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**Proposed**

**State of Kansas**  
**Board of Barbering**

**Notice of Public Hearing on Proposed Administrative Regulation**  
**K.A.R. 61-4-3**

October 1, 2020

A public hearing will be conducted on December 7<sup>th</sup>, 2020 at 2:00 PM CST via teleconference, in Topeka, Kansas to consider the adoption of a proposed regulation, K.A.R. 61-4-3, of the Kansas Board of Barbering, on a permanent basis. To participate you will need to dial 1-866-620-7326 at the designated time. When prompted, enter the following conference code number 7852962211, followed by the pound sign (#). If asked if you are the leader, do nothing. When prompted, state your name. You will then be placed in a holding pattern until all participants are on the line. Public comments will be limited to written and/or telephonic comments only.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rule and regulation. All interested parties may submit written comments prior to the hearing to the Kansas Board of Barbering, 700 SW Jackson Suite 1002, Topeka, KS 66603 or by email to [KBOB@ks.gov](mailto:KBOB@ks.gov). All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulation during the public hearing. In order to provide 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 an accommodation in order to participate in the public hearing and may request the proposed regulation and 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 Cassiopeia Capps at (785) 296-2211. Individuals with hearing and/or speech disabilities may contact the Kansas Relay Center (TTY 1-800-766-3777) for communication accommodations.

A summary of the proposed regulation and its economic impact follows. (Note: Statements indicating that a regulation is "not anticipated to have any economic impact" are intended to indicate that no economic impact on the Board of Barbering, other state agencies, state employees, or the general public has been identified.)

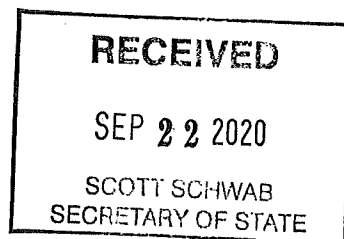
Copies of the proposed regulation and the Economic Impact Statement for the proposed regulation can be obtained by sending an email to [KBOB@ks.gov](mailto:KBOB@ks.gov) requesting a copy of the documents, or the documents can be viewed at the following website:  
[https://sos.ks.gov/publications/pubs\\_kar\\_inprocess.aspx](https://sos.ks.gov/publications/pubs_kar_inprocess.aspx).

A summary of the proposed new regulation and the economic impact follows:  
K.S.A. 74-120 requires each licensing board to adopt a regulation listing the types of civil or criminal records that could disqualify an application from receiving a license. This regulation ensures that persons are not automatically disqualified from receiving a barber license, shop

license, or school license based on criminal history or civil records. This regulation lists the felony and misdemeanor offenses that may disqualify an applicant. This regulation also meets the statutory requirement that each board provide persons with a civil or criminal record a mechanism to petition for a review of their history and their explanation of the surrounding events, prior to making application for a license.

#### **Economic Impact Statement Summary**

There is no anticipated economic impact from this regulation. The only cost would be the application fee authorized by statute for any individual wishing to utilize the petition process and the offsetting cost to KBOB as an agency for reviewing and documenting the petition process.



**61-4-3. Potentially disqualifying civil and criminal records; advisory opinion; fee.** (a) For purposes of this regulation, "conviction" shall mean the rendering of a judgment or order by a court of competent jurisdiction in any state, or a subdivision thereof, or territory of the United States, by a court of the United States, or by a military court-martial pursuant to the uniform code of military justice.

(b) The following criminal records may disqualify an applicant from receiving a license or permit:

(1) Conviction of any offense classified as a felony in the jurisdiction in which the conviction occurred;

(2) conviction of any offense classified as a class A person misdemeanor or similar classification in the jurisdiction in which the conviction occurred;

(3) conviction of any offense classified as a class A misdemeanor pursuant to K.S.A. 21-5701 et seq. and amendments thereto, any predecessor statute before its repeal, or any similar classification in the jurisdiction in which the conviction occurred; and

(4) conviction of any other misdemeanor pursuant to K.S.A. 21-5701 et seq. and amendments thereto, any predecessor statute before its repeal, or any similar classification in the jurisdiction in which the conviction occurred if one of the following conditions is met:

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

(B) the applicant has been convicted of another crime in the five years immediately

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preceding the date of the application for license or permit.

(c) Civil records that may disqualify an applicant from receiving a license or permit shall be any 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 barbering 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 the settlement agreement signed by the parties.

(d) Any individual with a criminal or civil record described in this regulation may petition 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 court records and the settlement agreement signed by the parties;
- (2) an explanation of the circumstances that resulted in the civil or criminal record or settlement agreement; and
- (3) a check or money order in the amount of \$50.00. (Authorized by K.S.A. 65-1825a and 74-120; implementing K.S.A. 65-1820a and 74-120; effective P-\_\_\_\_\_.)

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

Kansas Board of Barbering  
Agency

Lori Ferguson  
Agency Contact

785-296-2211  
Contact Phone Number

61-4-3  
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).**

To fragment with Senate Substitute for House Bill 2386 regarding licensing requirements for certain criminal convictions.

**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)**

NA

**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;**

This should result in no change to the Kansas Barbering Industry. There has always been a review process for individuals desiring a career in barbering who have a criminal history. We intend to continue with that review process and to evaluate each candidate on a case by case basis.

**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 only cost would be the application fee for any individual wishing to utilize the petition process, and the offsetting cost to KBOB as an agency for reviewing and documenting the petition process.

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

Schools that may be looking to admit someone who has applied to their program, but has a criminal past.

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

The ability of students entering Barber College to know if any criminal convictions they have, could prevent them from licensure in the State of Kansas.

**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;**

Our process will continue to be developed internally.

**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.**

\$We do not anticipate any costs being incurred, aside from administrative cost to perform the review itself.

**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.**

NA

**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.**

NA

**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).**

Our agency did not consult or solicit any information, as we are a fee based agency.

