

LEGAL/CRIMINAL CONVICTIONS

Convictions either **prior to or during the school year** may jeopardize eligibility for licensure. Actions on the matter are at the discretion of the State Board of Nursing. Any student to whom this applies must notify the Program Director as early in the year as possible.

Applicants/students with problems need to have their attorney call Diane Glynn , R.N., JD - Kansas State Board of Nursing at 785-296-8401.

65-1113. Definitions. When used in this act and the act of which this section is amendatory:

- (a) "Board" means the board of nursing.
- (b) "Diagnosis" in the context of nursing practice means that identification of and discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing regimen and shall be construed as distinct from a medical diagnosis.
- (c) "Treatment" means the selection and performance of those therapeutic measures essential to effective execution and management of the nursing regimen, and any prescribed medical regimen.
- (d) Practice of Nursing.
 - (1) The practice of professional nursing as performed by a registered professional nurse for compensation or gratuitously, except as permitted by K.S.A. 65-1124 and amendments thereto, means the process in which substantial specialized knowledge derived from the biological, physical, and behavioral sciences is applied to: the care, diagnosis, treatment, counsel and health teaching of persons who are experiencing changes in the normal health processes or who require assistance in the maintenance of health or the prevention or management of illness, injury or infirmity; administration, supervision or teaching of the process as defined in this section; and the execution of the medical regimen as prescribed by a person licensed to practice medicine and surgery or a person licensed to practice dentistry.
 - (2) The practice of nursing as a licensed practical nurse means the performance for compensation or gratuitously, except as permitted by K.S.A. 65-1124 and any amendments thereto, of tasks and responsibilities defined in part (1) of this subsection (d) which tasks and responsibilities are based on acceptable educational preparation within the framework of supportive and restorative care under the direction of a registered professional nurse, a person licensed to practice medicine and surgery or a person licensed to practice dentistry.
- (e) A "professional nurse" means a person who is licensed to practice professional nursing as defined in part (1) of subsection (d) of this section.
- (f) A "practical nurse" means a person who is licensed to practice practical nursing as defined in part (2) of subsection (d) of this section.
- (g) "Advanced practice registered nurse" or "APRN" means a professional nurse

who holds a license from the board to function as a professional nurse in an advanced role, and this advanced role shall be defined by rules and regulations adopted by the board in accordance with K.S.A. 65-1130, and amendments thereto.

65-1114. Unlawful acts.

- (a) It shall be unlawful for any person:
 - (1) To practice or to offer to practice professional nursing in this state;
 - or
 - (2) to use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is a registered professional nurse;
 - (3) to practice or offer to practice practical nursing in this state;
 - (4) to use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is a licensed practical nurse, unless such person has been duly licensed under the provisions of this act.
- (b) It shall be unlawful for any person:
 - (1) To practice or offer to practice as an advanced practice registered nurse in this state; or
 - (2) to use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is an advance practice registered nurse, unless such person has been duly issued a license as an advanced practice registered nurse under the Kansas nurse practice act.

65-1120. Grounds for disciplinary actions; proceedings; witnesses; costs; professional incompetency defined; criminal justice record information.

- (a) Grounds for disciplinary actions. The board may deny, revoke, limit or suspend any license or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced practice registered nurse or as a registered nurse anesthetist that is issued by the board or applied for under this act or may publicly or privately censure a licensee or holder of a temporary permit or authorization, if the applicant, licensee or holder of a temporary permit or authorization is found after hearing:
- (1) To be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing;
 - (2) to have been guilty of a felony or to have been 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 nursing as a licensed professional nurse, as a licensed practical nurse, as an advanced practice registered nurse or registered nurse anesthetist 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 their repeal, or article 54 chapter 21 of the Kansas Statutes annotated, or K.S.A. 2012 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;
 - (3) to have committed an act of professional incompetency as defined in subsection (e);
 - (4) to be unable to practice with skill and safety due to current abuse of drugs or alcohol;
 - (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, including K.S.A. 65-1114 and 65-1122 and amendments thereto;

(8) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be 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 (8); or

(9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2012 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 for a felony in violation of K.S.A. 21-3406, prior to its repeal or K.S.A. 2012 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. 2012 Supp. 60-4404, and amendments thereto.

(C) A copy of the record of a judgment assessing damages under K.S.A. 2012 Supp. 60-4405, and amendments thereto.

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

(c) Witnesses. 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. 2012 Supp. 21-5903, and amendments thereto.

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

full to the board of nursing fee fund. All moneys collected following board proceedings shall be credited in full to the board of nursing fee fund.

(e) Professional incompetency defined. 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 practice nursing.

(f) Criminal justice information. 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 of and applicants for licensure by the board.

65-1122. Misdemeanors; penalties. It is a violation of law for any person, firm, corporation or association to:

(a) Sell or fraudulently obtain or furnish any nursing diploma, license or record or aid or abet therein;

(b) practice professional nursing, practical nursing or practice as an advanced practice registered nurse, unless duly licensed to do so;

(c) use in connection with such person’s name any designation implying that such person is a licensed professional nurse, a licensed practical nurse or an advanced practice registered nurse unless duly licensed to practice under the provisions of the Kansas nurse practice act, and such license is then in full force;

(d) practice professional nursing, practical nursing or as an advanced practice registered nurse during the time a license issued under the provisions of the Kansas nurse practice act shall have expired or shall have been suspended or revoked;

(e) represent that a school for nursing is approved for educating either professional nurses or practical nurses, unless such school has been duly approved by the board and such approval is then in full force;

(f) violate any provisions of the Kansas nurse practice act or rules and regulations adopted pursuant to that act; or

(g) represent that a provider of continuing nursing education is approved by the board for educating either professional nurses or practical nurses, unless the provider of continuing nursing education has been approved by the board and the approval is in full force.

Any person who violates this section is guilty of a class B misdemeanor, except that, upon conviction of a second or subsequent violation of this section, such person is guilty of a class A misdemeanor.

65-1123. Injunctions. When it appears to the board that any person is violating any of the provisions of this act or that any person, firm, corporation, institution or association is employing (except as permitted under K.S.A. 65-1124 and amendments thereto) a person to perform professional nursing or practical nursing in Kansas, who is not licensed under this act, the board may in its own name bring an action in a court of competent jurisdiction for an injunction against such violation of such employing, and the proper courts of this state may enjoin any person, firm, corporation, institution or association

form violation of this act or such employing without regard to whether proceedings have been or may be instituted.

65-1124. Acts which are not prohibited. No provision of this law shall be construed as prohibiting:

- (a) Gratuitous nursing by friends or members of the family;
- (b) the incidental care of the sick by domestic servants or persons primarily employed as housekeepers;
- (c) caring for the sick in accordance with tenets and practices of any church or religious denomination which teaches reliance upon spiritual means through prayer for healing;
- (d) nursing assistance in the case of an emergency;
- (e) the practice of nursing by students as part of a clinical course offered through a school of professional or practical nursing or program of advance registered professional nursing approved in the United States or its territories.
- (f) the practice of nursing in this state by legally qualified nurses of any of the other states as long as the engagement of any such nurse requires the nurse to accompany and care for a patient temporarily residing in this state during the period of one such engagement not to exceed six months in length, and as long as such nurses do not represent or hold themselves out as nurses licensed to practice in this state:
- (g) the practice by any nurse who is employed by the United States government or any bureau, division or agency thereof, while in the discharge of official duties;
- (h) auxiliary patient care services performed in medical care facilities, adult care homes or elsewhere by persons under the direction of a person licensed to practice medicine and surgery or a person licensed to practice dentistry or the supervision of a registered professional nurse or a licensed practical nurse;
- (i) the administration of medications to residents of adult care homes or to patients in hospital-based long-term care units, including state operated institutions for the mentally retarded, by an unlicensed person who has been certified as having satisfactorily completed a training program in medication administration approved by the secretary of health and environment and has completed the program on continuing education adopted by the secretary, or by an unlicensed person while engaged in and as a part of such training program in medication administration;
- (j) the practice of mental health technology by licensed mental health technicians as authorized under the mental health technicians' licensure act;
- (k) performance in the school setting of nursing procedures when delegated by a licensed professional nurse in accordance with the rules and regulations of the board;
- (l) performance of attendant care services directed by or on behalf of an individual in need of in-home care as the terms "attendant care services" and "individual in need of in-home care" are defined under K.S.A. 65-6201 and amendments thereto;
- (m) performance of a nursing procedure by a person when that procedure is delegated by a licensed nurse, within the reasonable exercise of independent nursing judgment and is performed with reasonable skill and safety by that person under the supervision of a registered professional nurse or a licensed practical nurse;
- (n) the practice of nursing by an applicant for Kansas nurse licensure in

the supervised clinical portion of a refresher course;
 (o) the teaching of the nursing process in this state by legally qualified nurses of any of the other states while in consultation with a licensed Kansas nurse as long as such individuals do not represent or hold themselves out as nurses licensed to practice in this state.

Kansas State Board of Nursing, Kansas Nurse Practice Act, revised April, 2015.

Absolute Bars to Licensure as a Practical or Registered Nurse in Kansas

Felony Crimes Against Persons Chapter 34, Article 21

Sorted Numerically by Kansas Statute Number

Revised 01.10

<u>Reference</u>	<u>Description</u>
21-3401	Murder in the First Degree
21-3401	Murder in the First Degree: Attempt (K.S.A. 21-3301)
21-3401	Murder in the First Degree: Conspiracy (K.S.A. 21-3302)
21-3401	Murder in the First Degree: Solicitation (K.S.A. 21-3303)
21-3402(a)	Murder in the Second Degree (intentional)
21-3402(b)	Murder in the Second Degree (reckless)
21-3403	Voluntary Manslaughter
21-3404	Involuntary Manslaughter
21-3406(a)(1)	Assisting Suicide (force or duress)
21-3406(a)(2)	Assisting Suicide
21-3410	Aggravated Assault
21-3411	Aggravated Assault on Law Enforcement Officer (LEO)
21-3412a	Domestic Battery; third or subsequent conviction within last 5 years (b)(3)
21-3413(a)(2)	Battery against a Correctional Officer
21-3413(a)(3)	Battery Against a Juvenile Correctional Facility Officer
21-3413(a)(4)	Battery Against a Juvenile Detention Facility Officer
21-3413(a)(5)	Battery Against a City/County Correctional Officer/Employee
21-3414(a)(1)(A)	Aggravated Battery – intentional, great bodily harm
21-3414(a)(1)(B)	Aggravated Battery – intentional, bodily harm
21-3414(a)(1)(C)	Aggravated Battery – intentional, physical contact
21-3414(a)(2)(A)	Aggravated Battery- reckless, great bodily harm
21-3414(a)(2)(B)	Aggravated Battery – reckless, bodily harm
21-3415(a)(1)or(3)	Aggravated Battery on LEO – intentional, great bodily harm or with motor vehicle
21-03415(a)(2)	Aggravated Battery on LEO – bodily harm or physical contact; deadly weapon
21-3419(a)(1)	Criminal Threat
21-3419(a)(2)	Criminal threat – (adulterate or contaminate any food, raw agricultural commodity, beverage, drug, animal feed, plant or public water supply)
21-3419a	Aggravated Criminal Threat; < \$500 loss of productivity

21-3419a	Aggravated Criminal Threat; > \$500 but < \$25,000 loss of productivity
21-3419a	Aggravated Criminal Threat; > \$25,000 loss of productivity
21-3420	Kidnapping
21-3421	Aggravated Kidnapping
21-3422(c)(2)	Interference With Parental Custody in all other cases
21-3422(a)(b)	Aggravated Interference with Parental Custody
21-3426	Robbery
21-3427	Aggravated Robbery
21-3428	Blackmail
21-3435(1)(2)or(3)	Exposing Another to a Life Threatening Communicable Disease
21-3437(a)(1)	Mistreatment of a Dependant Adult – physical
21-3437(a)(2)	Mistreatment of a Dependent Adult – aggregate amount \$25,000 or more
21-3437(a)(2)	Mistreatment of a Dependent Adult – aggregate amount at least \$500 but < \$25,000
21-3417(a)(2)	Mistreatment of a Dependent Adult – aggregate amount is < \$500 and committed by a person convicted w/5 years of this crime two or more times
21-3438(a)	Stalking
21-3428(b)	Stalking when the victim has an order pursuant to the protection from stalking act, a Temporary Restraining Order or an Injunction in effect against the offender
21-3438(c)	Stalking when the offender has a previous conviction w/in 7 years for stalking the same victim
21-3439	Capital Murder
21-3440(a)	Injury to a Pregnant Woman in the commission of KSA 21- 3412 (battery), or KSA 21-3413(a)(1) (battery on LEO), or KSA 21-3412a(b)(1) or (b)(2) (domestic battery statute), or KSA 21-3517 (sexual battery)
21-3441(c)(1)	Injury to a Pregnant Woman by Vehicle – committing a violation of 8-1567
21-3442	Involuntary Manslaughter in the Commission of a DUI

Felons: The Kansas State Board of Nursing may deny licensure to persons who have been found guilty of a felon or 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 nursing as a licensed professional nurse, as a licensed practical nurse, as an advanced practice registered nurse or registered nurse anesthetist 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 their repeal, or article 54 chapter 21 of the Kansas Statutes annotated, or K.S.A. 2012 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;