

Proposed

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Board of Cosmetology

Sam Brownback, Governor

**State of Kansas
Board of Cosmetology**

Notice of Hearing on Proposed Administrative Regulations

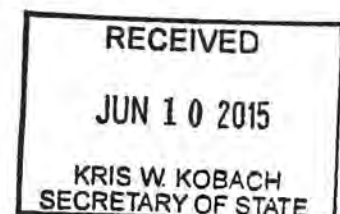
June 18, 2015

A public hearing will be conducted by the Kansas Board of Cosmetology at 1:00 p.m. on Tuesday August 25, 2015, in the Kansas Board of Cosmetology Conference Room, 714 S.W. Jackson, Suite 100, Topeka, Kansas to consider amendment to the fees charged for cosmetology profession and body art profession written and practical examinations and the removal of body art mobile facilities as a type of establishment licensed by the Board. Copies of the proposed regulations may be found at www.kboc.ks.gov.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written comments from the public on the proposed regulations. All interested parties may submit written public comments on the proposed regulations prior to the hearing to Laurel Lowrie, Legal Assistant, Board of Cosmetology, 714 S.W. Jackson, Suite 100, Topeka, Kansas 66603 or by email to laurel.lowrie@kboc.ks.gov.

All interested parties will be given a reasonable opportunity to present their views, either orally or in writing or both, concerning the adoption of the proposed regulations. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Laurel Lowrie at (785) 296-4414 or the Kansas Relay Center at 1-800-766-3777. Handicapped parking is located directly outside the east entrance to the building, and on the southwest corner of Eighth and Jackson. The east entrance to the building is accessible.



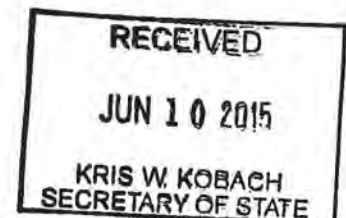
These regulations are proposed for adoption on a permanent basis. A summary of the proposed regulations and the economic impacts follows:

K.A.R. 69-11-1 – Fees. Amendments to this regulation would increase the fee for examination for cosmetologist, esthetician, nail technician and electrologist apprentices. Apprentices are required to take both a written examination and a practical examination. The amendment increases the fee for examination from \$50.00 to \$75.00. The Board anticipates an economic impact on apprentices of an additional \$25.00 to take each examination.

K.A.R. 69-15-1 – Definitions. Amendments to this regulation would remove the definition of “mobile facility” as well as all the reference to “mobile facility” contained in the definition of “establishments” in K.A.R. 69-15-1(h). This change is not anticipated to have an economic impact.

K.A.R. 69-15-14 – Cosmetic tattoo, tattoo, ^{and} body piercing establishment licensing and renewal. This regulation is amended to eliminate mobile facilities as a type of establishment licensed by the Board. This change is not anticipated to have an economic impact.

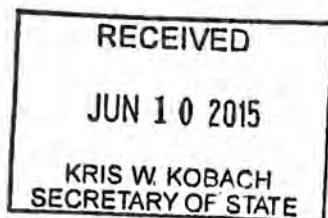
K.A.R. 69-15-30 – Fees. This regulation is amended to increase the examination fees for tattoo artist, cosmetic tattoo artist and body piercer apprentices. The regulation is amended to increase the fee for the written examination from \$25.00 to \$75.00 and the fee for the practical examination from \$60.00 to \$75.00. The Board anticipates an economic impact on apprentices of an additional \$50.00 to take the written examination and an additional \$15.00 to take the practical examination.



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K.A.R. 69-11-1. Fees. The following fees shall be charged:

Cosmetologist examination fee	\$50.00 <u>\$75.00</u>
Cosmetologist license application fee	45.00
Cosmetologist license renewal fee	45.00
Delinquent cosmetologist renewal fee	25.00
Cosmetology technician license renewal fee	45.00
Delinquent cosmetology technician renewal fee	25.00
Electrologist examination fee	50.00 <u>75.00</u>
Electrologist license application fee	45.00
Electrologist license renewal fee	45.00
Delinquent electrologist renewal fee	25.00
Manicurist examination fee	50.00 <u>75.00</u>
Manicurist license application fee	45.00
Manicurist license renewal fee	45.00
Delinquent manicurist renewal fee	25.00
Esthetician examination fee	50.00 <u>75.00</u>
Esthetician license application fee	45.00
Esthetician license renewal fee	45.00
Delinquent esthetician renewal fee	25.00
Instructor-in-training permit fee	15.00
Instructor examination fee	75.00



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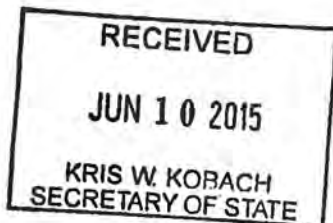
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Instructor license application fee	75.00
Instructor license renewal fee	50.00
Delinquent instructor renewal fee	25.00
Any apprentice license application fee	15.00
New school license application fee	150.00
School license renewal fee	75.00
Delinquent school license fee	30.00
New salon or clinic application fee	50.00
Salon or clinic renewal fee	50.00
Delinquent salon or clinic renewal fee	30.00
Reciprocity application fee	50.00
Verification of licensure fee	20.00
Fee for any duplicate license	25.00
Temporary permit fee	15.00

(Authorized by K.S.A. ~~2012~~ 2014 Supp. 65-1904 and K.S.A. 74-2702a; implementing K.S.A. ~~2012~~ 2014 Supp. 65-1904; effective, E-76-44, Sept. 5, 1975; effective Feb. 15, 1977; amended May 1, 1978; amended May 1, 1981; amended May 1, 1982; amended, T-83-21, July 21, 1982; amended May 1, 1983; amended May 1, 1984; amended, T-88-60, Dec. 28, 1987; amended May 1, 1988; amended Jan. 1, 1993; amended Dec. 13, 1993; amended March 22, 1996; amended Nov. 6, 1998; amended April 3, 2009; amended Feb. 14, 2014; amended P-_____.)



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K.A.R. 69-15-1. Definitions. Each of the following terms, as used in this article, shall have the meaning specified in this regulation:

(a) "Antiseptic" means a chemical germicide used on skin and tissue to stop or inhibit the growth of bacteria.

(b) "Clean" means washed with soap or detergent to remove all soil and dirt.

(c) "Closed-book" means without aid from or availability of written material, including materials stored or accessed on an electronic device.

(d) "Completed procedure" means, for the purposes of determining qualification for licensure, a tattoo or piercing that has been finished, including any touchups or additional work following initial healing, with the client released from service.

(e) "Conch," when used to describe an ear piercing, means the piercing of the concha, which is the deep, bowl-shaped central shell of the ear.

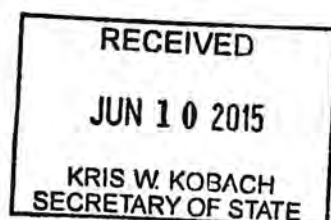
(f) "Disinfectant" means an agent used on inanimate surfaces that is intended to destroy or irreversibly inactivate specific viruses, bacteria, or pathogenic fungi.

(g) "Enclosed storage area" means a separate room, closet, cupboard, or cabinet.

(h) "Establishment" means tattoo establishment, body piercing establishment, or cosmetic tattooing establishment, ~~or mobile facility~~.

(i) "Equivalent" means comparable but not identical, and covering the same subject matter.

(j) "Gross incompetence" means a demonstrated lack of ability, knowledge, or fitness to effectively or safely perform services for which one is licensed.



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(k) "Infectious or contagious disease" means any disease that is diagnosed by a licensed health care professional as being contagious or transmissible, as designated in K.A.R. 28-1-2, and that could be transmitted during the performance of cosmetic tattooing, tattooing, or body piercing. Blood-borne diseases, including acquired immune deficiency syndrome or any causative agent thereof, hepatitis B, hepatitis C, and any other disease not transmitted by casual contact, shall not constitute infectious or contagious diseases for the purpose of this article.

(l) "Instruments" means needles, probes, forceps, hemostats, or tweezers.

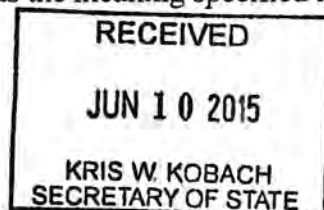
(m) "Labret," when used to describe a piercing, means the piercing of the lips or the area immediately around the lips.

(n) "Linens" means cloths or towels used for draping or protecting a table or similar functions.

(o) "Lower labret," when used to describe a piercing, means the piercing of the lower lip or the area immediately around the lower lip.

(p) ~~"Mobile facility" means a self-contained, enclosed transportable unit that has the following:~~

- ~~(1) A handwashing sink that has hot and cold running water;~~
 - ~~(2) a self-contained water tank with a capacity of at least 100 gallons and a supply of potable water;~~
 - ~~(3) a self-contained holding tank with a capacity of at least 100 gallons or twice the capacity of the supply tank, whichever is larger; and~~
 - ~~(4) at least one self-contained, recirculating, flush chemical toilet with a holding tank.~~
- (q) "Needle" has the meaning specified in K.S.A. 65-1940, and amendments thereto.



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(~~+~~) (q) "Needle bar" means the metal device used to attach the needle to a tattoo machine.

(~~s~~) (r) "Official transcript" means a document certified by a school accredited by the Kansas board of regents or equivalent regulatory institution in another state or jurisdiction, indicating the hours and types of coursework, examinations, and scores that were completed by a student.

(~~t~~) (s) "Piercing gun" means a hand-held tool manufactured exclusively for piercing the earlobe, into which studs and clutches are placed and inserted into the earlobe by a hand-squeezed or spring-loaded action to create a permanent hole. The tool shall be made of plastic, stainless steel, or a disposable material.

(~~u~~) (t) "Place or places of business" means each name, mailing address, and location, not a post office box, where the licensee or applicant for license performs services.

(~~v~~) (u) "Protective gloves" means gloves made of nitrile or latex.

(~~w~~) (v) "Public view" means open to view and easy for the public to see.

(~~x~~) (w) "Repigmentation" means any of the following:

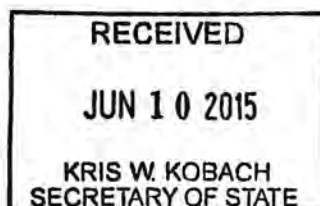
(1) Recoloration of the skin as a result of any of the following:

(A) Dermabrasion, chemical peels, removal or resolution of birthmarks, vitiligo, or other skin conditions that result in the loss of melanin to the skin;

(B) scars resulting from surgical procedures, including face-lifts, mole or wart removal, or cauterization; or

(C) burn grafts and other skin irregularities resulting from burns or photo damage;

(2) recreation of an areola or nipple, following mastectomy; or



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(3) use of cheek blush or other blending of pigments into skin in order to camouflage blotchy or irregularly pigmented skin.

(~~+~~) (x) “Rook,” when used to describe an ear piercing, means the piercing of the upper portion of the antihelix.

(~~z~~) (y) “Sanitization” means effective bactericidal treatment by a process that reduces the bacterial count, including pathogens, to a safe level on equipment.

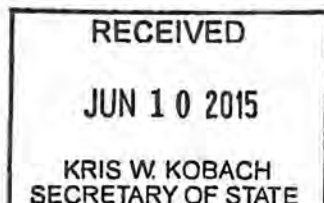
(~~aa~~) (z) “Sharps” means any object that can penetrate the skin, including needles, scalpel blades, lancets, glass tubes that could be broken during handling, razors, and syringes that have been removed from their original, sterile containers.

(~~bb~~) (aa) “Sharps container” means a puncture-resistant, leakproof container that can be closed for handling, storage, transportation, and disposal. The container shall be red and shall be labeled with the “biohazard” symbol.

(~~ee~~) (bb) “Single-use,” when used to describe products or items, means that the products or items, including cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze, and sanitary coverings, are disposed of after each use.

(~~dd~~) (cc) “Snug,” when used to describe an ear piercing, means the horizontal piercing of the vertical portion of the antihelix.

(~~ee~~) (dd) “Sterilization” means destruction of all forms of microbiotic life, including spores.



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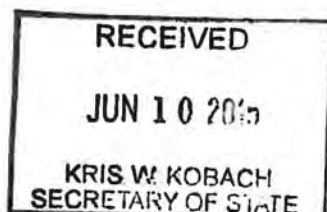
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(ff) (ee) "Universal precautions" means a method of infection control approved by the United States centers for disease control and prevention (CDC), in which all human blood and certain bodily fluids are handled as if the blood and bodily fluids were known to be infected with a blood-borne pathogen. (Authorized by K.S.A. ~~2012~~ 2014 Supp. 65-1946 and K.S.A. 74-2702a; implementing K.S.A. ~~2012~~ 2014 Supp. 65-1946 and 65-1949; effective Aug. 22, 1997; amended June 6, 2014; amended P-_____.)



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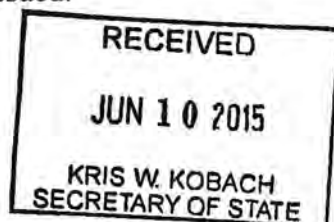
K.A.R. 69-15-14. Cosmetic tattoo, tattoo, and body piercing establishment licensing and renewal. (a) Each applicant for an establishment license shall meet the following requirements before opening the establishment for business:

- (1) Apply on a form approved by the board and pay the nonrefundable establishment license fee;
- (2) comply with all applicable regulations of the board;
- (3) certify that the application information is correct; and
- (4) provide a map or directions for locating the establishment, if the establishment is in a rural or an isolated area.

~~(b) Each applicant for an establishment license for a mobile facility shall meet the following requirements before opening the mobile facility for business:~~

- ~~(1) Apply on a form approved by the board and pay the nonrefundable mobile facility license fee;~~
- ~~(2) comply with all applicable regulations of the board;~~
- ~~(3) certify that the application information is correct;~~
- ~~(4) provide the board with a permanent address for locating and inspecting the mobile facility; and~~
- ~~(5) agree to provide the board with an updated address, map, or directions for locating the mobile facility at least five business days before operating at a location other than the permanent address.~~

(e) Each establishment license shall expire one year from the last day of the month in which the license was issued.



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~~(d)~~ (c) Each establishment license holder shall be responsible for the cleanliness and sanitation of any common area of separately licensed establishments on the premises. Each violation found in the common area shall be cited against all establishment licenses issued and posted on the premises.

~~(e)~~ (d) Each establishment license holder shall meet the following requirements:

(1) Allow a board inspector to inspect the establishment when it is open for business;

(2) not impede the normal progress of the inspection; and

(3) prevent employees from impeding the normal progress of the inspection.

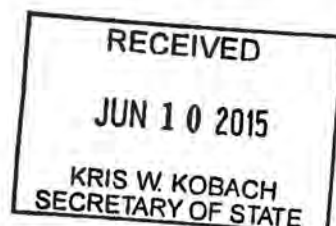
~~(f)~~ (e) Establishment licenses shall not be transferable to a new location.

~~(g)~~ (f) The ownership of establishment licenses shall not be transferred. A partial change in the ownership of any establishment license may be allowed if at least one original owner remains.

~~(h)~~ (g) Each establishment licensee shall notify the board in writing and surrender the establishment license within 10 days of closure of the establishment.

~~(i)~~ (h)(1) Each applicant wanting to renew the establishment license shall submit an application and the establishment renewal fee before the expiration date of the current establishment license.

(2) Any establishment licensee may renew the establishment license within 60 days after the expiration date of the prior establishment license upon submission of an application and payment of the establishment renewal fee and the delinquent establishment fee. (Authorized by K.S.A. 74-2702a; implementing K.S.A. ~~2012~~ 2014 Supp. 65-1944, 65-1948, and 65-1950; effective Aug. 22, 1997; amended Feb. 14, 2014; amended P-_____.)



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K.A.R. 69-15-30. Fees. The following fees shall be charged:

Examination fees

Examination application	\$50.00	
Written examination	25.00	<u>75.00</u>
Practical examination	60.00	<u>75.00</u>

Practitioner fees

Apprentice license	15.00
Initial license application	50.00
License renewal	50.00
Trainer license	15.00
Delinquent license	25.00
Renewal application	100.00
Duplicate license	25.00


Establishment license fees

Establishment license application	50.00
Establishment license renewal	50.00
Mobile facility license application	100.00
Mobile facility license renewal	100.00
Delinquent establishment	30.00
Duplicate license	25.00

(Authorized by K.S.A. ~~2012~~ 2014 Supp. 65-1950 and K.S.A. 74-2702a; implementing K.S.A.

~~2012~~ 2014 Supp. 65-1943 and 65-1950; effective Aug. 22, 1997; amended June 6, 2014;

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**KANSAS BOARD OF COSMETOLOGY
ECONOMIC IMPACT STATEMENT
K.A.R. 69-11-1**

I. Summary of Proposed Regulation, Including Its Purpose.

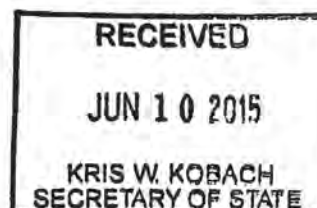
K.A.R. 69-11-1, as amended, increases the fee for examination for cosmetologist, esthetician, nail technician and electrologist apprentices. Apprentices are required to take both a written examination and a practical examination. The amendment increases the fee for each examination from \$50.00 to \$75.00.

II. Reason(s) the Proposed Regulation is Required, Including Whether or Not the Regulation is Mandated by Federal Law.

The proposed regulation is required in order to cover the administrative costs associated with administering the examinations.

The Board contracts with an examination company, Ergometrics, to administer the practical and written examinations. In addition, to operating three testing locations in the State, Ergometrics provides the Board and schools with a database that tracks all cosmetology profession apprentice hours and test results. The option of three testing locations and the availability of a database are improvements that were not available prior to the contract with Ergometrics. The examination fee is the only fee paid to Ergometrics for administration of the examination program and database. The examination fee has not increased in the past 17 years and was last increased in 1998 from \$25.00 to \$50.00.

Ergometrics also administers examinations for the states of Virginia and Washington. In Virginia, the fee for the written and practical examination is \$85.00 for each exam. In Washington, the fee for the written examination is \$60.00 and the fee for the practical examination is \$120.00.



In the neighboring state of Missouri, Professional Credential Services administers examinations for the Missouri Division of Professional Registration. The fee for the written examination is \$90.00 and the fee for the practical examination is \$60.00.

This regulation is not mandated by federal law, and, therefore, the regulation does not exceed the requirements of federal law.

III. Anticipated Economic Impact upon the Kansas Board of Cosmetology.

The Board contracts with an examination company, Ergometrics, to administer the practical and written examinations and all fees for examination are paid directly to Ergometrics. The Board does not anticipate an economic impact on the Board.

IV. Anticipated Economic Impact upon Other Governmental Agencies.

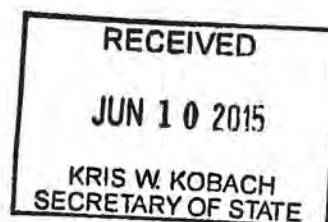
The Board does not anticipate economic impact on other governmental agencies.

V. Anticipated Economic Impact upon Private Businesses, Individuals, and Consumers.

The Board anticipates an economic impact on apprentices of an additional \$25.00 to take each examination.

VI. Less Costly or Intrusive Methods That Were Considered, but Rejected, and the Reason for Rejection.

The Board does not find any less costly or intrusive methods.



**KANSAS BOARD OF COSMETOLOGY
ECONOMIC IMPACT STATEMENT
K.A.R. 69-15-1, K.A.R. 69-15-14 and K.A.R. 69-15-30**

I. Summary of Proposed Regulation, Including Its Purpose.

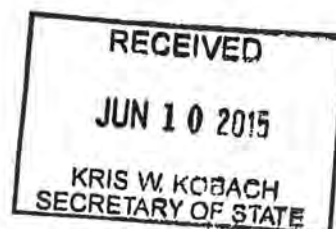
These regulations are part of a set that removes mobile facilities as a type of establishment licensed by the Kansas Board of Cosmetology. In addition, K.A.R. 69-15-30 amends the fee charged for the written and practical examination for tattoo artist, cosmetic tattoo artist and body piercer apprentices.

Mobile Facilities - K.A.R. 69-15-1, as amended, removes the definition of “mobile facility” as well as the reference to “mobile facility” contained in the definition of “establishments” in K.A.R. 69-15-1(h).

K.A.R. 69-15-14, as amended, eliminates mobile facilities as a type of establishment licensed by the Board. This regulation was inadvertently filed by the Board at the time several other regulations were filed for final publication on January 13, 2014. The Board agreed with the Joint Committee on Administrative Rules and Regulations that the addition of mobile facilities to the type of establishments that could be licensed by the Board was a major regulatory change¹ that should be preceded by a statutory change.

K.A.R. 69-15-30, as amended, removes the fee for a mobile facility license application and mobile facility license renewal.

Examination Fees - K.A.R. 69-15-30, as amended, increases the fee for the written examination from \$25.00 to \$75.00 and the fee for the practical examination from \$60.00 to \$75.00. Apprentices are required to take both examinations.



II. Reason(s) the Proposed Regulation is Required, Including Whether or Not the Regulation is Mandated by Federal Law.

Mobile Facilities - The regulation is required to make clear the Board is not currently authorized to license this type of establishment

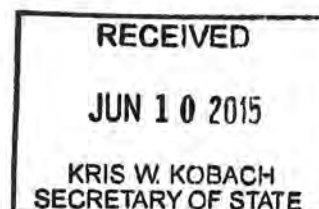
Examination Fees – The proposed regulation is required in order to cover the administrative costs associated with administering the practical and written examinations.

The Board contracts with an examination company, Ergometrics, to administer the practical and written examinations. In addition, to operating three testing locations in the State, Ergometrics provides the Board and trainers with a database that tracks all body art profession apprentice hours and test results. The option of three testing locations and the availability of a database are improvements that were not available prior to the contract with Ergometrics. The examination fee is the only fee paid to Ergometrics for administration of the examination program and database. The examination fees have never been raised and have been in effect for the past 18 years.

Ergometrics also administers body art examinations for the State of Virginia. In Virginia, the fee for the written and practical examination is \$85.00 for each exam.

In the neighboring state of Oklahoma, only a written examination is administered. The fee for the examination is \$200.00.

These regulations are not mandated by federal law, and, therefore, the regulation does not exceed the requirements of federal law.



III. Anticipated Economic Impact upon the Kansas Board of Cosmetology.

Mobile Facilities - Currently, there are no mobile facilities licensed by the Board and the Board does not anticipate an economic impact on the Board.

Examination Fees – The Board contracts with an examination company, Ergometrics, to administer the practical and written examinations and all fees for examination are paid directly to Ergometrics. The Board does not anticipate an economic impact on the Board.

IV. Anticipated Economic Impact upon Other Governmental Agencies.

The Board does not anticipate an economic impact on other governmental agencies.

V. Anticipated Economic Impact upon Private Businesses, Individuals, and Consumers.

Mobile Facilities - The Board does not anticipate an economic impact on private businesses, individuals or consumers.

Examination Fees - The Board anticipates an economic impact on apprentices of an additional \$50.00 to take the written examination and an additional \$15.00 to take the practical examination.

VI. Less Costly or Intrusive Methods That Were Considered, but Rejected, and the Reason for Rejection.

The Board does not find any less costly or intrusive methods.

