

**Board of Examiners in
Fitting and Dispensing of Hearing Instruments**

**Notice of Hearing on Proposed
Administrative Regulations**

A public hearing will be conducted at 3:30 p.m. Tuesday, August 20, 2019 at 909 N. Pearl, Paola, KS to consider the adoption of proposed rules and regulations of the Kansas Board of Examiners in Fitting and Dispensing of Hearing Instruments.

This 60-day notice of public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to Board of Examiners in Fitting and Dispensing of Hearing Instruments, P.O. Box 464, Paola, KS 66064 or zack.miller@ks.gov. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. 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 should be made at least five working days in advance of the hearing by contacting Zack Miller at (913) 594-4142.

These regulations are proposed for adoption on a permanent basis. A summary of proposed regulations and their economic impact follows.

K.A.R. 67-1-8 Potentially disqualifying civil and criminal records; advisory opinion; fee.

This new regulation helps with the safety of consumers by limiting licenses issued for applicants with certain civil and criminal records.

The economic impact will be insignificant.

K.A.R. 67-2-4 Examinations. This amended regulation requires examinees to take and pass the written examination prior to sitting for the practical exam. It explains the scoring for the written and practical examinations as well as the application process for the written and practical examinations.

The economic impact will benefit the board and examinees by decreasing the number of examinees that fail the practical exam, thus limiting the number of retakes.

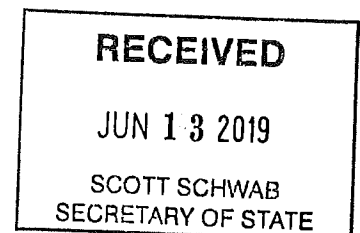
K.A.R. 67-5-5 Fees. This amended regulation combines all board fees and, through revisions to fees and implementation of new fees, will generate an increase in the board's operating income in order to maintain adequate funds for operation.

The proposed regulation is not mandated by federal law.

There will be no cost to the agency proposing the regulation. There should be no economic impact to other governmental agencies or units or to the general public or consumers of hearing instruments or hearing instrument services. All licensees will see a decrease of \$25 in the annual renewal fee. Fees will remain lower than surrounding states.

Copies of the regulations and the economic impact statement may be obtained by contacting the Board of Examiners in Fitting and Dispensing of Hearing Instruments.

Zack Miller, Au.D., CCC-A
Executive Officer



67-1-8. Potentially disqualifying civil and criminal records; advisory opinion; fee. (a) Any of the following criminal records may disqualify an applicant from receiving a license:

(1) Conviction of any felony related to the fitting and dispensing of hearing instruments;

(2) conviction of any class A misdemeanor that includes any of the following:

(A) A crime whose victim was a client, customer, or other individual with whom the applicant had a professional or fiduciary relationship;

(B) a crime that occurred at the applicant's work site or while the applicant was on work duty;

(C) a crime involving fraud, theft, or misappropriation of another person's money or property;

(D) a crime classified as a sex offense or requiring registration as a sex offender by the jurisdiction in which the conviction occurred;

(E) a crime involving assault or battery as defined by the jurisdiction in which the conviction occurred;

(F) a crime involving the unlawful use, possession, or distribution of drugs; or

(G) a crime involving the abuse, neglect, or exploitation of a child, elderly person, or disabled person as defined by the jurisdiction in which the conviction occurred; or

(3) conviction of any other misdemeanor that meets both of the following conditions:

(A) The crime involved at least one of the circumstances described in paragraph (a)(2);

and

(B)(i) Fewer than five years have passed since the applicant completed that individual's sentence, including any term of incarceration, probation, or community supervision; or

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(ii) the applicant has been convicted of another crime in the five years immediately preceding the date of application for license.

(b) Civil records that may disqualify an applicant from receiving a license shall be records of any court judgment or settlement in which the applicant admitted or was found to have engaged in conduct that would constitute a violation of the hearing instrument act or any of the board's regulations. Those records shall not be used to disqualify an applicant for more than five years after the applicant satisfied any judgment or restitution ordered by the court or agreed to in the settlement.

(c) Any individual with a criminal or civil record described in this regulation may submit a petition to the board for an informal, advisory opinion concerning whether the individual's civil or criminal record may disqualify the individual from licensure. Each petition shall include the following:

(1) The details of the individual's civil or criminal record, including a copy of the court records or the settlement agreement;

(2) an explanation of the circumstances that resulted in the civil or criminal record; and

(3) a check or money order in the amount of \$50.00. (Authorized by K.S.A. 74-120 and 74-5806; implementing K.S.A. 74-120 and 74-5818; effective P-_____.)

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67-2-4. **Examinations.** (a) Each applicant shall be required to take an examination that includes both written and practical demonstrations of technical proficiency. Each applicant shall be required to take and pass the written examination before taking the practical examination. The passing score on the practical examination shall be at least 75 percent for each individual section. The written examination shall be graded by the international hearing society, subject to approval by the board.

(b) After the board has approved the applicant's passing score on the written examination, the applicant shall be notified by letter of the date, time, and location of the practical examination. If the board receives proof of an applicant's passing score on the written examination from the international hearing society fewer than 30 days before the next scheduled practical examination and determines that the examination site can accommodate an additional examinee, the applicant may be permitted to take that practical examination. The applicant shall be notified by letter of the results of the practical examination within 30 days from the date of that examination.

~~(c) For an applicant to be scheduled for the practical examination, the application shall be received by the board at least 30 days before the next scheduled practical examination. Each application received fewer than 30 days before the next practical examination shall be processed according to the board's standard procedures, and, if the application is approved, seating for the practical examination shall be provided if available. The applicant shall be notified regarding scheduling of the written examination upon approval of the submitted application. (Authorized by K.S.A. 2015 Supp. 74-5806; implementing K.S.A. 2015 Supp. 74-5806, 74-5812; effective May 1, 1982; amended May 1, 1984; amended March 6, 1995; amended May 12, 2000; amended Feb. 17, 2017; amended P_____.)~~

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67-5-5. Fees. The following fees shall be collected by the board:

(a)(1) License application	\$100
(2) Licensure verification, for each state	\$ 15
(b)(1) Temporary license	\$100
(2) Temporary license renewal	\$100
(3) Change of supervisor	\$ 15
(c)(1) License	\$100
(2) License or certificate of endorsement renewal	\$125 <u>\$100</u>
(3) License or certificate of endorsement late renewal	\$200
(4) License or certificate of endorsement reinstatement	\$300
(5) Inactive license or renewal of inactive license	\$ 25
(6) Conversion of inactive license to active license	\$100
(d)(1) Written examination	\$ 35
(2) Practical examination, each section	\$ 25
(e) Replacement of license or certificate	\$ 15
(f) Insufficient funds check	\$ 25

(Authorized by and implementing K.S.A. 2015 Supp. 74-5810a; effective May 25, 2007;

amended Feb. 17, 2017; amended P-_____.)

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**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Board of Ex. In Fitting and Dispensing of Hearing Instruments Dr. Zack Miller, Au.D.
Agency Agency Contact

913-594-4142
Contact Phone Number

67-5-5; 67-1-8; 67-2-4
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to: Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

K.A.R. 67-5-5 will reduce annual license renewal fees by \$25 to a total of \$100. The renewal fee was previously raised in 2017 to help fund the construction of the agency website. That is now completed and the fee can be reduced.

K.A.R. 67-1-8 is being proposed in order to comply with K.S.A. 2018 Supp. 74-120(b) and (c), which became effective on July 1, 2018.

K.A.R. 67-2-4 will require applicants to pass the written exam before sitting for the practical examinations. The goal is to reduce the number of fails for the practical examinations which would save the board and the applicants time and funds.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

None of the proposed regulations are mandated by the federal government. All of the contiguous states license fitters and dispensers of hearing instruments; the specific testing required and fees associated with licensure vary. No contiguous state requires its hearing instrument board to adopt a regulation such as that required by K.S.A. 2018 Supp. 74-120.

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

There would not appear to be any restrictions to business activities and growth with these proposed amendments to the rules and regulations.

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- B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;**

K.A.R. 67-5-5 has a fiscal effect, and that effect is to *lower* fees by \$25. The only fiscal effect with K.A.R. 67-2-4 may be a decrease in the number of applicants who pay to take the practical examinations at \$25 per exam because they failed to first pass the written examination. However, the Board is not able to predict how many future applicants will fall into either of those categories. The Board estimates that it will receive approximately 35 original applications for licensure each fiscal year, so any fiscal effect to the Board or to applicants will be minimal.

- C. Businesses that would be directly affected by the proposed rule and regulation;**

Businesses that hire new audiologists or hearing instrument specialists.

- D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;**

The businesses mentioned above would benefit from the proposed rules and regulations in several ways. One way the businesses would save is if they cover the license costs of their employees due to the reduced renewal fees. Another benefit is the ability to check on potential employees' criminal background prior to becoming licensed to dispense hearing instruments. The cost of the rules and regulations is minimal while also potentially saving the business time and money by potentially reducing the number of times the practical exam is failed.

- E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;**

These proposed rules and regulations changes are saving businesses and/or licensees directly by reducing the cost of annual license renewal fees.

- F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.**

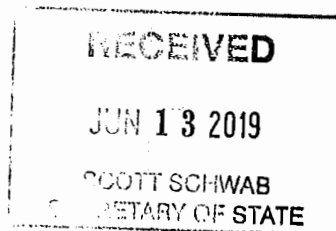
\$0

An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$0

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES NO



Give a detailed statement of the data and methodology used in estimating the above cost estimate.

The only regulation that has a dollar figure involved is K.A.R. 67-5-5, which *reduces* fees.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES NO

- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.**

The proposed regulations have zero effect on the revenues of the above mentioned entities.

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).**

Information was solicited from local Kansas associations, including the Kansas Speech-Hearing-Language Association and the Kansas Hearing Society. None of those organizations indicated that they would be affected by the proposed regulations.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).**

N/A

