

**To:** Senate Federal and State Affairs  
Senator Ostmeyer, Chair

**From:** Kathleen Selzler Lippert, Executive Director  
Kansas State Board of Healing Arts

**Date:** March 13, 2013

**Subject:** SB 10

Neutral testimony – creating government subsidy

The Kansas Board of Healing Arts (KSBHA) appreciates the opportunity to provide neutral testimony on SB 10. The KSBHA presently licenses and regulates 14 health care professions. The mission of the KSBHA is to safeguard the public and strengthen the healing arts – public protection. Public protection encompasses several critical components, including ensuring the character and competence of an applicant before granting licensure and remediating or disciplining licensees who violate their practice act.

SB 10 eliminates the ability for state agencies to charge staff time required to respond to open record requests.

As a public agency we strive to be responsive to open record requests, fulfill our mission of public protection and transparency. KSBHA is a fee funded agency which means that all operational expenses are paid for by the licensing fees paid by licensees. The legislature has consistently encouraged state agencies to operate like private sector business – efficient and effective. Generally speaking, private sector businesses charge for time and materials. SB 10 would prohibit KSBHA from charging for costs associated with open record requests. Thus, open record requests from the media, plaintiff attorneys, or others would be subsidized by licensee fees – creating a government subsidy.

KSBHA is required by many state and federal laws to hold the medical records and other documents held by this agency confidential. The costs of an open records request is NOT just locating and copying requested records. A substantial amount of staff time is dedicated to reviewing all records and redacting information that is confidential pursuant to statute. Attached is a copy of some of the state and federal statutes that prohibit release of confidential information.

We are available to respond to any questions. Thank you for your consideration.

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# Kansas Board of Healing Arts

## Confidential Information Statute Chart

Category	Statute
Attorney-Client privilege	KSA 60-426
Attorney work product	KSA 45-221(a)(25)
Complaints to the Kansas Board of Healing Arts	KSA 65-2839a(d) KSA 65-2898a (allow release of ss#??)
Criminal history	KSA 65-2839a(4) KSA 22-4707
Drug and Alcohol Treatment	42 CFR Part II
Drug screen information	KSA 65-2836(i)
Grades	KSA 45-221(a)(9)
Impaired providers	7- KSA 65-4924 65-4925
Investigative Information	KSA 65-2839a(d) 65-2898
Kansas Department of Health and Environment, Data Collection	KSA 65-1,113(a)
Kansas Department of Health and Environment, Healthcare Data	KSA 65-6801 et.seq.
Medical malpractice insurance settlements, Petitions & Closed Claim Reports	KSA 65-2839a(d) KSA 40-3421(c)
Medical Records	KSA 45-221(a) (?)
National Practitioner Databank	42 USC Section 11101 42 CFR Part 60
Patient names	KSA 65-2839a(e)
Patient records	KSA 65-2839a(d)
Peer review / Risk management	KSA 65-4922(g) KSA 65-2839a(d) KSA 65-4915 KSA 65-4925(a)
Pharmacy Act records	KSA 65-1626(dd)(6) KSA 65-1654
Physician-Patient privilege	KSA 60-427
Psychiatric Hospital Records	KSA 65-5602
Psychologist-Patient privilege	KSA 74-5323
Privacy Act for federal records	5 USC Section 552a
Records or information related for a complaint	KSA 65-2839a
Release is an invasion of privacy	KSA 45-221(a)(30)
Release is prohibited by other state or federal law	KSA 45-221(a)(1)
Social Worker-Patient privilege	KSA 65-6315
Social Security numbers	5 USC Section 552a Section 7 of Pub.L. 93-579
Transcripts from school (Buckley Amendment)	20 USC Section 1232g
Reports, records & proceedings confidential & privileged – Executive or Review Committee	65-4925