

KANSAS STATE BOARD OF HEALING ARTS and KANSAS BOARD OF PHARMACY
JOINT STATEMENT REGARDING INTRAVENOUS THERAPY

The Kansas State Board of Healing Arts and the Kansas State Board of Pharmacy have received complaints about the inappropriate provision of IV (intravenous) therapy at IV hydration clinics, medical spas, and other locations. These complaints have alleged such activities as out-of-scope practice, delegation of medical treatments to unqualified individuals, unauthorized compounding and administration of prescription medications and other drugs, and the unlicensed practice of the healing arts and pharmacy. This is NOT a legal document binding on the boards who author the document; nor is it legal advice. It is designed as a warning so that providers contemplating IV therapy and individuals seeking IV therapy are aware of potential pitfalls involved in these undertakings. The facts and circumstances of an individual situation will govern the outcome.

At its core, the IV therapy retail business model involves the offering to patients of a menu of pre-selected mixtures (“cocktails”) of additives to basic IV fluid such as saline. The cocktails may include but are not limited to amino acids, vitamins, minerals, and some prescription drugs. They are sometimes marketed with catchy names and may be offered to patients for the treatment of conditions such as dehydration, migraines, hangovers, nausea, athletic recovery, appetite regulation, and inflammation support. These cocktails are then administered intravenously.

Intravenous Administration of Any Drug Constitutes the Practice of the Healing Arts

In Kansas, the practice of healing arts includes “any system, treatment, operation, diagnosis, prescription or practice for the ascertainment, cure, relief, palliation, adjustment or correction of any human disease, ailment, deformity, injury, alteration or enhancement of a condition or appearance”. K.S.A. 65-2802(a). “The practice of medicine and surgery includes “persons who prescribe, recommend or furnish medicine or drugs, or perform any surgical operation of whatever nature by the use of any surgical instrument, procedure, equipment or mechanical device or the diagnosis, cure or relief of any wounds, fractures, bodily injury, infirmity, disease, physical or mental illness or psychological disorder, of human beings”. K.S.A. 65-2869(b).

Offering and providing IV therapy indisputably constitutes the practice of healing arts. Only a person with prescriptive authority may diagnose a patient, assess the patient’s symptoms, and make the decision to provide medication, by injection or otherwise, to a patient.

The person with prescriptive authority must personally evaluate the patient, diagnose the patient, and make the treatment recommendations. The person with prescriptive authority must further create a comprehensive medical record that complies with the standard of care. If the person with prescriptive authority decides to prescribe or order IV therapy, they must first issue a prescription or order for medication.

The Kansas Nurse Practice Act and associated regulations closely regulate “intravenous fluid therapy”. Those persons with prescriptive authority supervising nurses engaged in IV Hydration Therapy are responsible for familiarizing themselves with applicable requirements.

Only those with prescriptive authority may administer IV products. Medical assistants, cosmetologists, estheticians, or unlicensed individuals are prohibited from administering IV products and may not do so even with a medical director on-site.

The person with prescriptive authority must establish a direct relationship with the patient. Therefore, having the person with prescriptive authority “on staff” or “available” is not sufficient.

Some facilities have a list of non-patient-specific “standing orders” issued by the IV clinic medical director. “Standing orders” issued in this manner are not valid prescriptions because they do not arise from a prescriber-patient relationship adequate to establish diagnoses and identify underlying conditions or contraindications to the treatment.

A patient may not self-prescribe IV products by choosing an IV “cocktail” from a menu formulated or written by the IV clinic medical director or the person with prescriptive authority. The participation of the patient in the selection of the IV additives does not change the analysis. Prescriber involvement cannot be obviated by letting the patient direct their own care, and the person with prescriptive authority is abandoning their obligations to the patient by allowing the patient to select their own medications.

Mixing IV Fluids with Other Additives Constitutes the Compounding of Drugs

All IV fluids, including plain IV saline, are prescription drugs. When a drug is mixed with additives, such as vitamins or minerals, the result is a compounded drug. It is illegal for anyone to administer a prescription drug, including a compounded drug, without a valid prescription. Only physicians and pharmacists are authorized under the law to compound drugs. PAs, APRNs, RNs, LPNs, cosmetologists, estheticians, and unlicensed persons are legally prohibited from mixing additives with IV saline. RNs may compound only under the direct supervision and orders from a physician. Pharmacy technicians may compound only under the direct supervision of a pharmacist in a pharmacy. This is true even if an authorized prescriber has appropriately prescribed the compounded IV medication.

Consequences

The unlicensed practice of healing arts, or pharmacy, is illegal in Kansas. Even the licensed practice of healing arts, or pharmacy that falls below the standard of care, results in violation of federal or state law, or is outside the licensee’s scope of practice may be considered illegal or unprofessional conduct and may result in legal action. This may include non-public or public discipline such as fines, license suspension or ultimately revocation.

Moreover, such laws governing the practice of healing arts, or pharmacy are designed to protect the health and safety of the public. Failure to abide by the requirements outlined in this advisory opinion may result in serious injury or harm to a patient.