

65-2838a. Non-disciplinary resolution; procedure. (a) The board or a committee of the board, as a non-disciplinary resolution, may enter into a written agreement with a licensee, registrant, permit holder or certificate holder for a professional development plan, make written recommendations to the person or issue a written letter of concern to the person if the board or committee of the board determines that the person:

- (1) Seeks to establish continued competency for renewal other than through continued education requirements established pursuant to the applicable practice act;
 - (2) has been absent from clinical practice for an extended period of time and seeks to resume clinical practice;
 - (3) has failed to adhere to the applicable standard of care but not to a degree constituting professional incompetence, as defined by the applicable practice act; or
 - (4) has engaged in an act or practice that, if continued, would reasonably be expected to result in future violations of the applicable practice act.
- (b) Notwithstanding any other provision of law, a meeting of the board or a committee of the board, for the purpose of discussing or adopting a non-disciplinary resolution authorized by this section shall not be subject to the Kansas administrative procedures act, K.S.A. 77-501 et seq., and amendments thereto, and shall not be subject to the Kansas open meetings act as provided in K.S.A. 75-4317 et seq., and amendments thereto. A non-disciplinary resolution authorized by this section shall not be deemed disciplinary action or other order or adjudication. No failure to adhere to the applicable standard of care or violation of the Kansas healing arts act may be implied by the adoption of a non-disciplinary resolution.
- (c) A non-disciplinary resolution authorized by this section shall be confidential in the manner provided by K.S.A. 65-2898a, and amendments thereto, and shall not be admissible in any civil, criminal or administrative action, except that such resolution shall be admissible in any disciplinary proceeding by the board.
- (d) This section shall be part of and supplemental to the Kansas healing arts act.

History: L. 2008, ch. 154, § 1; L. 2014, ch. 131, § 13; July 1, 2015.