

**STATE OF KANSAS
BOARD OF HEALING ARTS**

Notice of Public Hearing on Proposed Administrative Regulation

A public hearing will be conducted on Thursday, September 22, 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 a proposed regulation related to the reentry active license to practice medicine and surgery and osteopathic medicine.

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 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 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.

A copy 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:

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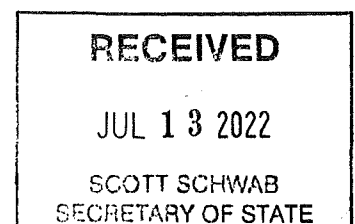
K.A.R. 100-6-6. Reentry active license; medicine and surgery and osteopathic medicine.

The purpose of this proposed regulation is to provide requirements for issuance, maintenance, and scope of the practice for a reentry active license for those practicing medicine and surgery and osteopathic medicine.

While a qualified economist would be required to provide an expert opinion of the regulation's impact on economic activity and growth, in the lay opinion of agency staff, the regulation enhances business activities because the regulation implements an available license type for physicians who wish to reenter the practice of medicine.

This regulation was developed during a publicly noticed open meeting of the Board, and the Board is following all notice and open meeting hearing requirements associated with promulgating this regulation. 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.)



K.A.R. 100-6-6. Reentry active license; medicine and surgery and osteopathic medicine. (a)

Any physician, whether an applicant or a licensee, who has not engaged in the practice of the healing arts for the two-year period immediately preceding the filing of an application for a license or change of designation type pursuant to K.S.A. 65-2809, and amendments thereto, may be required to complete the terms and conditions of a reentry agreement that has been approved by the board, as a condition of licensure.

(b) Each physician who has not practiced the healing arts for the two-year period immediately preceding the filing of an application for a license or change of designation type shall submit a proposed reentry plan for review by the board. The proposed reentry plan shall contain the following:

- (1) The name of a supervising physician, who shall be approved by the board;
- (2) an assessment of the physician's current strengths and weaknesses in the intended area or areas of practice. The assessment may include testing and evaluation by colleagues, educators, or others;
- (3) an education component that addresses the physician's area or areas of needed improvement, if any, and consists of a reentry period of monitored practice and education upon terms based on the factors listed in subsection (c); and
- (4) documentation that an insurer intends to issue the physician a policy of professional liability insurance pursuant to K.S.A. 40-3402, and amendments thereto, and certification from the physician that the premium surcharges pursuant to K.S.A. 40-3404, and amendments thereto, will be paid.

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(c) Factors that may affect the length and the scope of the reentry plan shall include the following:

- (1) The physician's amount of time out of practice;
- (2) the prior work schedule when practicing;
- (3) the reason for the interruption in practice;
- (4) the physician's activities during the interruption in practice, including the amount of practice-relevant continuing medical education or any healthcare-related volunteer work;
- (5) the physician's previous and intended area or areas of practice;
- (6) the changes in each intended area of practice during the time that the physician has been out of continuous practice;
- (7) the number of years since the physician completed graduate medical education, including fellowship if applicable; and
- (8) the physician's length of active practice after completing graduate medical education.

(d) Depending on the amount of time out of practice, the physician may be required to meet one or more of the following requirements:

- (1) Undergo a competency evaluation or assessment approved by the board;
- (2) practice for a specified period of time under a supervising physician, who shall provide periodic reports to the board;
- (3) complete any accredited postgraduate or clinical fellowship training approved by the board, if the need for this training is indicated by the competency evaluation or assessment;

or

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(4) complete a board-approved reentry-to-practice or monitoring program.

(e) If the board approves the physician's proposed reentry plan, the approved agreement shall be a professional development plan pursuant to K.S.A. 65-2838a, and amendments thereto, or shall be incorporated by reference into a nondisciplinary approved reentry plan and executed by the physician, the board, and any applicable board staff.

(f) After the reentry plan has been signed and approved by the board, the physician shall receive a reentry active license. While holding a reentry active license, the physician shall not practice outside the scope of the approved reentry plan during the reentry period.

(g) Each reentry active license for medicine and surgery and osteopathic medicine shall expire on June 30 of each year, if not renewed. The reentry active license may be renewed one time without board approval. Each additional renewal of the reentry active license shall be subject to board approval.

(h) The license may be cancelled upon any of the following, subject to notice and an opportunity for a hearing:

(1) The licensee practiced outside the scope of the approved reentry plan.

(2) The licensee did not satisfactorily complete the approved reentry plan.

(3) The licensee failed to maintain a policy of professional liability insurance pursuant to K.S.A. 40-3402, and amendments thereto, and to pay the premium surcharges pursuant to K.S.A. 40-3404, and amendments thereto.

(i) Upon successful completion of the approved reentry plan, the physician shall be granted an active license.

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(j) A reentry active license shall not be issued to a physician who ceased practice as a result of revocation of that individual's license or voluntary surrender of the license in lieu of formal proceedings. (Authorized by and implementing K.S.A. 65-2809; effective P-_____.)

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Kansas Administrative Regulations Economic Impact Statement (EIS)

Kansas State Board of Healing Arts
Agency

Courtney Cyzman
Agency Contact

785/296-1384
Contact Phone Number

K.A.R. 100-6-6
K.A.R. Number(s)

☒ Permanent ☐ Temporary

Is/Are the proposed rule(s) and regulation(s) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program?

- ☐ Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.
- ☒ No If no, do the total annual implementation and compliance costs for the proposed rule(s) and regulation(s), calculated from the effective date of the rule(s) and regulation(s), exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024 (as calculated in Section III, F)?
- ☐ Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration, the Attorney General, AND the Division of the Budget. The regulation(s) and the EIS will require Budget approval.
- ☒ No If no, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.

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Section I

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

The purpose of this regulation is to provide requirements for issuance, maintenance, and scope of the practice for a reentry active license for those practicing medicine and surgery and osteopathic medicine.

Section II

Statement by the agency if the rule(s) and regulation(s) exceed the requirements of applicable federal law, and a statement if the approach chosen to address the policy issue(s) is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different or exceeds federal law, then include a statement of why the proposed Kansas rule and regulation is different.)*

The proposed amended regulations are not mandated by federal law and the approach chosen to address the policy issues is not different from that utilized by agencies of contiguous states or the federal government.

Section III

Agency analysis specifically addressing the 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 regulations would impact economic growth. In the lay opinion of agency staff, the regulations enhance business activities because the regulation implements an available license type for physicians who wish to reenter the practice of medicine.

- 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(s) and regulation(s) and on the state economy as a whole;

The agency does not employ an economist. In the lay opinion of the agency staff there will be positive economic effect on affected businesses because the regulation provides implementation of an available license type for physicians to reenter the practice of medicine.

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

Physicians seeking to reenter the practice of medicine would be directly affected. Accordingly, businesses that employ physicians would also be affected.

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

The regulation, within the requirements, allows for a physician to safely reenter the practice of medicine after a greater than 2-year absence. No net implementation and compliance costs are contemplated other than routine agency resources used in the regulation promulgation process and licensing.

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- 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 is no expected cost associated with this regulation other than the routine costs associated with promulgating the regulation and licensing.

- F. An estimate of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governments, or members of the public.

Note: Do not account for any actual or estimated cost savings that may be realized.

Costs to Affected Businesses – \$0

Costs to Local Governmental Units – \$0

Costs to Members of the Public – \$0

Total Annual Costs – \$0

(sum of above amounts)

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.

- ☐ Yes If the total implementation and compliance costs exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024, and prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing 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.
- ☐ No
- ☒ Not Applicable

If applicable, click here to enter public hearing information.

Provide an estimate to any changes in aggregate state revenues and expenditures for the implementation of the proposed rule(s) and regulation(s), for both the current fiscal year and next fiscal year.

\$0

Provide an estimate of any immediate or long-range economic impact of the proposed rule(s) and regulation(s) on any individual(s), small employers, and the general public. If no dollar estimate can be given for any individual(s), small employers, and the general public, give specific reasons why no estimate is possible.

There are no expected independent costs caused by implementation of this regulation apart from the routine agency and state staff resource costs associated with promulgating these regulations and licensing. Costs associated with implementing the statute itself will include the fee for the license, agency resource costs associated with processing and evaluating applications, and investigating and

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prosecuting any alleged violations of the statute. This estimate is based on lay opinion and rationale as described above.

There are no expected independent costs caused by implementation of the regulations apart from the routine agency and state staff resource costs associated with promulgating these regulations. Costs associated with implementing the statute itself include the fee for the certificate, agency resource costs associated with processing and evaluating applications, and investigating and prosecuting any alleged violations. This estimate is based on lay opinion and rationale as described above.

- 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 the regulation 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 were developed during publicly noticed open meetings of the Board, and the Board is following all notice and open meeting hearing requirements associated with promulgating these regulations.

Section IV

Does the Economic Impact Statement involve any environmental rule(s) and regulation(s)?

- ☐ Yes If yes, complete the remainder of Section IV.
☒ No If no, skip the remainder of Section IV.

- A. Describe the capital and annual costs of compliance with the proposed rule(s) and regulation(s), and the persons who would bear the costs.

Click here to enter agency response.

- B. Describe the initial and annual costs of implementing and enforcing the proposed rule(s) and regulation(s), including the estimated amount of paperwork, and the state agencies, other governmental agencies, or other persons who would bear the costs.

Click here to enter agency response.

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- C. Describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons who would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

[Click here to enter agency response.](#)

- D. Provide a detailed statement of the data and methodology used in estimating the costs used.

[Click here to enter agency response.](#)

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