

**STATE OF KANSAS
BOARD OF HEALING ARTS**

Notice of Public Hearing on Proposed Administrative Regulation

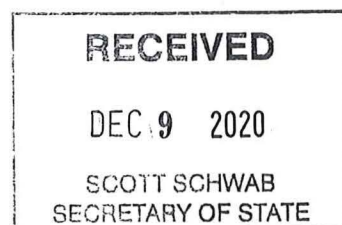
A public hearing will be conducted on Wednesday, February 17, 2021, at 9:30 a.m. in the board room at the Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level – Suite A, Topeka, Kansas, to consider a proposed regulation related to active practice requirements for applicants seeking licensure by endorsement.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the 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. All interested parties will be given a reasonable opportunity to present their views, orally or in writing, concerning the proposed 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 regulation and the Economic Impact Statement for the proposed 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.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed 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. 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.

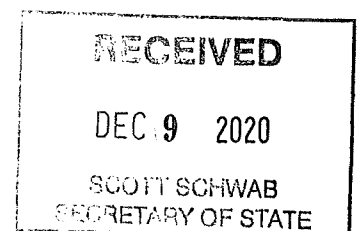
A summary of the proposed regulation and the economic impact follows:



K.A.R. 100-8-3. Endorsement licenses; active practice requirements.

This regulation outlines active practice requirements for applicants seeking licensure by endorsement.

This proposed regulation along with several other revisions, has been the subject of communications over several years in regard to the need to update the healing arts regulations. This process involved representatives from the University of Kansas School of Medicine, the Kansas Medical Association, and other stakeholders. Further, it should be noted that the Board of Healing Arts is comprised of medical practitioners, business owners, and members of the public. Further, the agency intends to comply with all public hearing requirements involved in the promulgation process. Although the agency does not employ an economist, the lay opinion of the agency staff is that the economic effect on the affected businesses and business sector would be positive. The regulation codifies existing practice. Therefore, the net effect will likely be positive, but negligible due to the fact that this does not change existing practices. (See economic impact statement approved by the Department of Budget).



K.A.R. 100-8-3. Endorsement licenses; active practice requirements. (a) Each applicant seeking licensure by endorsement based on licensure and active practice in another state, the District of Columbia, another country, or a territory shall submit evidence showing that the applicant has been engaged in direct patient care during the 12 months immediately preceding submission of a completed application. This direct patient care shall consist of at least either of the following, or the substantial equivalent as determined by the board:

(1) At least one full day per week, or its equivalent, for at least 50 weeks; or

(2) a total of 400 hours.

(b) The totality of circumstances may be considered by the board in determining whether the applicant has been in active practice, including gaps in practice necessitated by military service or family leave taken due to the birth of a child of the applicant or the placement of a child for adoption or foster care with the applicant.

(c) The following shall not qualify as active practice:

(1) Patient care provided while the applicant is engaged in a training program, residency, or fellowship;

(2) employment that consists solely of research activities that would not otherwise be considered direct patient care; and

(3) employment that consists solely of administrative duties.

(d) An applicant's practice in any other state, the District of Columbia, another country, or a territory shall not qualify as active practice during the existence of any of the following conditions:

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(1) The applicant's license is limited, suspended, or revoked in any other state, the District of Columbia, another country, or a territory or has been surrendered in any other state, the District of Columbia, another country, or a territory at the time of application.

(2) The applicant's authority to utilize controlled substances issued by any state, the District of Columbia, another country, a territory, or a federal agency has been surrendered as a result of the applicant's practice in any other state, the District of Columbia, another country, or a territory.

(3) The applicant is subject to an agreement for a limitation to or restriction of privileges at any medical care facility as a result of the applicant's practice in any other state, the District of Columbia, another country, or a territory.

(4) The applicant's membership on any professional staff or in any professional association or society has been surrendered while under investigation as a result of the applicant's practice in any other state. (Authorized by K.S.A. 65-2865; implementing K.S.A. 65-2833; effective P-_____.)

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OCT 16 2020

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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. 100-8-3

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

This regulation deals with the statutory "active practice" requirement for the purpose of evaluating applicants for licensure in medicine and surgery.

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;

The revised regulation codifies the existing internal practice and provides guidance to applicants, as required by the statute. The revision is likely to enhance business activity because it clarifies the process for applicants.

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;

Although the agency does not employ an economist, the lay opinion of the agency staff is that the economic effect on the affected businesses and business sector would be positive. The regulation codifies existing practice. Therefore, the net effect will likely be positive, but negligible due to the fact that this does not change existing practices.

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

Although licensees are the only parties that would be directly affected, businesses that employ physicians would be affected.

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

The regulation reflects current practice. No net implementation and compliance costs are contemplated other than routine agency resources used in regulation promulgation process

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;

The statute calls for the agency to promulgate a regulation that clarifies "active practice" for the purposes of endorsement licenses. The regulation reflects current practice. The agency is following the directive of the legislature.

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.

\$No implementation cost to this regulation. This regulation clarifies a term in the statute. The statute calls for the agency to promulgate a regulation that clarifies "active practice" for the purposes of endorsement licenses.

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 discernible costs to business, local governments, or members of the public, other than routine agency and state resources involved in the process of promulgating regulations.

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.

This estimate is based on lay opinion and rationale as described above.

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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).

This revision, along with several others, has been the subject of communications over several years in regard to the need to update the healing arts regulations. This process involved representatives from the University of Kansas School of Medicine, the Kansas Medical Association, and other stakeholders. Further, it should be noted that the Board of Healing Arts is comprised of medical practitioners, business owners, and members of the public. Further, the agency intends to comply with all public hearing requirements involved in the promulgation process.

- 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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