bear the full name, address, registration number of the practitioner, name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use, and shall be written with ink, indelible pencil or typewriter.

(A) A practitioner shall manually sign a prescription in the same manner as he would sign a check or legal document.

(B) The prescriptions may be prepared by a secretary or agent for the signature of a practitioner, but the prescribing practitioner shall be responsible if the prescription does not conform in all essential respects to the state and federal law and regulations. A corresponding liability shall rest upon the pharmacist who fills a prescription which is not prepared in the form prescribed by these regulations.

(3) An intern, resident, foreign physician, or foreign medical graduate exempted from registration under K.S.A. 65-4116(d) shall include on all prescriptions issued the registration number of the hospital or other institution and the special internal code number assigned to the intern, resident, foreign physician, or foreign medical graduate by the hospital or other institution as provided in K.A.R. 68-20-10. This requirement shall be in lieu of the registration number of the practitioner required by subsection (c). Each prescription shall have the name of the intern, resident, foreign physician or foreign medical graduate stamped or printed on it, as well as the signature of the physician.

(4) An official exempted from registration under K.A.R. 68-20-10 shall include on all prescriptions issued, his branch of service or agency and his service identification number. This requirement shall be in lieu of the registration number of the practitioner otherwise required by subsection (c). The service identification number for a public health service employee shall be his social security identification number. Each prescription shall have the name of the officer stamped or printed on it, as well as the signature of the officer.

(d) Manner of issuance of prescriptions by facsimile.

(1) Controlled substance prescriptions in schedule III through V may be transmitted by telephone by a physician or their agent to a pharmacy for a patient of the physician. The transmitted telephone prescription may be by oral, facsimile, or computer transmission. Prescription orders shall be reduced to hard copy by the pharmacist and if telephoned by other than the physician shall bear the name of the person so transmitting or telephoning the prescription.

(2) Controlled substance prescriptions in schedule II may be transmitted by facsimile from the prescriber to a pharmacy. However, when the prescription is actually dispensed, the original written prescription which is manually signed by the physician shall be presented, verified against the facsimile, and retained for filing. Where medication needs change quickly and physicians' orders need to be communicated rapidly, two exceptions to the requirements of this paragraph exist.

(A) Pharmacies that provide parenteral pain therapy of home infusion for a terminally ill patient may receive a facsimile prescription order for the parenteral pain therapy from a practitioner or the practitioner's agent and the facsimile may be considered a "written prescription" as required by federal and state law. The order shall denote if the facsimile was transmitted by the physician or the physician's agent and shall contain the name of such agent, be retained as the original document, not be for oral dosage drugs, and contain all the information required of a manually written schedule II prescription.

(B) Pharmacies that provide any schedule II prescriptions for patients in an adult care facility, including a nursing home, may receive a facsimile prescription order from a practitioner or the practitioner's agent, and the facsimile may be considered a "written prescription" as required by federal and state law. The order shall denote if the facsimile was transmitted by the physician or the physician's agent and shall contain the name of such agent, be retained as the original document and contain all the information required of a manually written schedule II prescription including the date issued, full name of the patient, address of the adult care facility where the patient resides, name, address, telephone number, DEA registration number and signature of the practitioner. The order may be for oral or parenteral dosage drugs.

(e) Persons entitled to fill prescriptions.

(1) A prescription for controlled substances shall only be filled by:

(A) a pharmacist acting in the usual course of his professional practice in a registered pharmacy, hospital drug room or other registered place of employment; or

(B) a pharmacist intern acting under the immediate personal direction and supervision of a licensed pharmacist.

(2) For the purposes of this regulation, an intern shall mean a prospective candidate for examination as a licensed pharmacist who is qualified to receive, and is obtaining, pharmaceutical experience as required by law.

(3) A medical care facility or other institution registered with the board shall administer or dispense directly a controlled substance listed in schedules III and IV and legend V only pursuant to a written prescription signed by the prescribing practitioner or to an order of medication made by a practitioner which is dispensed for immediate administration to the ultimate user. (Authorized by K.S.A. 65-4102; implementing K.S.A. 65-4123; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973; amended May 1, 1988; amended Sept. 9, 1991; amended March 29, 1993; amended March 20, 1995.)

68-20-19. Controlled substances listed in schedule II. (a) Requirements of prescription.

(1) A pharmacist shall dispense a controlled substance listed in schedule II, which is a prescription drug as determined under these regulations, only pursuant to a written prescription signed by the prescribing practitioner, except as provided in paragraph (4) of this subsection.

(2) Any written prescriptions signed by the prescribing practitioner falling under the provisions of paragraph (1) above, shall not be filled if submitted more than six months after the original date appearing on the written prescription.

(3) A practitioner may administer or dispense a controlled substance listed in schedule II in the course of his professional practice without a prescription, subject to K.A.R. 68-20-18.

(4) (A) In the case of an emergency situation, as defined by paragraph (5) of this subsection, a pharmacist may dispense a controlled substance listed in schedule II upon receiving oral authorization of a prescribing practitioner, provided that:

(i) The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during an emergency period of 72 hours. Dispensing beyond the emergency period shall be pursuant to a written prescription signed by the prescribing practitioner;

(ii) the prescription shall be immediately reduced to writing by the pharmacist and shall contain all information required under K.A.R. 68-20-18(c) except for the signature of the prescribing practitioner;

(iii) if the prescribing practitioner is not known to the pharmacist, the pharmacist shall make a reasonable effort to determine that the oral authorization came from a licensed practitioner, which may include a callback to the

prescribing practitioner using the practitioner's phone number as listed in the telephone directory or other good faith efforts to insure the identity; and

(iv) within 72 hours after authorizing an emergency oral prescription, the prescribing practitioner shall deliver a written prescription for the emergency quantity prescribed to the dispensing pharmacist.

(B) In addition to conforming to the requirements of K.A.R. 68-20-18(c), this prescription shall have written on its face "Authorization for Emergency Dispensing" and the date of the oral order.

(C) The written prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail it shall be postmarked within the 72 hour period.

(D) Upon receipt, the dispensing pharmacist shall attach this prescription to the pharmacist's record of the emergency oral prescription. (E) The pharmacist shall notify the nearest office of the drug enforcement administration or the board if the prescribing individual fails to deliver a written prescription to the pharmacist; failure of the pharmacist to do so shall void the authority conferred by this paragraph to dispense without a written prescription of a prescribing practitioner.

(5) For the purposes of authorizing an oral prescription of a controlled substance listed in schedule II of the federal or state uniform controlled substances act, the term "emergency situation" means those situations in which the prescribing practitioner determines:

(A) that immediate administration of the controlled substance is necessary for the proper treatment of the intended ultimate user;

(B) that no appropriate alternative treatment is available, including administration of a drug which is not a controlled substance under schedule II of the act; and

(C) that it is not reasonably possible for the prescribing practitioner to provide a written prescription to be presented to the person dispensing the substance prior to the dispensing.

(b) A medical care facility or other institution registered with the board shall administer or dispense a controlled substance listed in schedule II only pursuant to a written prescription signed by the prescribing practitioner or to an order for medication made by a practitioner which is dispensed for immediate administration to the ultimate user.

(c) Partial filling of prescriptions. The partial filling of a prescription for a controlled substance listed in schedule II shall be permissible only as provided in this subsection.

(1) Where the pharmacist is unable to supply the full quantity called for in a written or emergency oral prescription and makes a notation of the quantity supplied on the face of the written prescription or written record of the emergency oral prescription, the pharmacist shall:

(A) fill the remaining portion of the prescription within 72 hours of the first partial filling or if the remaining portion cannot be filled within the 72 hour period, the pharmacist shall notify the prescribing practitioner of the situation; and (B) supply no further quantity beyond 72 hours without a new prescription.

(2) Where written, prescriptions for schedule II controlled substances for patients in an adult care home or with a medical diagnosis documenting a terminal illness may be filled in partial quantities, including individual units, as provided in this subsection.

(A) For each partial filling, the dispensing pharmacist shall record on the back of the prescription, or on another appropriate, uniformly maintained, and readily retrievable record, the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed and the identification of the dispensing pharmacist.

(B) The total quantity of schedule II controlled substances dispensed in all partial fillings shall not exceed the total quantity prescribed.

(C) Such schedule II prescriptions shall be valid for a period not to exceed 60 days from the issue date unless sooner terminated by the discontinuance of medication.

(d) Labeling of substances. The pharmacist filling a written or emergency oral prescription for a controlled substance listed in schedule II shall affix a label to the package showing the:

(1) date of filling;

(2) pharmacy name, address, and telephone number;

(3) serial number of the prescription;

(4) name of the patient;

(5) name of the prescribing practitioner; and

(6) directions for use and cautionary statements, if any, contained in such prescription or required by law.

(e) Filing of prescriptions.

(1) All written prescriptions and written records of emergency oral prescriptions shall be kept in accordance with K.A.R. 68-20-16.

(2) All written or emergency oral prescriptions for a controlled substance listed in schedule II shall be cancelled on the face of the prescription with the name of the pharmacist filling that prescription.

(3) All written or emergency oral prescriptions for controlled substances listed in schedule II and filled by an intern shall be cancelled on the face of the prescription with the name of the intern and preceptor authorizing the filling of that prescription. (Authorized by K.S.A. 65-4102; implementing K.S.A. 65-4123; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973; amended Sept. 9, 1991; amended March 29, 1993; amended March 20, 1995.)

RISK MANAGEMENT

65-4921. Definitions. As used in K.S.A. 65-4921 through 65-4930, and amendments thereto:

(a) "Appropriate licensing agency" means the agency that issued the license to the individual or health care provider who is the subject of a report under this act.

(b) "Department" means the department of health and environment.

(c) "Health care provider" means: (1) Those persons and entities defined as a health care provider under K.S.A. 40-3401 and amendments thereto; and (2) a dentist licensed by the Kansas dental board, a dental hygienist licensed by the Kansas dental board, a professional nurse licensed by the board of nursing, a practical nurse licensed by the board of nursing, a mental health technician licensed by the board of nursing, a physical therapist assistant certified by the state board of healing arts, an occupational therapist registered by the state board of healing arts, an occupational therapy assistant registered by the state board of healing arts and a respiratory therapist licensed by the state board of healing arts.

(d) "License," "licensee" and "licensing" include comparable terms which relate to regulation similar to licensure, such as registration.

(e) "Medical care facility" means: (1) A medical care facility licensed under K.S.A. 65-425 et seq. and amendments thereto; (2) a private psychiatric hospital licensed under K.S.A. 75-3307b and amendments thereto; and (3) state psychiatric hospitals and state institutions for the mentally retarded, as follows: Larned state hospital, Osawatomie state hospital, Rainbow mental health facility, Kansas neurological institute and Parsons state hospital and training center.

(f) "Reportable incident" means an act by a health care provider which: (1) Is or may be below the applicable standard of care and has a reasonable probability of causing injury to a patient; or (2) may be grounds for disciplinary action by the appropriate licensing agency.

(g) "Risk manager" means the individual designated by a medical care facility to administer its internal risk management program and to receive reports of reportable incidents within the facility.

(h) "Secretary" means the secretary of health and environment.

History: L. 1986, ch. 229, § 2; L. 1987, ch. 176, § 8; L. 1988, ch. 236, § 2; L. 1999, ch. 87, § 6; Mar. 1, 2000. RISK MANAGEMENT

Revisor's Note:

65-4921 through 65-4930 were part of comprehensive medical malpractice legislation. For remainder of act, see table of sections, L. 1986, ch. 229 in Constitutions volume.

Law Review and Bar Journal References:

"Caps, 'Crisis,' and Constitutionality - Evaluating the 1986 Kansas Medical Malpractice Legislation," Elizabeth Schartz, 35 K.L.R. 763, 777 (1987).

Research and Practice Aids:

Hospitals (West Key) 6.

C.J.S. Hospitals § 5 et seq.

Law Review and Bar Journal References:

"PEER Review--A Risk Analysis," Wayne T. Stratton, 87, No. 11, Kan.Med. 313, 334 (1986).

"HB 2661 and possible uninsured liability," Wayne T. Stratton, 87, No. 10, Kan.Med. 285 (1986). RISK MANAGEMENT

Law Review and Bar Journal References:

"Attacking The Peer Review Privilege: Some Ideas," Derek S. Casey, J.K.T.L.A. Vol. XVII, No. 6, 19 (1994).

Attorney General's Opinions:

Persons subject to legislative post audits; access to records; limitations; peer assistance program records. 92-101.

Attorney General's Opinions:

Persons engaged in residency training for services to indigent health care clinics are covered under Kansas tort claims act. 93-74.

65-4923. Reporting requirements. (a) If a health care provider, or a medical care facility agent or employee who is directly involved in the delivery of health care services, has knowledge that a health care provider has committed a reportable incident, such health care provider, agent or employee shall report such knowledge as follows:

(1) If the reportable incident did not occur in a medical care facility, the report shall be made to the appropriate state or county professional society or organization, which shall refer the matter to a professional practices review committee duly constituted pursuant to the society's or organization's bylaws. The committee shall investigate all such reports and take appropriate action. The committee shall have the duty to report to the appropriate state licensing agency any finding by the committee that a health care provider acted below the applicable standard of care which action had a reasonable probability of causing injury to a patient, or in a manner which may be grounds for disciplinary action by the appropriate licensing agency, so that the agency may take appropriate disciplinary measures.

(2) If the reportable incident occurred within a medical care facility, the report shall be made to the chief of the medical staff, chief administrative officer or risk manager of the facility. The chief of the medical staff, chief administrative officer or risk manager shall refer the report to the appropriate executive committee or professional practices peer review committee which is duly constituted pursuant to the bylaws of the facility. The committee shall investigate all such reports and take appropriate action, including recommendation of a restriction of privileges at the appropriate medical care facility. In making its investigation, the committee may also consider treatment rendered by the health care provider outside the facility. The committee shall have the duty to report to the appropriate state licensing agency any finding by the committee that a health care provider acted below the applicable standard of care which action had a reasonable probability of causing injury to a patient, or in a manner which may be grounds for disciplinary action by the appropriate licensing agency, so that the agency may take appropriate disciplinary measures.

(3) If the health care provider involved in the reportable incident is a medical care facility, the report shall be made to the chief of the medical staff, chief administrative officer or risk manager of the facility. The chief of the medical staff, chief administrative officer or risk manager shall refer the report to the appropriate executive committee which is duly constituted pursuant to the bylaws of the facility. The executive committee shall investigate all such reports and take appropriate action. The committee shall have the duty to report to the department of health and environment any finding that the facility acted in a manner which is below the applicable standard of care and which has a reasonable probability of causing injury to a patient, so that appropriate disciplinary measures may be taken.

(4) As used in this subsection (a), "knowledge" means familiarity because of direct involvement or observation of the incident.

(5) This subsection (a) shall not be construed to modify or negate the physician-patient privilege, the psychologist-client privilege or the social worker-client privilege as codified by Kansas statutes.

(b) If a reportable incident is reported to a state agency which licenses health care providers, the agency may investigate the report or may refer the report to a review or executive committee to which the report could have been made under subsection (a) for investigation by such committee.

(c) When a report is made under this section, the person making the report shall not be required to report the reportable incident pursuant to K.S.A. 65-28,122 or 65-4216, and amendments to such sections. When a report made under this section is investigated pursuant to the procedure set forth under this section, the person or entity to which the report is made shall not be required to report the reportable incident pursuant to K.S.A. 65-28,121, 65-28,122 or 65-4216, and amendments to such sections.

(d) Each review and executive committee referred to in subsection (a) shall submit to the secretary of health and environment, on a form promulgated by such agency, at least once every three months, a report summarizing the reports received pursuant to subsections (a)(2) and (a)(3) of this section. The report shall include the number of reportable incidents reported, whether an investigation was conducted and any action taken.

(e) If a state agency that licenses health care providers determines that a review or executive committee referred to in subsection (a) is not fulfilling its duties under this section, the agency, upon notice and an opportunity to be heard, may require all reports pursuant to this section to be made directly to the agency.

(f) The provisions of this section shall not apply to a health care provider acting solely as a consultant or providing review at the request of any person or party.

History: L. 1986, ch. 229, § 4; L. 1987, ch. 176, § 10; L. 1988, ch. 236, § 3; July 1.

Attorney General's Opinions:

Health care peer review committee reports; confidentiality and open meeting requirements. 89-42.

65-4923.

CASE ANNOTATIONS

1. Statutory peer review privilege is outweighed by plaintiff's right to access to facts in negligence action. *Adams v. St. Francis Regional Med. Center*, 264 K. 144, 156, 955 P.2d 1169 (1998).

65-4924. Reports relating to impaired providers; procedures. (a) If a report to a state licensing agency pursuant to subsection (a)(1) or (2) of K.S.A. 65-4923 or any other report or complaint filed with such agency relates to a

health care provider's inability to practice the provider's profession with reasonable skill and safety due to physical or mental disabilities, including deterioration through the aging process, loss of motor skill or abuse of drugs or alcohol, the agency may refer the matter to an impaired provider committee of the appropriate state or county professional society or organization.

(b) The state licensing agency shall have the authority to enter into an agreement with the impaired provider committee of the appropriate state or county professional society or organization to undertake those functions and responsibilities specified in the agreement and to provide for payment therefor from moneys appropriated to the agency for that purpose. Such functions and responsibilities may include any or all of the following:

- (1) Contracting with providers of treatment programs;
- (2) receiving and evaluating reports of suspected impairment from any source;
- (3) intervening in cases of verified impairment;
- (4) referring impaired providers to treatment programs;
- (5) monitoring the treatment and rehabilitation of impaired health care providers;
- (6) providing posttreatment monitoring and support of rehabilitated impaired health care providers; and
- (7) performing such other activities as agreed upon by the licensing agency and the impaired provider committee.

(c) The impaired provider committee shall develop procedures in consultation with the licensing agency for:

- (1) Periodic reporting of statistical information regarding impaired provider program activity;
- (2) periodic disclosure and joint review of such information as the licensing agency considers appropriate regarding reports received, contacts or investigations made and the disposition of each report;
- (3) immediate reporting to the licensing agency of the name and results of any contact or investigation regarding any impaired provider who is believed to constitute an imminent danger to the public or to self;
- (4) reporting to the licensing agency, in a timely fashion, any impaired provider who refuses to cooperate with the committee or refuses to submit to treatment, or whose impairment is not substantially alleviated through treatment, and who in the opinion of the committee exhibits professional incompetence; and
- (5) informing each participant of the impaired provider committee of the procedures, the responsibilities of participants and the possible consequences of noncompliance.

(d) If the licensing agency has reasonable cause to believe that a health care provider is impaired, the licensing agency may cause an evaluation of such health care provider to be conducted by the impaired provider committee or its designee for the purpose of determining if there is an impairment. The impaired provider committee or its designee shall report the findings of its evaluation to the licensing agency.

(e) An impaired health care provider may submit a written request to the licensing agency for a restriction of the provider's license. The agency may grant such request for restriction and shall have authority to attach conditions to the licensure of the provider to practice within specified limitations. Removal of a voluntary restriction on licensure to practice shall be subject to the statutory procedure for reinstatement of license.

(f) A report to the impaired provider committee shall be deemed to be a report to the licensing agency for the purposes of any mandated reporting of provider impairment otherwise provided for by the law of this state.

(g) An impaired provider who is participating in, or has successfully completed, a treatment program pursuant to this section shall not be excluded from any medical care facility staff solely because of such participation. However, the medical care facility may consider any impairment in determining the extent of privileges granted to a health care provider.

(h) Notwithstanding any other provision of law, a state or county professional society or organization and the members thereof shall not be liable to any person for any acts, omissions or recommendations made in good faith while acting within the scope of the responsibilities imposed pursuant to this section.

History: L. 1986, ch. 229, § 5; July 1.

Law Review and Bar Journal References:

"Malpractice '87: Status and Solutions," M. Martin Halley, M.D., J.D., 88, No. 9, Kan.Med. 261, 263, 264 (1987).

65-4926. Immunity from civil liability for report or investigation, limits. Any person or entity which, in good faith, reports or provides information or investigates any health care provider as authorized by K.S.A. 65-4923 or 65-4924 shall not be liable in a civil action for damages or other relief arising from the reporting, providing of information or investigation except upon clear and convincing evidence that the report or information was completely false, or that the investigation was based on false information, and that the falsity was actually known to the person making the report, providing the information or conducting the investigation at the time thereof.

History: L. 1986, ch. 229, § 7; July 1.

Law Review and Bar Journal References:

"Malpractice '87: Status and Solutions," M. Martin Halley, M.D., J.D., 88, No. 9, Kan.Med. 261, 263, 264 (1987).

65-4927. Failure to report; remedies; immunity from civil liability. (a) No person or entity shall be subject to liability in a civil action for failure to report as required by K.S.A. 65-4923 or 65-4924.

(b) The license of a person or entity required to report under subsection (a) of K.S.A. 65-4923 may be revoked, suspended or limited, or the licensee subjected to public or private censure, by the appropriate state licensing agency if the licensee is found, pursuant to the Kansas administrative procedure act, to have willfully and knowingly failed to make any report as required by K.S.A. 65-4923 or 65-4924.

(c) Willful and knowing failure to make a report required by K.S.A. 65-4923 or 65-4924 is a class C misdemeanor.

(d) In no event shall a medical care facility or a professional society or organization be liable in damages for the alleged failure to properly investigate or act upon any report made pursuant to K.S.A. 65-4923.

History: L. 1986, ch. 229, § 8; July 1.

74-146. Licensing bodies; procedures to suspend or terminate a professional license. (a) As used in K.S.A. 1999 Supp. 74-146 and 74-147 and amendments thereto:

(1) "Licensing body" means an official, agency, board or other entity of the state which authorizes individuals to practice a profession in this state and issues a license, certificate, permit or other authorization to an individual so authorized; and

(2) "licensee" means an individual who is or may be authorized to practice a profession in this state.

(b) All licensing bodies of this state shall have or adopt procedures for the suspension, termination, nonrenewal or denial of a licensee's authority to practice a profession in this state if the licensing body receives notice pursuant to K.S.A. 1999 Supp. 74-147 and amendments thereto.

History: L. 1994, ch. 292, § 15; L. 1997, ch. 182, § 75; July 3.

74-147. Notice of contempt, warrant or subpoena outstanding to licensing body; temporary license; ability to revoke or suspend; court jurisdiction. (a) Any notice to a licensing body served pursuant to K.S.A. 20-1204a and amendments thereto, shall have attached a copy of the court order finding the licensee in contempt of court in a child support proceeding. Any notice to a licensing body served pursuant to K.S.A. 1999 Supp. 60-1622 and amendments thereto shall have attached a copy of the warrant or subpoena outstanding against the licensee. The notice shall advise the licensing body of the duty to comply with K.S.A. 1999 Supp. 74-146 and 74-147 and amendments thereto; shall provide the name of the licensee and information which will assist the licensing body to identify the correct person; and shall provide the name, mailing address and telephone number of the person serving the notice. If inadequate identifying information is included in the notice, the licensing body shall promptly contact the person serving the notice to request additional information.

(b) If a licensing body receives a notice pursuant to subsection (a), the licensing body shall, within 30 days after receiving the notice, notify the licensee of the licensing body's intent to suspend or to withhold issuance or renewal of the licensee's authorization to practice a profession in this state and of the licensee's rights and duties under this section. If the licensing body does not receive sufficient information with the notice to identify the correct licensee, the 30 days shall commence when sufficient identifying information is received.

(c) If the licensing body receives a notice pursuant to subsection (a), the licensing body shall provide the licensee a temporary license, authorizing the individual to practice a profession in this state, if the licensee is otherwise eligible. The temporary license shall be valid for a period of six months from the date the notice to the licensee pursuant to subsection (b) was issued. A temporary license issued under this section shall not be extended, except that the licensing body may extend the temporary license up to 30 days to prevent extreme hardship for a person being served by the licensee. If the licensee does not furnish a release pursuant to subsection (c) within the time required by the licensing body, the licensing body shall proceed to suspend, terminate, deny or refuse to renew the licensee's authority to practice a profession in this state.

(d) If an authorization to practice a profession in this state is suspended, denied or not renewed pursuant to this section, any funds paid by the licensee shall not be refunded by the licensing body.

(e) If a temporary license has been issued pursuant to subsection (c), the licensee shall obtain a release from the court that authorized the notice to the licensing body, as a condition for the issuance or renewal of the licensee's authorization to practice a profession in this state. The licensing body may require the licensee to furnish the release before the temporary license expires.

(f) In any review of the licensing body's actions pursuant to K.S.A. 1999 Supp. 74-146 and 74-147 and amendments thereto, conducted by the licensing body at the request of the licensee, the issues shall be limited to the identity of the licensee and the validity of notices pursuant to this section[.] The licensing body shall have no jurisdiction over issues related to the support obligation of the licensee.

History: L. 1994, ch. 292, § 16; L. 1997, ch. 182, § 76; July 3.

20-1204a. Indirect contempts; procedure. (a) When an order in a civil action has been entered, the court that rendered the same may order a person alleged to be guilty of indirect contempt of such order to appear and show cause why such person should not be held in contempt if there is filed a motion requesting an order to appear and show cause which is accompanied by an affidavit specifically setting forth the facts constituting the alleged violation.

(b) Except as provided in subsection (e), the order to appear and show cause shall be served upon the party allegedly in contempt by the sheriff or some other person appointed by the court for such purpose. Such order shall state the time and place where the person is to appear and shall be accompanied by a copy of the affidavit provided for in subsection (a). The court shall hear the matter at the time specified in the order, and upon proper showing, may extend the time so as to give the accused a reasonable opportunity to purge oneself of the contempt. If the court determines that a person is guilty of contempt such person shall be punished as the court shall direct.

(c) If, after proper service of the order to appear and show cause, the person served shall not appear in court as ordered, or if the court finds at a hearing held on motion of a party to the civil action that the person allegedly in contempt is secreting oneself to avoid the process of the court, the court may issue a bench warrant commanding that the person be brought before the court to answer for contempt. When such person is brought before the court, the court shall proceed as provided in subsection (b). The court may make such orders concerning the release of the person pending the hearing as the court deems proper.

(d) The provisions of this section shall apply to both criminal and civil contempts, but in the case of a criminal contempt the court on its own motion may cause the motion and affidavit provided for in subsection (a) to be filed.

(e) In cases involving an alleged violation of a restraining order issued pursuant to paragraph (2) of subsection (a) of K.S.A. 60-1607, and amendments thereto, if the affidavit filed pursuant to subsection (a) alleges physical abuse in violation of the court's order, the court immediately may issue a bench warrant and proceed as provided in subsection (c).

(f) If a person is found guilty of contempt in a child support enforcement proceeding, including an assignment of child support rights to the commissioner of juvenile justice and the evidence shows that the person is or may be authorized to practice a profession by a licensing body as defined in K.S.A. 1999 Supp. 74-146 and amendments thereto, the court, in addition to any other remedies, may order that a notice pursuant to subsection (a) of K.S.A. 1999 Supp. 74-147 and amendments thereto be served on the licensing body. If the person found guilty of contempt as provided in this subsection is a licensed attorney, the court may file a complaint with the disciplinary administrator if the licensing agency is the Kansas supreme court, or the appropriate bar counsel's office if the licensee practices in another state.

(g) If a person is found guilty of contempt in a child support enforcement proceeding, including an assignment of child support rights to the commissioner of juvenile justice, in an amount equal to or greater than the amount of support payable for six months or the obligor has been ordered by the court to pay a sum certain each month toward the liquidation of the arrearages and the obligor has substantially failed to abide by that order, the court may restrict the obligor's driver's license. Such restriction may include, but not be limited to, driving to, from and during the course of such person's employment. The court may order the public office, as defined in K.S.A. 23-4,106, and amendments thereto, to contact the division of vehicles of the department of revenue to restrict the obligor's driver's license as indicated in the court order until further order of the court.

(h) The court shall not recognize a motion to issue nor order in a civil or criminal action a contempt citation against any person who reports or publishes the information that a gag order has been issued by the court.

History: L. 1978, ch. 114, § 1; L. 1994, ch. 292, § 17; L. 1994, ch. 327, § 1; L. 1996, ch. 229, § 17; L. 1996, ch. 229, § 18; July 1, 1997.

Law Review and Bar Journal References:

"Reform in Kansas Domestic Violence Legislation," David J. Gottlieb and L. Eric Johnson, 31 K.L.R. 527, 557, 564 (1983).

Attorney General's Opinions:

Aid to indigent defendants; recoupment by the state of funds dispersed. 81-174.

CASE ANNOTATIONS

1. Contempt proceedings founded in statute must follow prescribed procedure and be strictly construed against movant. *In re Seelke*, 235 K. 468, 470, 680 P.2d 288 (1984).
2. Contempt proceedings for past-due child support payments not defeated by children reaching adult-hood; absence of affidavit waived by past conduct. *Johnson v. Johnson*, 11 K.A.2d 317, 319, 320, 721 P.2d 290 (1986).
3. Contempt reversed in holding 23-106 permits either parent, noncustodial or custodial, to give consent to minor child's marriage. *Yoder v. Yoder*, 11 K.A.2d 330, 333, 721 P.2d 294 (1986).
4. Statute may be used to enforce payment of past-due court-ordered child support installments after children reach majority. *Crumpacker v. Crumpacker*, 239 K. 183, 718 P.2d 295 (1986).

5. Cited; contempt of court for disposing of subject matter of lawsuit while litigation pending examined. *Edmiston v. First Nat'l Bank of Holcomb*, 242 K. 13, 15, 18, 744 P.2d 829 (1987).
6. Citation for contempt as not a proceeding for keeping a judgment alive (60-2403) examined. *Cyr v. Cyr*, 249 K. 94, 99, 815 P.2d 97 (1991).
7. No contempt proceeding unless motion and affidavit requesting order to appear and show cause filed. *Everett v. Topeka Correctional Facility*, 16 K.A.2d 739, 741, 828 P.2d 949 (1992).
8. Service by certified mail on party allegedly in contempt insufficient to confer jurisdiction; subsequent proceedings also void. *Sramek v. Sramek*, 17 K.A.2d 573, 575, 840 P.2d 553 (1992).
9. Trial court did not err in granting summary judgment on claim of false arrest and imprisonment. *Dozier v. Dozier*, 252 K. 1035, 1037, 1041, 1042, 1043, 850 P.2d 789 (1993).
10. Motion for contempt pursuant to 20-1204a is strictly construed against the movant. *Electronic Realty Assocs., Inc. v. Gomez*, 18 K.A.2d 122, 124, 848 P.2d 458 (1993).

Law Review and Bar Journal References:

"A Kansas Approach to Custodial Parent Move-Away Cases," Steve Leben and Megan Moriarty, 37 W.L.J. 497 (1998).

CASE ANNOTATIONS

11. Actions of attorney who was tardy and absent from scheduled hearings constituted direct contempt. *State v. Jenkins*, 263 K. 351, 357, 364, 950 P.2d 1338 (1997).
12. Instrument, simply acknowledged, setting forth facts constituting alleged contempt insufficient to support indirect contempt order. *Meigs v. Black*, 25 K.A.2d 241, 960 P.2d 770 (1998).