

**STATE OF KANSAS
BOARD OF HEALING ARTS**

Notice of Public Hearing on Proposed Administrative Regulations

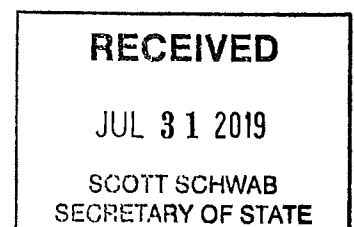
A public hearing will be conducted on Wednesday, October 16, 2019, at 10:30 a.m. in the board room at the Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level – Suite A, Topeka, Kansas, to consider amended regulations related to the practice by athletic trainers.

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. 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.

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. 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 8th 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 8th Street are accessible.

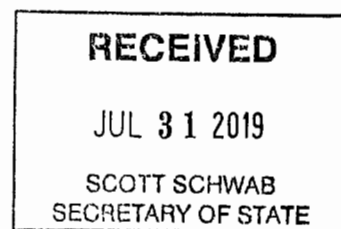
A summary of the amended regulations and the economic impact follows:



K.A.R. 100-69-7. Unprofessional conduct; definitions

K.A.R. 100-69-10. License renewal; continuing education

The purpose of these regulation amendments is to update the definition of “unprofessional conduct” for athletic trainers, to clarify what is and is not considered legitimate continuing education for athletic trainers, to amend continuing education definitions to fit modern professional standards, and to amend the CPR certification requirement to include courses approved by additional nationally recognized bodies. There is no economic impact.



100-69-7. Unprofessional conduct; ~~definition~~ definitions. (a) "Unprofessional conduct" means shall mean any of the following:

~~(a) engaging in conduct resulting in a denial, revocation, suspension, or limitation of an athletic trainer license, registration, or certification by the proper regulatory authority of another state, a territory, the District of Columbia, or another country;~~

~~(b) failing to furnish to the board, its investigators, or its representatives any information legally requested by the board;~~

~~(c) surrendering a license, registration, or certification to practice as an athletic trainer in another state while under investigation for acts or conduct that would constitute grounds for any of the following under K.S.A. 65-6911 and amendments thereto:~~

~~(1) Denial;~~

~~(2) suspension;~~

~~(3) limitation;~~

~~(4) reprimand; or~~

~~(5) revocation;~~

~~(d) — providing services as an athletic trainer without the consent of at least one of the following:~~

~~(1) The person on whom the services were performed;~~

~~(2) a person licensed by the board to practice the healing arts; or~~

~~(3) the legal representative of the person on whom the services were performed;~~

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~~(e) providing services as an athletic trainer without practice protocols or contrary to the practice protocols filed with the board;~~

~~(f) practicing as an athletic trainer with a suspended license or in violation of any limitation placed on the license by the board; or~~

~~(g) engaging in athletic training without reasonable skill and safety by reason of illness or any mental or physical condition.~~

(1) Soliciting patients through the use of false advertisements or profiting by the acts of those representing themselves to be agents of the licensee;

(2) representing to a patient that a manifestly incurable disease, condition, or injury can be permanently cured;

(3) assisting in the care or treatment of a patient without the consent of the patient or the patient's legal representative;

(4) using any letters, words, or terms as an affix on stationery or in advertisements or otherwise indicating that the person is entitled to practice any profession regulated by the board or any other state licensing board or agency for which the person is not licensed;

(5) willful betrayal of confidential information;

(6) advertising professional superiority or the performance of professional services in a superior manner;

(7) advertising to guarantee any professional service or to perform any professional service painlessly;

(8) engaging in conduct related to the practice of athletic training that is likely to deceive, defraud, or harm the public;

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(9) making a false or misleading statement regarding the licensee's skill or the efficacy or value of the treatment or remedy prescribed by the licensee or at the licensee's direction;

(10) commission of any act of sexual abuse, misconduct, or other improper sexual contact that exploits the licensee-patient relationship, with a patient or a person responsible for health care decisions concerning the patient;

(11) using any false, fraudulent, or deceptive statement in any document connected with the practice of athletic training, including the intentional falsifying or fraudulent altering of a patient record;

(12) obtaining any fee by fraud, deceit, or misrepresentation;

(13) failing to transfer a patient's records to another licensee when requested to do so by the patient or by the patient's legally designated representative;

(14) performing any unnecessary tests, examinations, or services that have no legitimate purpose;

(15) charging an excessive fee for services rendered;

(16) repeated failure to engage in the practice of athletic training with that level of care, skill, and treatment that is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances;

(17) failure to keep written medical records that accurately describe the services rendered to each patient, including patient histories, pertinent findings, examination results, and test results;

(18) providing services as an athletic trainer without practice protocols or contrary to the practice protocols filed with the board;

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(19) practicing athletic training while the licensee's ability to practice with reasonable skill and safety to patients is impaired by reason of physical or mental illness or the use of alcohol, drugs, or controlled substances;

(20) committing fraud or misrepresentation in applying for or securing an original, renewal, or reinstated license;

(21) willfully or repeatedly violating the healing arts act, any implementing regulations, or any regulations of the board or the secretary of health and environment that govern the practice of athletic training;

(22) unlawfully practicing any profession regulated by the board in which the licensed athletic trainer is not licensed to practice;

(23) failing to report or reveal the knowledge required to be reported or revealed pursuant to K.S.A. 65-7621, and amendments thereto;

(24) failing to furnish the board, or its investigators or representatives, any information legally requested by the board;

(25) incurring any sanction or disciplinary action by a peer review committee, a governmental agency or department, or a professional association or society for conduct that could constitute grounds for disciplinary action under the act or this article of the board's regulations;

(26) knowingly submitting any misleading, deceptive, untrue, or fraudulent representation on a claim form, bill, or statement;

(27) giving a worthless check or stopping payment on a debit or credit card for fees or moneys legally due to the board;

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(28) knowingly or negligently abandoning medical records;

(29) engaging in conduct that violates patient trust and exploits the licensee-patient relationship for personal gain; or

(30) obstructing a board investigation, including engaging in one or more of the following acts:

(A) Falsifying or concealing a material fact;

(B) knowingly making or causing to be made any false or misleading statement or writing; or

(C) committing any other acts or engaging in conduct likely to deceive or defraud the board.

(b) "Advertisement" shall mean all representations disseminated in any manner or by any means that are for the purpose of inducing or that are likely to induce, directly or indirectly, the purchase of professional services.

(c) "False advertisement" shall mean any advertisement that is false, misleading, or deceptive in a material respect. In determining whether any advertisement is misleading, the following shall be taken into account:

(1) Representations made or suggested by statement, word, design, device, or sound, or any combination of these; and

(2) the extent to which the advertisement fails to reveal facts material in the light of the representations made. (Authorized by and implementing K.S.A. 2004 Supp. 65-6905 and K.S.A. 2004 Supp. 65-6911; effective July 19, 1996; amended Sept. 9, 2005; amended P-_____.)

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100-69-10. License renewal; continuing education. (a) As a condition of renewal, each licensed athletic trainer shall submit, in addition to the annual application for renewal of licensure, evidence of satisfactory completion of ~~a minimum of~~ at least 20 hours of continuing education within the preceding year; and proof of continuous certification in emergency cardiac care procedures including administration of an automated external defibrillator (AED) through a nationally recognized provider approved by the board. Each course approved by the board of certification for the athletic trainer shall meet this requirement.

(1) Acceptable providers of certification in emergency cardiac care (ECC) procedures shall be those adhering to the most current international guidelines for cardiopulmonary resuscitation and emergency cardiac care.

(2) Online ECC courses shall not be accepted, unless the provider confirms in writing that the skills were demonstrated and tested in person by a qualified instructor.

(3) Instructor certifications shall not be accepted, unless the provider confirms in writing that the instructors are required to maintain and successfully demonstrate provider skills to renew instructor status.

(b) Any licensee who suffered an illness or injury during the 12-month period before the expiration date of the license that made it impossible or extremely difficult to reasonably obtain the required continuing education hours may be granted an extension of not more than six months.

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(c) Each athletic trainer initially licensed within one year of the expiration date of the license shall be exempt from the continuing education required by subsection (a) for that first renewal period.

(d) All continuing education shall be related to the field of athletic training and shall be presented by providers approved by the board. In order to qualify as board-approved, the continuing education shall be delivered by an approved provider or shall be intended for an audience of credentialed health care providers. The content shall be at least entry-level and shall pertain to one of the current domains of athletic training practice identified by the board. The current domains of athletic training practice identified by the board of certification of athletic trainers shall meet this requirement.

(e) One hour shall be 60 minutes of instruction or the equivalent.

(f) All continuing education shall meet the requirements of subsection (g) (h).

(g) Each licensee seeking continuing education credit shall participate in at least two of the categories listed in subsection (h).

(h) The categories of continuing education experiences shall be the following:

(1) Category A. The number of hours for all category A continuing education experiences shall be granted upon receipt of documented evidence of attendance or documented evidence of satisfactory completion issued by a national, state, or local organization with standards that are at least as stringent as the standards of the board. Category A continuing education experiences shall include the following:

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~~(iv) five hours for serving as an examiner or patient model for an examination approved by the board for athletic trainers.~~

(B) Publication activities. The number of hours granted for writing a professional publication shall be the following:

- (i) Five hours to author an article in a non-refereed journal;
- (ii) 15 hours to author an article in a refereed journal;
- (iii) 10 hours to coauthor an article in a refereed journal;
- (iv) ~~40~~ 20 hours to author a published textbook;
- (v) ~~20~~ 10 hours to coauthor a published textbook;
- (vi) ~~10~~ five hours for being a contributing author of a published textbook;
- (vii) 10 hours to author a refereed or peer-reviewed poster presentation; and
- (viii) five hours to coauthor a poster presentation.

(3) Category C. Category C continuing education experiences shall consist of post-certification education. The number of hours assigned to category C continuing education experiences shall be ~~the following~~:

- ~~(A) 10 hours for each credit hour for postcertification education; and~~
- ~~(B) classes in. The content shall be related to one of the six domains of athletic training:~~
 - ~~(i) Prevention of athletic injuries;~~
 - ~~(ii) recognition, evaluation, and assessment of athletic injuries;~~
 - ~~(iii) treatment, rehabilitation, and reconditioning of athletic injuries;~~
 - ~~(iv) health care administration;~~

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~~(v) professional development and responsibility; and~~

~~(vi) immediate care of athletic injuries.~~

(4) Category D. ~~Five hours shall be granted for satisfactory completion of CPR courses provided by the American red cross, American heart association, national safety council, and the international affiliates of each of these organizations.~~ Category D continuing education experiences shall consist of miscellaneous activities, which shall include evidence-based practice. The number of hours granted upon receipt of documented evidence of satisfactory completion for Category D continuing education experiences shall be the following:

~~(5) Category E. The number of hours granted upon receipt of documented evidence of satisfactory completion for category E continuing education experiences shall be the following:~~

(A) One hour shall be granted for each hour of attendance at continuing education program activities that are not approved by the board for category A or category B, but that are related to specific athletic training and sports medicine topics.

(B) One hour shall be granted for each hour of listening to unapproved continuing education programs audiotapes or other multimedia products related to specific athletic training and sports medicine topics one of the domains of athletic training. No more than five hours per renewal period shall be allowed.

~~(h) Continuing education requirements shall be obtained by participation in two or more of the categories listed in subsection (g).~~

(i) No credit shall be granted for making any repeated presentations of the same subject matter.

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(j) No credit shall be granted for reiteration of material or information obtained from attendance at a continuing education program.

(k) To provide evidence of satisfactory completion of continuing education, the following shall be submitted to the board:

(1) Documented evidence of attendance at category A and category ~~E~~ D activities;

(2) proof of participation in category B activities, which shall include a copy of any professional publication or documentation of any presentation, ~~or a certification of leadership activity~~;

(3) receipt and ~~personal~~ verification of completion of approved self-instruction from home study courses;

(4) a copy of each transcript or grade report for category C activities;

~~(5) a copy of the CPR card or certificate for a category D course; and~~

~~(6)~~ (5) personal verification of listening to or viewing continuing education program videotapes, audiotapes, or other multimedia products, as described in paragraph (h)(4)(B).

(Authorized by K.S.A. 2007 Supp. 65-6905; implementing K.S.A. 2007 Supp. 65-6905 and 65-6909; effective Jan. 9, 1998; amended Nov. 15, 2002; amended Sept. 9, 2005; amended May 15, 2009; amended P-_____.)

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

K.A.R. 100-69-7, K.A.R. 100-69-10 (Athletic Trainer 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).

The purpose of these regulation amendments is to update the definition of "unprofessional conduct" for athletic trainers, to clarify what is and is not considered legitimate continuing education for athletic trainers, to amend continuing education definitions to fit modern professional standards, and to amend the CPR certification requirement to include courses approved by additional nationally recognized bodies.

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 enhance business activities because the regulations expand the opportunities for businesses to provide CPR training to Athletic Trainers .

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;

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The agency does not employ an economist. In the lay opinion of the agency staff there will be positive economic effect on affected businesses because the regulations expand the opportunities for businesses to provide CPR training to Athletic Trainers.

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

Businesses offering or potentially offering CPR training to Athletic Trainers.

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

The benefit of the regulation amendments is it provides clarity to athletic trainers as to what constitutes unprofessional conduct and the agency's standards for legitimate continuing education. The regulation modifies the CPR certification requirement in a manner that expands access without additional cost to businesses, licensees, or the agency.

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 no expected cost associated with the regulations other than the costs associated with promulgating these 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.

There are no annual implementation costs to these regulations. There are no annual compliance costs anticipated. This estimate is based on lay opinion and rationale as described above.

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.

No total implementation cost to these regulations other than routine state and agency resources necessary to promulgate regulations. No compliance costs anticipated at this time to any party. There may be a reduction in costs to businesses and licensee due to the increased number of CPR certification options that will be available. Business that must meet certification standards can choose the most cost effective option. This cost savings may be passed along to licensees and/or the increased number of CPR certification options may drive down the cost of CPR certification. This estimate is based on lay opinion and rationale as described above.

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.

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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 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 athletic trainer council which is composed of licensees, business owners, and educators. These regulations were developed during open meetings of the athletic training council appropriately noticed and open to all potential stakeholders in the athletic training profession.

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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