Kansas State Board of Healing Arts	
Policy Title: Testimony of Witnesses with Oversight of KSBHA.	**Policy Number:** 20-01
Author: General Counsel	**Effective Date:** August 9, 2019
Date Authored: July 26, 2019	**Last Modified:**----
Responsible for Updates: General Counsel upon Board authorization.	**Pending Executive Director Approval:** Yes No

Purpose:

The purpose of this policy is to establish a guideline in the KSBHA's administrative cases regarding the testimony of witnesses who have oversight authority over the KSBHA. This policy establishes a rebuttable presumption that a conflict of interest exists when a witness who holds oversight authority over the KSBHA offers opinion testimony *for or against* a Licensee/Applicant in a KSBHA administrative case.

Authority:

K.S.A. 77-523; K.S.A. 77-524; K.S.A. 60-456; See generally, *Kansas Gas and Elec. Co v. State Corp. Com'n of State of Kan.*, 14 Kan.App.2d 527, 537, 794 P.2d 1165, 1173 (1990) (the admission of expert testimony is within the sound discretion of administrative agency in administrative hearings).

Policy:

A conflict of interest is presumed when a legislator or other government official who holds oversight authority (whether individually or as a member of a body that exercises oversight authority) over the KSBHA is offered as a witness by the Applicant/Licensee or by the KSBHA disciplinary panel to provide expert or character testimony, or any other testimony in the form of an opinion in a Board administrative case. The presumed conflict of interest can be rebutted by a showing of clear and convincing evidence that, in fact, no such conflict of interest exists under the circumstances of the case. This policy does not apply to witnesses offered exclusively as fact witnesses to the extent that the witness's testimony is limited to factual testimony based on personal knowledge of such facts.

Approved by the Kansas State Board of Healing Arts on August 9, 2019.

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Kathleen Selzler Lippert, Executive Director

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