

## 2018 Kansas Statutes

**65-28b08. Same; revocation, suspension, limitation, censure or denial of license; grounds.** (a) The board may deny, revoke, limit or suspend any license or authorization issued to a certified nurse-midwife to engage in the independent practice of midwifery that is issued by the board or applied for under this act, or may publicly censure a licensee or holder of a temporary permit or authorization, if the applicant or licensee is found after a hearing:

- (1) To be guilty of fraud or deceit while engaging in the independent practice of midwifery or in procuring or attempting to procure a license to engage in the independent practice of midwifery;
- (2) to have been found guilty of a felony or to have been found guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120, and amendments thereto, no license or authorization to practice and engage in the independent practice of midwifery shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to its repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 2018 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;
- (3) to have committed an act of professional incompetence as defined in subsection (c);
- (4) to be unable to practice the healing arts with reasonable skill and safety by reason of impairment due to physical or mental illness or condition or use of alcohol, drugs or controlled substances. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery or release to any person or entity outside of a board proceeding. The provisions of this paragraph providing confidentiality of records shall expire on July 1, 2022, unless the legislature reviews and reenacts such provisions pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022;
- (5) to be a person who has been adjudged in need of a guardian or conservator, or both, under the act for obtaining a guardian or conservator, or both, and who has not been restored to capacity under that act;
- (6) to be guilty of unprofessional conduct as defined by rules and regulations of the board;
- (7) to have willfully or repeatedly violated the provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act;
- (8) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to have been publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country, or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph; or
- (9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2018 Supp. 21-5407, and amendments thereto, as established by any of the following:
  - (A) A copy of the record of criminal conviction or plea of guilty to a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2018 Supp. 21-5407, 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. 60-4404, and amendments thereto; or
  - (C) a copy of the record of a judgment assessing damages under K.S.A. 60-4405, and amendments thereto.
- (b) No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state, except the crime of perjury as defined in K.S.A. 2018 Supp. 21-5903, and amendments thereto.
- (c) As used in this section, "professional incompetency" means:
  - (1) One or more instances involving failure to adhere to the applicable standard of 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 care to a degree which constitutes ordinary negligence, as determined by the board; or
  - (3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to engage in the independent practice of midwifery.
- (d) The board, upon request, shall receive from the Kansas bureau of investigation such criminal history record information relating to arrests and criminal convictions, as necessary, for the purpose of determining initial and continuing qualifications of licensees and applicants for licensure by the board.
- (e) The provisions of this section shall become effective on January 1, 2017.

**History:** L. 2016, ch. 92, § 95; July 1.