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December 6, 2019

To: Kansas Legislature

From: Joint Committee on Administrative Rules and Regulations

Re: Report of the November 20, 2019, Meeting of the Joint Committee on Administrative Rules and Regulations

With this report, the Joint Committee on Administrative Rules and Regulations (Committee) provides its comments on rules and regulations reviewed at its meeting of November 20, 2019. Agencies are asked to respond to each comment or request for information.

Board of Healing Arts

New Article 28b: Independent Practice of Midwifery. KAR 100-28b-1, definitions; KAR 100-28b-5, license expiration and cancellation; KAR 100-28b-9, scope of practice, limitations; KAR 100-28b-15, transport and transfer protocol requirements; KAR 100-28b-16, duty to consult, refer, transfer, and transport; KAR 100-28b-17, identifiable risks requiring immediate referral and transport of patient; KAR 100-28b-18, identifiable risks requiring immediate referral and transport of newborn.

Request. The Committee requests a representative of the Board of Nursing accompany a representative of the Board of Healing Arts when any changes proposed to rules and regulations regarding midwifery are presented to the Committee.

Request. The Committee requests the agencies review statutes regarding midwifery and request changes to statutes to clarify current language or place policy positions on certain matters into statute.

KAR 100-28b-9. The Committee understands the version of KAR 100-28b-9 presented does not reflect consensus from both the Board of Healing Arts and the Board of Nursing. The Committee suggests adopting the version presented in order to have a rule and regulation on scope of practice in place, followed by later promulgation of a version reflecting consensus between the boards. It requests information on a timeline for adopting a version that does reflect consensus between the boards.

Concern. The Committee expresses its concern regarding the lack of timeliness of these proposed rules and regulations, which KSA 65-28b07

requires to have been adopted by January 1, 2017, and it urges continued cooperation between the Board of Healing Arts and the Board of Nursing.

Board of Adult Care Home Administrators

New Article 38: Licensure of Adult Care Home Administrators, Department for Aging and Disability Services. KAR 26-38-1, definitions; KAR 26-38-2, educational requirements for licensure; KAR 26-38-3, application for initial licensure; KAR 26-38-4, licensing examinations; KAR 26-38-5, potentially disqualifying civil and criminal records, advisory opinion, fee; KAR 26-38-6, temporary license; KAR 26-38-7, licensure by reciprocity; KAR 26-38-8, licensing renewal and license reinstatement, continuing education, sponsorship; KAR 26-38-9, display of license; KAR 26-38-10, change of name or address, replacement licenses; KAR 26-38-11, fees.

Revocation of Article 38, Licensure of Adult Care Home Administrators, Department of Health and Environment. KAR 28-38-18, revocation (was licensing examinations); KAR 28-38-19, revocation (was qualification for licensure); KAR 28-38-20, revocation (was application for licensure); KAR 28-38-21, revocation (was temporary license); KAR 28-38-22, revocation (was licensure by reciprocity); KAR 28-38-23, revocation (was license renewal and license reinstatement, continuing education); KAR 28-38-26, revocation (was display of license); KAR 28-38-28, revocation (was change of name or address and replacement or renewal license card); KAR 28-38-29, revocation (was definitions); KAR 28-38-30, revocation (was fees).

KAR 26-38-3. The Committee notes KSA 65-3504 requires an applicant to have “completed preliminary education satisfactory to the board” and asks the Board to explain why a baccalaureate or postbaccalaureate degree is required for initial licensure. The Committee also asks how many other states require a baccalaureate or postbaccalaureate degree and, if so, whether those states specify acceptable degrees or majors.

KAR 26-38-7. The Committee asks the agency to clarify whether an applicant for licensure by reciprocity must have a baccalaureate or postbaccalaureate degree and, if not, to provide information on what education the Board considers to be “substantially equivalent.”

Request. The Committee asks the Board to provide its requirements specific to a person who is the administrator of record at multiple facilities, *e.g.*, how much time must be spent at each facility.

Request. The Committee requests information on the number of licensed adult care home administrators and the number of adult care homes, by year, over a period of time, preferably five or more years.

Kansas Racing and Gaming Commission

KAR 112-105-1, security department.

Request. The Committee asks the agency to provide its statutory authority to promulgate regulations concerning concealed carry on the gaming floor of casinos.

Kansas Department of Revenue

KAR 92-19-56, revocation (was coins, bullion, stamps, antiques, collectables, commemoratives, and similar items).

The Committee had no comments.

State Bank Commissioner

KAR 17-23-9, revocation (was custody of investments).

The Committee had no comments.

State Board of Pharmacy

KAR 68-2-5, pharmacist-in-charge, notice to board; KAR 68-5-16, ratio of pharmacy technicians to pharmacists.

KAR 68-5-16. The Committee requests information on what tasks a pharmacy technician in Kansas may lawfully perform. In addition, the Committee requests a copy of a report referenced by the agency representative that provides information on tasks other states authorize pharmacy technicians to perform.

Board of Indigents' Defense Services

KAR 105-5-2, rates of compensation; KAR 105-5-3, appellate courts, compensation; KAR 105-5-6, reasonable compensation, non-tried cases; KAR 105-5-7, reasonable compensation, tried cases; KAR 105-5-8, compensation, exceptional cases.

Comment. The Committee states it understands budget constraints on the agency have led to reimbursement rates for attorneys that are significantly less than market rates for attorneys with necessary skills for those roles, and it recognizes the implications of those budget constraints on Kansans accused of crimes and the state as a whole.

Kansas Real Estate Commission

KAR 86-1-10, approved courses of instructions, procedure; KAR 86-1-11, minimum curricula and standards for course; KAR 86-1-12, monitoring courses, withdrawal of approval;

KAR 86-1-13, revocation (was submission of evidence of course attendance); KAR 86-1-16, revocation (was instructor credit for hours taught); KAR 86-1-17, responsibilities of schools; KAR 86-1-18, revocation (was alternative licensing criteria for broker applicants); 86-3-6a, revocation (was offices); KAR 86-3-7, advertising; KAR 86-3-20, revocation (was reinstatement of deactivated license).

The Committee had no comments.