

**STATE OF KANSAS  
BOARD OF HEALING ARTS**

**Notice of Public Hearing on Proposed Administrative Regulations**

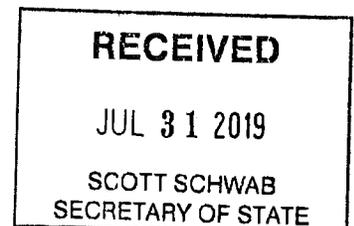
A public hearing will be conducted on Wednesday, October 16, 2019, at 9:30 a.m. in the board room at the Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level – Suite A, Topeka, Kansas, to consider amended regulations related to the practice by physical therapists.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the regulations. All interested parties may submit comments prior to the hearing to Tucker Poling, General Counsel, at the Board of Healing Arts at the address above, or via e-mail to [KSBHA\\_HealingArts@ks.gov](mailto:KSBHA_HealingArts@ks.gov). All interested parties will be given a reasonable opportunity to present their views, orally or in writing, concerning the amended regulations during the public hearing. In order to provide all parties with an opportunity to present their views, it may be necessary to request each participant limit any oral presentations to five minutes.

Copies of the amended regulations and the Economic Impact Statement for the amended regulations may be obtained from the Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level – Suite A, Topeka, Kansas 66612, on the agency website at <http://www.ksbha.org/publicinformation/publicinformation.shtml>, by contacting Jenne Cook at (785) 296-2482, or by e-mailing the agency at [KSBHA\\_HealingArts@ks.gov](mailto:KSBHA_HealingArts@ks.gov).

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the amended regulations being considered and the economic impact statement 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 Sheila Rice at (785) 296-8558 or at [Sheila.Rice@ks.gov](mailto:Sheila.Rice@ks.gov). Individuals with hearing and/or speech disabilities may contact the Kansas Relay Center at 800-766-3777 for communication accommodations. Handicapped parking is located on 8<sup>th</sup> Street and in the building's parking garage. From the street, both the west entrance to the building on Jackson Street and the north entrance on 8<sup>th</sup> Street are accessible.

A summary of the amended regulations and the economic impact follows:

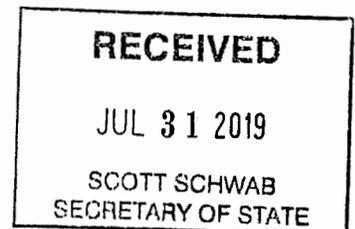


**K.A.R. 100-29-4. Examination**

K.A.R. 100-29-4 is revised to set a limit on the number of examination attempts permitted by a physical therapist (PT) or physical therapist assistant (PTA) applicant, and to remove the remediation requirement after three failed examination attempts. Additionally, it includes minor stylistic revisions. There is no economic impact.

**K.A.R. 100-29-9. License and certificate renewal; continuing education**

K.A.R. 100-29-9 is revised to add the Kansas Jurisprudence Assessment Module (JAM) as a component of the bi-annual continuing education requirement for PTs and PTAs. Additionally, it includes minor structural and stylistic revisions. There is no economic impact.



**K.A.R. 100-29-4. Examination.** (a) The examination required and approved by the board for licensure as a physical therapist shall be the physical therapist examination developed by the federation of state boards of physical therapy (FSBPT).

(b) The examination required and approved by the board for certification as a physical therapist assistant shall be the physical therapist assistant examination developed by the ~~federation of state boards of physical therapy~~ FSBPT.

(c) ~~To pass the examination for licensure or certification, each physical therapist and physical therapist assistant shall attain a criterion-referenced sealed score of at least 600 on a scale ranging from 200 to 800. Each applicant shall be required to successfully complete the applicable examination required by this regulation within six attempts.~~

(d) ~~Each applicant who fails to pass the examination after three attempts shall submit evidence of completion of additional education approved by the board before being allowed to take the examination an additional time. (Authorized by K.S.A. 2005 Supp. 65-2911; implementing K.S.A. 2005 Supp. 65-2906; effective March 21, 1997; amended July 14, 2006; amended P-\_\_\_\_\_.)~~

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**K.A.R. 100-29-9. License and certificate renewal; continuing education.** (a)(1)(A) As a condition of renewal for each odd-numbered year, each licensed physical therapist or certified physical therapist assistant shall submit, in addition to the annual application for renewal of licensure or certification, evidence of satisfactory completion within the preceding two-year period of at least 40 contact hours of continuing education for a licensed physical therapist and at least 20 contact hours of continuing education for a certified physical therapist assistant. As a component of the required contact hours, each licensed physical therapist shall be required to successfully complete the physical therapy jurisprudence assessment module specified in paragraph (f)(15) during each continuing education cycle.

(B) Evidence of satisfactory completion of a program of continuing education shall not be required to be submitted with the application for renewal of licensure or certification in even-numbered years.

(2) A contact hour shall consist of 60 minutes of activity pertaining to the practice of physical therapy.

(3) Meals and breaks shall not be included in the contact hour calculation.

(b) Any applicant for renewal who cannot meet the requirements of paragraph (a)(1)(A) may request an extension from the board to submit evidence of continuing education. The request shall include a plan for completion of the continuing education requirements within the requested extension period. An extension of up to six months may be granted by the board for a substantiated medical condition, natural disaster, death of a spouse or an immediate family member, or any other compelling reason that in the judgment of the board renders the licensee incapable of meeting the requirements of paragraph (a)(1)(A).

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(c) A physical therapist initially licensed or physical therapist assistant initially certified within one year of a renewal date in an odd-numbered year shall not be required to submit evidence of satisfactory completion of a program of continuing education required by paragraph (a)(1)(A) for that first renewal period. Each physical therapist or physical therapist assistant initially licensed or certified or whose license or certificate has been reinstated for more than one year but less than two years from a renewal date in an odd-numbered year shall be required to submit evidence of satisfactory completion of at least half of the contact hours of continuing education required by paragraph (a)(1)(A).

(d) All continuing education activities shall be related to the practice of physical therapy.

(e) All continuing education activities shall pertain to any of the following:

(1) Clinical skills;

(2) administration and management techniques;

(3) educational principles when providing service to patients, families, health professionals, health professional students, or the community;

(4) research projects with peer-reviewed, published results;

(5) legislative issues involving the profession;

(6) health care and the health care delivery system;

(7) documentation, reimbursement, cost-effectiveness, and regulatory compliance; and or

(8) problem solving, critical thinking, and ethics.

(f) The following shall qualify as continuing education activities:

(1) Lecture. "Lecture" shall mean a live discourse for the purpose of instruction given before an audience. One contact hour shall be awarded for each hour of instruction.

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(2) Panel. "Panel" shall mean the presentation of multiple views by several professional individuals on a given subject, with none of the views considered a final solution. ~~One contact hour shall be awarded for each hour of panel presentation.~~

(3) Workshop. "Workshop" shall mean a series of meetings designed for intensive study, work, or discussion in a specific field of interest. ~~One contact hour shall be awarded for each hour of workshop meeting.~~

(4) Seminar. "Seminar" shall mean directed advanced study or discussion in a specific field of interest. ~~One contact hour shall be awarded for each hour of seminar.~~

(5) Symposium. "Symposium" shall mean a conference of more than a single session organized for the purpose of discussing a specific subject from various viewpoints and by various speakers. ~~One contact hour shall be awarded for each hour of symposium.~~

(6) In-service training. "In-service training" shall mean an educational presentation given to employees during the course of employment that pertains solely to the enhancement of physical therapy skills in the evaluation, assessment, or treatment of patients. ~~One contact hour shall be awarded for each hour of in-service training.~~

(7) College or university courses. "College or university course" shall mean a course at the college or university level directly related to the practice of physical therapy. Ten contact hours shall be given for each semester credit hour for which the student received a grade of at least C or its equivalent or a "pass" in a pass/fail course that is documented in an official transcript.

(8) Administrative training. "Administrative training" shall mean a presentation that enhances the knowledge of a physical therapist or physical therapist assistant on the topic of

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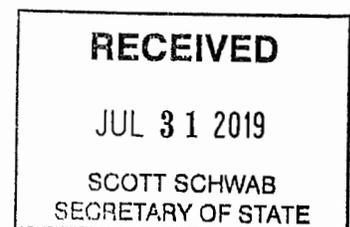
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quality assurance, risk management, reimbursement, hospital and statutory requirements, or claim procedures. ~~One contact hour shall be awarded for each hour of administrative training.~~

(9) Self-instruction. "Self-instruction" shall mean the following:

(A) Reading professional literature directly related to the practice of physical therapy. A maximum of two contact hours shall be awarded for reading professional literature;

(B) completion of a ~~home study~~, correspondence, audio, video, or internet course for which a printed verification of successful completion is provided by the person or organization offering the course. ~~One contact hour shall be awarded for each hour of coursework for each completed course.~~ A maximum of 10 contact hours shall be awarded for each course; and

(C) passage of a specialty certification examination approved by the board. Forty contact hours shall be awarded for passage of a specialty certification examination.

(10) Professional publications. Contact hours for writing a professional publication shall be allotted as follows:

- (A) Original paper
  - single author 20
  - senior author 15
  - coauthor 8

- (B) Review paper or case report
  - single author 15
  - coauthor 8

(C) Abstract or book review 8

(D) Publication of a book 20

(11) Physical therapy residency or fellowship program. "Physical therapy residency or

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fellowship program” shall mean a post-professional program that is directly related to the practice of physical therapy and requires at least 1,000 combined hours of instruction and clinical practice for completion. Forty contact hours shall be awarded for successful completion of a physical therapy residency or fellowship program.

(12) Elected delegate. “Elected delegate” shall mean an elected delegate in a national assembly of delegates with the objective to create policy related to the practice of physical therapy. Ten contact hours shall be awarded for serving one term as an elected delegate.

(13) Supervision of a student. “Supervision of a student” shall mean clinical instruction and evaluation of a physical therapist student or physical therapist assistant student in a clinical setting. One contact hour shall be awarded for each documented 40 hours of providing supervision of a student. A maximum of three contact hours shall be awarded in each two-year continuing education period.

(14) Continuing education program presentation. “Continuing education program presentation” shall mean the preparation and presentation of a continuing education program that meets the requirements of subsection (e). Three contact hours shall be awarded for each hour spent presenting.

(15) Physical therapy jurisprudence ~~examination~~ assessment module. “Physical therapy jurisprudence ~~examination~~ assessment module” shall mean the ~~board physical therapy jurisprudence examination~~ Kansas jurisprudence examination developed by the board and the FSBPT and administered by the FSBPT. One contact hour shall be awarded for successful completion of the physical therapy jurisprudence assessment module ~~examination with a score of at least 88 percent correct.~~

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(g) No contact hours shall be awarded for any ~~repeated~~ continuing education activity ~~on the same topic that is repeated within a two-year continuing education period~~ the applicable continuing education period specified in subsection (a) or (b).

(h) To provide evidence of satisfactory completion of continuing education activities, each licensed physical therapist and each certified physical therapist assistant shall submit the following to the board:

- (1) Documented evidence of any attendance at or successful completion of continuing education activities;
- (2) personal verification of any self-instruction from reading professional literature; and
- (3) one copy of any peer-reviewed professional publication. (Authorized by K.S.A. 2015 Supp. 65-2910 and 65-2911; implementing K.S.A. 2015 Supp. 65-2910; effective March 21, 1997; amended Nov. 14, 2003; amended May 26, 2006; amended May 13, 2016; amended P-\_\_\_\_\_.)

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*Kansas Board of Healing Arts  
Tucker Poling, General Counsel  
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**Kansas Administrative Regulations  
Economic Impact Statement  
For the Kansas Division of the Budget**

**K.A.R. 100-29-4, K.A.R. 100-29-9  
(Physical Therapy Regulations)**

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 the Division of the Budget.

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

K.A.R. 100-29-4 is revised to set a limit on the number of examination attempts permitted by a physical therapist (PT) or physical therapist assistant (PTA) applicant, and to remove the remediation requirement after three failed examination attempts. Additionally, it includes minor stylistic revisions.

K.A.R. 100-29-9 is revised to add the Kansas Jurisprudence Assessment Module (JAM) as a component of the bi-annual continuing education requirement for PTs and PTAs. Additionally, it includes minor structural and stylistic revisions.

**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)**

Not mandated by the federal government.

**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;**

A qualified economist would be required to provide an expert opinion of the extent the regulations would impact economic growth. In the lay opinion of agency staff, the regulations slightly enhance business activities because, as discussed below, applicants will be licensed faster and will be more competent, thereby providing more value to the businesses that employ them.

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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;**

The agency does not employ an economist. In the lay opinion of the agency staff there will be slightly enhanced economic effect because, as discussed thoroughly below, applicants will be licensed faster so they will enter the workplace sooner, and the small cost of the JAM passed on to licensee will be offset by more competent licensees who are disciplined less frequently, thereby saving cost to the licensee and saving cost to the employer otherwise impacted by a licensee facing discipline.

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

No businesses have been identified that would be directly affected by the proposed rule and regulation. However, businesses that employ these licensees may be indirectly affected.

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

Revisions to KAR 100-29-4 will result in more competent PTs and PTAs by preventing licensure of the small number of individuals who require more than six examination attempts. Additionally, the revisions will allow implementation of the alternate approval pathway, which changes how initial license applications are processed, and will result in less staff time reviewing applications and faster licensing. This benefits the agency because less work is required and benefits of the applicant and their employer because they will enter the workplace quicker.

Revisions to KAR 100-29-9 will make licensees more knowledgeable of the Kansas legal requirements which, as the legal requirements seek to protect the public, will improve patient safety. Knowledge of the legal requirements will also potentially help licensees avoid discipline which will reduce licensee costs, benefit the public by keeping licensees in practice, benefit the employer otherwise impacted by a disciplined licensee, and save the agency staff time associated with licensees who violate provisions of the PT practice act. The costs of the regulation to the agency are minimal and will include development costs of the JAM in the form of staff time. Costs to PTs and PTAs include the \$48 fee charged by the Federation of States Physical Therapy Boards for the administration of the JAM; this cost is potentially offset for the reasons discussed herein.

- 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;**

There are staff time costs associated with promulgating these regulations and developing the JAM questions. As described above, there are also expected cost savings associated with the proposed regulations.

- 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.**

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The agency is not aware of any annual implementation costs to businesses or local governments as a result of K.A.R. 100-29-4. Applicants may experience a cost savings if they are motivated to pass the required examination in fewer attempts. Additionally, by this means and the expedited licensure discussed above, applicants and licensees will benefit by being licensed faster.

The agency is not aware of any annual implementation costs to businesses or local governments as a result of K.A.R. Licensees will pay \$48 bi-annually for the JAM. This cost is offset by the continuing education hours the JAM will replace. Licensee's who avoid discipline will ultimately save money as will any businesses that might be impacted by a licensee who avoids discipline as a result of better knowledge of KS legal requirements.

These estimates are based on lay rational.

**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.**

The total implementation costs are limited to the staff time associated with promulgating these regulations and developing the JAM. These costs will not impact businesses, local governments, or members of the public.

These estimates are based on lay rational.

**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.**

Lay rationale as described herein. The agency does not employ an economist.

**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.**

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The agency does not believe this revision will meaningfully impact the revenue of cities or school districts.

- 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).**

The agency developed this regulation with the assistance of the physical therapy advisory council which is composed of licensees, business owners, and educators. These regulations were developed during open meetings of the physical therapy advisory council appropriately noticed and open to all potential stakeholders in the physical therapy profession. The Kansas Physical Therapy Association was consulted in the development of these regulations and supports the revisions.

- 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).**

This is not an environmental regulation.

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