

**Proposed**

**STATE OF KANSAS  
BOARD OF HEALING ARTS**

**Notice of Public Hearing on Proposed Amendment to Administrative Regulation**

A public hearing will be conducted on Tuesday, September 29, 2020, 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 a proposed amendment to the regulation related to continuing education requirements for acupuncturists.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the amended regulation. 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 proposed amended regulation 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 proposed amended regulation and the Economic Impact Statement for the proposed amended regulation 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 LeeAnn Hunter-Roach at (785) 296-4502, 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 proposed amended regulation 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 proposed amended regulation and the economic impact follows:

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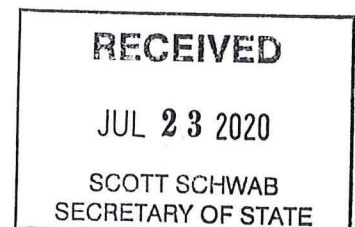
**JUL 23 2020**

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SECRETARY OF STATE**

**100-76-6. Continuing education.**

**Brief description of the proposed rule and regulation.**

This regulation deals with the continuing education requirements for licensed acupuncturists in Kansas. The revisions will extend the continuing education period from 1 year to 2 years, there has been a removal of the limitation on CEU hours obtained online, there has been an addition of a quality requirement for hours obtained online, and overall there has been extensive reorganization for clarity, consistency, and brevity. This process involved the Acupuncturist Council and Kansas Association of Oriental Medicine. Additionally, the agency intends to comply with all public hearing requirements involved in the promulgation process. Although a qualified economist would be required to provide an expert opinion of the extent the regulation would impact economic growth, in the lay opinion of agency staff there will be no economic effect on specific businesses, sectors, public utility ratepayers, or local governments. (See economic impact statement approved by the Department of Budget).



Proposed

**100-76-6. Continuing education.** (a) ~~As a condition of renewal, Each licensed acupuncturist licensee shall submit evidence of satisfactory completion~~ complete at least 30 contact hours of approved continuing education within the preceeding one-year period ~~24 months preceding each renewal date in an even-numbered year of at least 15 contact hours of continuing education for a licensed acupuncturist, in addition to the annual application for renewal of licensure, except as specified in subsection (b).~~

(b) ~~An individual~~ A licensee initially licensed less than 12 months before the ~~a~~ renewal date when continuing education is required shall not be required to submit the evidence of satisfactory completion of the continuing education required by subsection (a) for the first renewal period. Each licensee initially licensed more than one year but less than two years before a renewal date when continuing education is required shall complete at least 15 contact hours of approved continuing education within the licensure period.

(c) Each licensee shall maintain evidence of successful completion of all continuing education activities for five years from the date of completion of the activity. Evidence of successful ~~Proof of completion of the 15 contact hours of approved continuing education activities required by subsections (a) and (b) related to the practice of acupuncture, as defined in K.S.A. 2017 Supp. 65-7602 and amendments thereto, may be requested by the board.~~

(d) Upon request by a licensee, an extension of up to six months may be granted by the board if the licensee cannot meet the requirements of subsection (a) or (b) due to a substantiated medical condition, natural disaster, death of a spouse or an immediate family member, or any other similar circumstance that renders the licensee incapable of meeting the requirements of

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subsection (a) or (b). Each request shall include a plan for completing the required continuing education activities.

~~(e) A contact hour shall consist of 50 minutes of instruction pertaining to the practice of acupuncture~~ approved continuing education activities. Meals and breaks shall not be included in the calculation of contact hours.

~~(e) Each licensed acupuncturist shall maintain evidence of satisfactory completion of all continuing education activities for at least five years. Copies of this documentation may be required by the board at any time. This documentation shall consist of the following:~~

~~(1) Documented evidence of any attendance at or successful completion of continuing education activities; and~~

~~(2) personal verification of any self-instruction from reading professional literature.~~

~~(f) All continuing education activities shall be related to the practice of acupuncture and shall pertain to any of the following:~~

~~(1) Acupuncture Clinical skills;~~

~~(2) acupuncture clinical techniques;~~

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

~~(4) health care and the health care delivery system; and~~

~~(5) problem solving, critical thinking, medical recordkeeping, and ethics;:~~

~~(6) policy;~~

~~(7) biomedical science; or~~

~~(8) research.~~

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~~(g) Any applicant for renewal who cannot meet the requirements of subsection (a) may request an extension from the board to submit evidence of continuing education. Each request shall include a plan for completing the continuing education requirements within the requested extension period. An extension of not more than 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 subsection (a).~~

~~(h)~~ (g) Continuing education activities shall consist of be acquired from any of the following:

(1) Offerings. "Offerings" shall mean any offerings approved by the national certification commission for acupuncture and oriental medicine (NCCAOM). Any licensed acupuncturist may obtain all contact hours from any continuing education offerings approved by the NCCAOM and its by NCCAOM state affiliates, or by an entity with standards substantially equivalent to the standards of the NCCAOM as determined by the board or any other continuing education offerings approved by the board, subject to the limitations limitation specified in paragraphs paragraph (h)(2) through (h)(10) (g)(9)(A).

(2) 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.~~

(3) 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.~~

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(4) 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.~~

(5) 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.~~

(6) 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.~~

(7) 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 acupuncture skills in the evaluation, assessment, or treatment of patients. ~~One contact hour shall be awarded for each hour of in-service training.~~

(8) Administrative training. "Administrative training" shall mean a presentation that enhances the knowledge of an acupuncturist on the topic of quality assurance, risk management, reimbursement, statutory requirements, or claim procedures. ~~One contact hour shall be awarded for each hour of administrative training.~~

(9) Self-instruction.

(A) "Self-instruction" shall mean either of the following:

(i) ~~(A)~~ Reading professional literature directly related to the practice of acupuncture. A maximum of ~~two~~ four contact hours for each continuing education cycle shall be awarded. Each licensee shall maintain a log of all professional literature read as a continuing education activity for reading professional literature; or

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(ii) ~~(B)~~ completion of a ~~home study~~, correspondence, audio, video, or internet course approved by the NCCAOM, by NCCAOM state affiliates, or by an entity with standards substantially equivalent to the standards of the NCCAOM as determined by the board or any other continuing education offerings approved by the board, 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. On-line courses labeled as "live course" shall be considered self instruction.~~

~~(B) No more than seven contact hours shall be awarded each year for self instruction.~~

(10) Continuing education ~~program~~ activity presentation. "Continuing education activity ~~program~~ presentation" shall mean the preparation and presentation of a continuing education ~~program~~ activity that meets the requirements of this subsection. Three contact hours shall be awarded for each hour spent presenting.

(i) ~~(h)~~ No contact hours shall be awarded for any ~~repeated~~ continuing education activity ~~on the same topic that is repeated within a 24-month period~~ a 48-month period. (Authorized by K.S.A. 2017-Supp. 65-7615; implementing K.S.A. 2017-Supp. 65-7609; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018; amended P-\_\_\_\_\_.)

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*Kansas Board of Healing Arts  
Tucker Poling, General Counsel  
785-296-8066  
Tucker.Poling@ks.gov*

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

**K.A.R. 100-76-6 (Acupuncturist Regulation)**

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).**

- Extension of the continuing education (CE) period from one year to two years. 100-76-6(a).
  - CE hours doubled to account for the extended CE period. 100-76-6(a), (g)(9)(A).
  - Initial renewal exception to completion of CE modified to maintain exception for those licensed less than a year prior to a CE year, and to require  $\frac{1}{2}$  the CE for those licensed more than a year but less than two years prior to a CE year. 100-76-6(b).
- Removal of the limitation on CE hours obtained online. 100-76-6(g)(9)(B).
- Addition of a quality requirement for all hours obtained online. 100-76-6(g)(9)(B).
- Extensive reorganization for clarity.
- Deletion of redundancy for brevity.
- Rewording for consistency.

**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:**

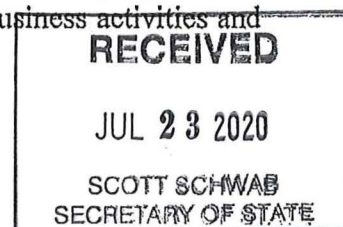
**A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;**

A qualified economist would be required to provide an expert opinion of the extent the regulation would impact economic growth. In the lay opinion of agency staff, the regulation will neither enhance or restrict business activities and growth.

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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;**

There are no implementation or compliance costs, so in the lay opinion of agency staff, there will be no economic effect on specific businesses, sectors, public utility ratepayers, or local governments. Individuals licensed to practice acupuncture will have decreased costs associated with obtaining CE because they can pursue online CE options which may be more cost effective.

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

Businesses offering or potentially offering CE training to Acupuncturists.

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

The regulation provides more opportunities for Acupuncturist to obtain CE and lengthens the period of time they have to complete the CE. This is a benefit to Acupuncturists because there are very few CE opportunities in Kansas, so under the current regulation they must often travel outside the state to attend expensive CE offerings. There are no costs associated with the regulation.

- 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 costs or impact on business and economic development within the State of Kansas, local governments, or individuals.

- 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 this regulation. 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.**

There are no total implementation costs to these regulations other than routine state and agency resources necessary to promulgate regulations. No compliance costs anticipated at this time to any party. 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 ☒

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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.

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 acupuncture advisory council which is composed of licensees, business owners, and members of the public. These regulations were developed during open meetings of the acupuncture advisory council appropriately noticed and open to all potential stakeholders in the acupuncture profession. The Kansas Association of Oriental Medicine was consulted in the development of this regulation 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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