The information contained in these materials and presented today is for information purposes only and should not be considered to be legal advice by the presenters or to be the opinion of the Kansas State Board of Healing Arts. The information is highly summarized. You should consult independent counsel for an application of the law to your particular circumstances.
Who do you supervise? What do you delegate?

Delegation & Supervision Authority:
- Where does it come from?
  - KSA 65-28,127
- What are the consequences for improper delegation & supervision?
  - KSA 65-2837(b)(14)
  - KSA 65-2837(b)(26)
  - KSA 65-2837(b)(30)

Appropriate Delegation Adequate Supervision How you avoid problems

Delegation & Supervision Authority:
- Where does it come from?
  - KSA 65-28,127
- Scope of authority to delegate & supervise
- Requirements & limitations

Appropriate Delegation Adequate Supervision How you avoid problems
KSA 65-28,127: 6 core requirements for physicians

1. Be actively engaged in practice in Kansas
2. Current protocols & collaborative agreements
3. Only delegate to competent & trained person

Delegation & Supervision Authority:
- What are the consequences for improper delegation & supervision?
  KSA 65-2837(b)(14): Aiding or abetting the practice of the healing arts by an unlicensed, incompetent or impaired person.
Delegation & Supervision Authority:
• What are the consequences for improper delegation & supervision?
KSA 65-2837(b)(26): Delegating professional responsibilities to a person when the licensee knows or has reason to know that such person is not qualified by training, experience or licensure to perform them.

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Delegation & Supervision Authority:
• What are the consequences for improper delegation & supervision?
KSA 65-2837(b)(30): Failing to properly supervise, direct or delegate acts which constitute the healing art to persons who perform professional services pursuant to such licensee's direction, supervision, order, referral, delegation or practice protocols.

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• PA vs. APRN
  • Comparison chart of requirements & limitations
  • Statutes and regulations related to PA supervision & delegation
  • Statutes and regulation related to APRN collaborative agreements

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**Issue** | **PA** | **APRN**
---|---|---
Number of supervisees | 3 (5 with Board approval) at a different practice location. K.A.R. 100-28a-17(b)(1) | No limit. No practice location distinction. No criteria for adequate supervision. “Authorization for collaborative practice” contents largely undefined.

Scope of practice | No independent scope unless required to treat an emergency medical condition. K.A.R. 100-28a-6. Activities “delegated by the supervising physician,” K.S.A.65-28a08(a), and must be specified in the “active practice request form” filed with the board. K.A.R. 100-28a-1a(a). | Nursing scope of practice and collaborative agreement (with one or more physicians) K.A.R. 60-11-101(a).


**Issue** | **PA** | **APRN**
---|---|---
Prescribing | Must be “pursuant to a written agreement” as authorized by a supervising physician, K.S.A. 65-28a08(b)(1), and within the “normal and customary practice of the supervising physician.” K.S.A. 65-28a08(b)(2). | Protocol. NP must have written protocol authorized by responsible physician. K.S.A. 65-1130(d) K.A.R. 60-11-104a (requirements)

Nature of supervision | Method of supervision specified by regulation (active practice request form). | None specified outside of KSA 65-28,127

Business of medicine | Can’t own more than 49% of medical practice K.A.R. 100-28a-18. | No limit on % of ownership. May be limited by K.S.A. 17-2707 in the absence of a collaborative agreement.

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**Supervising physician (“SP”) KSA 65-28a02(a)(5):**
A physician who has accepted responsibility for the medical services rendered and actions of the PA while under the direction and supervision of the SP.

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**Appropriate Delegation of Supervision**
*How you avoid problems*
Supervising Physician responsibilities, KAR 100-28a-10
• Engage in the practice of medicine in Kansas
• Verify PA's licensure
• At least annually, review, evaluate, and determine whether PA has provided competent care with reasonable skill and safety
• At least annually, review the active practice request form and make any necessary amendments
• Report any disciplinary action taken against a PA by a state or professional association within 10 days.

Supervising Physician responsibilities, KAR 100-28a-10
• Report termination of responsibility or any conduct that would constitute grounds for discipline within 10 days
• Arrange for a substitute supervising physician to be available any time the SP is not immediately available

Delegation by a Supervising Physician, KAR 100-28a-10
• A SP shall delegate only those act that meet the following conditions:
  • Can be competently performed based upon the PA background, training, capabilities, skill, and experience; and
  • Are within the SP's clinical competence and customary practice.
Evaluation by a Supervising Physician, KAR 100-28a-10

• A SP shall develop and implement a written method for evaluating a PA’s competence.
• During the 1st 30 days of a SP/PA relationship, all healthcare records must be reviewed and authenticated within 7 days.
• After the 1st 30 days of a SP/PA relationship, a periodic written evaluation must occur and maintained at each practice location.

Limitation on number of PAs supervised, KAR 100-28a-17

Physician must use their “professional judgment” to determine the number of PA supervised based on the following factors:
- Ability to meet requirements of K.A.R. 100-28a-10.
- Ability to provide supervision specified in the active practice request form
- The specialty and setting
- The complexity of the patient population
- The clinical experience and competency of each PA.

Limitation on number of PAs supervised at different practice locations, KAR 100-28a-17

• Each SP can only supervise 3 full-time PAs
• Exception for services performed in a “medical care facility” (defined by KSA 65-425)
Different Practice Location, KAR 100-28a-14
• A PA must be directly supervised for 80 hours before providing services at a different practice location.
• A physician must provide care at the different practice location at least once every 30 days.
• The different practice location must be listed in the active practice request form.
• Written notice that the location is staffed primarily by a PA.

Substitute supervising physician ("SSP")
KSA 65-28a09 & KAR 100-28a-12:
A physician designated in the active practice request form by the SP to ensure direction & supervision of the PA
• Functions as back-up supervisor to the SP
• Same duties & responsibilities as the SP
• No statutory or regulatory limit on how many SSPs can be back-up for a single PA

PA scope of practice
KSA 65-28a08 & KAR 100-28a-13
• Practice in a “dependent role”
• May only perform what is delegated & supervised by the SP
• May practice only in a setting authorized by the SP
• May prescribe drugs pursuant to a written protocol with the SP that is filed with KSBHA
• Must be identified to patients & others as the PA for SP
PA scope of practice

KAR 100-28a-6:
PaScope of practice practice medicine & surgery in accordance with the Active Practice Request Form from which has been filed with the Board. See: http://www.ksbha.org/documents/misc/physician_assis_act_pract_req.pdf

OR if.....(con’t)

PA scope of practice

KAR 100-28a-6:
Or if directly ordered, authorized or coordinated by SP or SSP.
1. The SP or SSP is immediately or physically present;
2. Through telecommunication from the SP or SSP.
3. If required to treat an emergency medical condition

PA duty to communicate

KAR 100-28a-11:
PA has a duty to communicate with SP or SSP if:
- a patient needs treatment the PA hasn’t been authorized to perform
- treatment exceeds the PA’s competence
- after an emergency medical condition the PA was not authorized to perform.
PA direction & supervision

KSA 65-28a02(a)(2)
- Includes guidance, direction & coordination of the PA’s activities
  - Does not require immediate physical presence of physician
  - Can be written or verbal
  - Can be immediate or by prior arrangement

PA prescribing authority

KAR 100-28a-13:
- PA may prescribe prescription – only drugs if authorized by the active practice agreement entered with SP & filed with Board, or if an emergency situation exists.
- A PA may administer drugs if authorized by the agreement, if directly ordered/authorized by SP or SSP, or if an emergency situation exists.

PA prescribing authority

KAR 100-28a-13 – PA prescribing limitations:
- Cannot exceed the quantity or strength that is the normal & customary practice of the SP
- May prescribe controlled substances (if authorized)
- Specific written prescription contents required
- May supply prescription – only drugs to patients under specific conditions
Dispensing by a PA
K.S.A. 65-28a08

A PA may dispense prescription only drugs:
 In accordance with KSBHA rules and regs
 In the best interests of the patients and pharmacy services are not readily available.
 In quantities that do not exceed what’s necessary for a 72-hour supply.

PA ownership of medical practice:
KAR 100-28a-18:
• PA cannot own more than 49%

APRN scope of practice
KAR 60-11-101(a), KAR 60-11-104
• Provides for a dual scope of practice
• Independent decisions about advanced practice nursing
• Medical decisions based on authorization for collaborative practice with physician(s)
APRN authorization for collaborative practice
KAR 60-11-101(b):
• An APRN is authorized to develop & manage the medical plan of care for patients or clients based upon an agreement developed jointly & signed by the APRN & one or more physicians

APRN authorization for collaborative practice
KAR 60-11-101(b):
• Collaborative agreement must be jointly reviewed annually by APRN & physician(s)
• Collaborative agreement must include a cover page with their names, phone numbers, signatures & dates of review

APRN authorization for collaborative practice
KAR 60-11-101(b):
• Collaborative agreement can be maintained in either hard copy or electronic format
• Collaborative agreement must be maintained at the APRN’s principle place of practice
Roles of APRNs
KAR 60-11-102:
- Clinical nurse specialist, scope K.A.R. 100-60-107
- Nurse anesthetist, scope K.A.R. 100-60-106
- Nurse – midwife, scope K.A.R. 100-60-105
- Nurse practitioner, scope K.A.R. 100-60-104

Adequate Supervision
Appropriate Delegation
How you avoid problems

Nurse Practitioner functions:
KAR 60-11-104:
- Health promotion & maintenance, disease prevention, and independent nursing diagnosis & treatment of acute & chronic disease
- Develop & manage medical plan of care based on authorization for collaborative practice
- Provide health care services

Adequate Supervision
Appropriate Delegation
How you avoid problems

APRN prescribing authority:
KSA 65-1130(d), KAR 60-11-104a
- May prescribe drugs pursuant to a written protocol authorized by a responsible physician licensed to practice medicine and surgery.
- May not dispense drugs, but can distribute samples pursuant to protocol
- Protocol requirements are more specific than the generality of the collaborative practice agreement, and also more specific than required for PAs.

Adequate Supervision
Appropriate Delegation
How you avoid problems
APRN prescribing authority:
KSA 65-1130:
• Can prescribe controlled substances if the APRN has a DEA number & notifies the Board of Nursing of the name & address of the RP
• Scope of prescribing cannot exceed normal & customary practice of RP

APRN drug protocols:
KAR 60-11-104a
• A written protocol is required for prescribing, administering, or supplying prescription-only drugs
• Must specify each classification of disease or injury & the corresponding class of drugs the APRN is permitted to prescribe
• Maintained in a book of published protocols

APRN drug protocols:
KAR 60-11-104a
• Cover page must have names, phone numbers & signatures of APRN & RP, date adopted or last reviewed
• Must be kept at APRN’s principal place of practice
• Must be reviewed by APRN & RP annually
APRN prescription order requirements:
KAR 60-11-104a (c)
• Name, address, & phone number of practice location of APRN
• Name, address, & phone number of RP
• Signed by the APRN with the letters “A.P.R.N.”

Who can supervise who:
• Chiropractor can’t delegate to or supervise a PA or APRN
• PAs can’t supervise/collaborate with APRNs
• Unlicensed professional can’t “practice under” another professional’s license
Supervision by a Podiatrist.

- Delegation to a PA or APRN must be by a physician who is a “person licensed to practice medicine and surgery.” K.S.A. 65-28a02(3); K.S.A. 65-1113(d)(1); K.A.R. 60-11-101(c).
- AG Opinion No. 80-217
  - Podiatry is the practice of the healing art, may delegate to nurse.
- AG Opinion No. 94-148
  - A podiatrist is a physician limited to the practice of podiatry.

Best Practices for Success:

- Know and follow the requirements for the profession you are delegating to/supervising
- Be aware of your responsibilities under K.S.A. 65-28,127 and ensure you are in compliance with them
- Don’t overextend yourself by supervising too many persons

Best Practices for Success (cont.):

- Be clear in documenting and verbalizing the practice authority you are delegating
- If delegating broad practice authority in a written document, make sure to include any specific limitations
- Be cautious about using boilerplate and one-size-fits-all protocols and agreements
- Don’t allow written protocols and agreements to become outdated
- Have frequent communication with those you delegate authority to or supervise
Questions?

Appropriate Delegation
Adequate Supervision
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