

**STATE OF KANSAS
BOARD OF HEALING ARTS**

Notice of Public Hearing on Proposed Administrative Regulations

A public hearing will be conducted on Wednesday, June 8, 2022, at 1:00 p.m. in the board room at the Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level – Suite A, Topeka, Kansas, to consider proposed regulations related to the independent practice of certified nurse midwifery.

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 Courtney Cyzman, 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 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 proposed regulations and the Economic Impact Statement for the proposed 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 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 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 proposed regulations and the economic impact follows:

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K.A.R. 100-28b-3. Approved course of study in nurse-midwifery.

K.A.R. 100-28b-6. Fees.

K.A.R. 100-28b-14. Patient records.

K.A.R. 100-28b-20. Maintenance and storage of health care records.

The purpose of these proposed regulations is to effectuate the provisions of the Independent Practice of Midwifery Act, K.S.A. 65-28b01, *et seq.* Specifically, these proposed regulations: (1) set the approved course of study in nurse-midwifery in order to engage in the independent practice; (2) the initial application and renewal fees; (3) requirements for adequate patient record documentation; and (4) proper maintenance and storage of patient healthcare records.

While a qualified economist would be required to provide an expert opinion of the regulations' impact on economic activity and growth, in the lay opinion of agency staff, the regulations enhance business activities by allowing an independent practice alternative for midwives in Kansas.

These proposed regulations have been discussed in an open Board meeting of which members of the public, business, and stakeholders could attend. The agency has also had extensive discussions with members of the Independent Practice of Midwifery advisory council, which is made up of 7 members including four members who are licensed certified nurse midwives appointed by the Board of nursing. Further it should be noted that the Board of Healing Arts is comprised of medical practitioners, business owners, and members of the public. The Board of Healing Arts intends to comply with all public hearing requirements involved in the regulation promulgation process.

(See economic impact statement approved by the Department of Budget.)

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K.A.R. 100-28b-3. Approved course of study in nurse-midwifery. The course of study in nurse-midwifery approved by the board to obtain authorization to engage in the independent practice of midwifery shall meet the standards established for advance practice registered nurses certified in nurse midwifery pursuant to the Kansas nurse practice act, and amendments thereto.

(Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b03; effective P-_____.)

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K.A.R. 100-28b-6. Fees. (a) The following fees shall be collected by the board:

- (1) Application for license \$ 100.00
- (2) Annual renewal of license:
 - (A) Paper renewal \$ 75.00
 - (B) On-line renewal \$ 50.00
- (3) Late renewal:
 - (A) Paper renewal \$ 50.00
 - (B) On-line renewal \$ 25.00
- (4) Certified copy of license. \$ 20.00
- (5) Verified copy of license. \$ 20.00

(b) If a licensee's initial license is issued six or fewer months before the deadline for the licensee to renew the license, the first annual renewal fee shall be \$25.00 if the licensee renews on-line. (Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b03, 65-28b04, and 65-28b05; effective P-_____.)

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K.A.R. 100-28b-14. Patient records. (a) Each licensee shall maintain an adequate health care record for each patient for whom the licensee performs a professional service.

(b) Each health care record shall meet the following requirements:

- (1) Contain only those terms and abbreviations that are or should be comprehensible to similar licensees;
- (2) document adequate identification of the patient;
- (3) document all professional services provided or recommended and the date on which each professional service was provided or recommended;
- (4) document all clinically pertinent information concerning the patient's condition;
- (5) document all identifiable risk assessments performed on the patient;
- (6) document all examinations, vital signs, and tests obtained, performed, or ordered, and the findings and results of each;
- (7) document all medications prescribed, dispensed, or administered, the time each medication was prescribed, dispensed, or administered, and the dose and route of each medication;
- (8) document the patient's response to all professional services performed or recommended;
- (9) document all instruction and education provided to the patient related to the childbearing process;
- (10) document the date and time of the onset of labor;
- (11) document the course of labor, including all examinations and pertinent findings;
- (12) document the date and exact time of birth, the presenting part of the newborn's

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body, the newborn's sex, and the newborn's Apgar scores;

(13) document the time of expulsion and the condition of the placenta;

(14) document the condition of the patient and newborn, including any complications and action taken;

(15) contain the results of all postpartum and newborn examinations;

(16) document all professional services provided to the newborn, including prescribed medications and the time, type, and dose of eye prophylaxis;

(17) contain documentation of all consultation and collaboration with a physician concerning the patient;

(18) contain documentation of each referral, transfer, and transport to a medical care facility, including the reasons for each referral, transfer, or transport to a medical care facility;

(19) contain all written instructions given to the patient regarding postpartum care, family planning, care of the newborn, arrangements for metabolic testing, immunizations, and follow-up pediatric care; and

(20) contain all pertinent health care records received from other health care providers.

(c) Each entry in the health care record shall meet the following requirements:

(1) Be legible; and

(2) be authenticated by the person making the entry. Each authentication in the health care record for an entry documenting professional services provided by an individual licensed to engage in the independent practice of midwifery shall include the letters "CNM-I" after the licensee's name.

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(d) For the purposes of the independent practice of midwifery act and this regulation, an electronic patient record shall be deemed a written patient record if both of the following conditions are met:

(1) Each entry in the electronic record is authenticated by the licensee.

(2) No entry in the electronic record can be altered after authentication. (Authorized by and implementing K.S.A. 65-28b07; effective P-_____.)

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K.A.R. 100-28b-20. Maintenance and storage of health care records. (a) Each licensee shall maintain the health care record for pregnancy, delivery, postpartum, and newborn care for at least 25 years from the date the licensee provided the professional service recorded.

(b) Each licensee shall maintain the health care record for family planning services and the treatment of sexually transmitted infections for at least 10 years from the date the licensee provided the professional service recorded.

(c) Any licensee may designate an entity, another licensee, or a health care facility to maintain a health care record if the licensee requires the designee to store the record in a manner that maintains confidentiality and allows lawful access.

(d) Health care records may be stored by an electronic data system, microfilm, or similar photographic means. Any licensee may destroy original paper records if the electronically stored health care record can be reproduced without alteration from the original.

(e) Each electronically stored health care record shall identify any existing original documents or information not included in the electronically stored health care record.

(f) Each licensee who terminates practice in Kansas shall, within 30 days of the termination, provide the following information to the board:

(1) The location where the licensee's health care records are stored;

(2) if the licensee designates an agent to maintain the health care records, the agent's name, telephone number, and mailing address; and

(3) the date on which the health care records are scheduled to be destroyed, according to this regulation. (Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b07; effective P-_____.)

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

Kansas State Board of Healing Arts
Agency

Courtney Cyzman
Agency Contact

785-296-1384
Contact Phone Number

K.A.R. 100-28b-3, K.A.R. 100-28b-6, K.A.R. 100-28b-14, K.A.R. 100-28b-20
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).

The purpose of these regulations is to effectuate the provisions of the Independent Practice of Midwifery Act, K.S.A. 65-28b01, *et seq.*

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;

While a qualified economist would be required to provide an expert opinion of the regulations impact on economic activity and growth, in the lay opinion of agency staff, the regulations enhance business activities by allowing an independent practice alternative for midwives in Kansas.

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 there are routine and expected costs associated with applying for, maintaining, and renewing professional licenses, those implementation and compliance costs are a function of the legislature's decision to enact in the Act. The agency is not aware of additional implementation and compliance costs caused by implementing these regulations. The licensure fees described in these regulations are at or below those outlined in the statute at

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K.S.A. 65-28b05. The agency is not aware of implementation and compliance costs to public utility ratepayers or local governments. While a qualified economist would be required to provide an opinion of the regulation's impact on the state economy as a whole, in the lay opinion of agency staff, the regulations enhance business activity by allowing an independent practice alternative for midwives in Kansas.

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

Businesses and solo practitioners that include the services of a licensed midwife.

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

The benefit of the regulations is that they implement the Act that allows an independent practice alternative for midwives in Kansas and provide another option for Kansas patients seeking care and treatment related to a normal and uncomplicated pregnancy and delivery. There is no expected cost associated with the regulations (although, as noted above, there are compliance costs associated with licensure, which is a function of the Act) other than the usual resource costs associated with the process of promulgating this 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;

The agency has minimized the cost and impact of the regulations by setting licensing fees generally below those permitting under the Act.

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.

\$The agency is not aware of annual implementation cost to these regulations (although, as noted above, there are compliance costs associated with licensure itself, which is a function of the Act).

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 annual implementation costs to these regulations. 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.

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

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.**

Although the agency does not employ an economist, the agency does not believe these regulations 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).**

These regulations have been discussed in an open Board meeting of which members of the public, business, and stakeholders could attend. The agency has also had extensive discussions with members of the Independent Practice of Midwifery Advisory council, which is made up of 7 members including four members who are licensed certified nurse-midwives appointed by the Board of nursing, and the board of Nursing with regard to these regulations. Further it should be noted that the Board of Healing Arts is comprised of medical practitioners, business owners, and members of the public. The Board of Healing Arts intends to comply with all public hearing requirements involved in the regulation 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).**

These are not environmental regulations.

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