

**STATE OF KANSAS
BOARD OF HEALING ARTS**

Notice of Public Hearing on Proposed Administrative Regulations

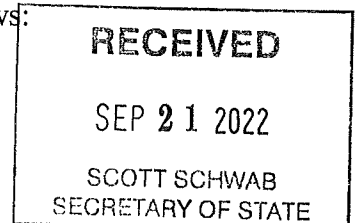
A public hearing will be conducted on Wednesday, November 30, 2022, at 12:30 p.m. in the board room at the Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level – Suite A, Topeka, Kansas, to consider proposed regulations related to the independent practice of certified nurse midwifery.

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:



K.A.R. 100-28b-2. Application for licensure.

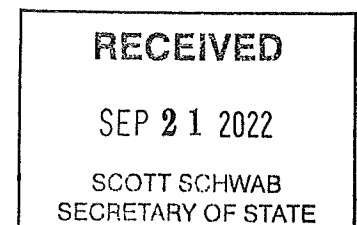
K.A.R. 100-28b-4. Approved national certification.

K.A.R. 100-28b-7. Continuing education.

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, the proposed regulations establish the application requirements, the approved national certification, and continuing education requirements.

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. There are no expected costs associated with the regulations other than the usual resource costs associated with the process of promulgating regulations.

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.



K.A.R. 100-28b-2. Application for licensure. Each applicant for licensure to engage in the independent practice of midwifery shall submit the following to the board:

- (a) The fee required by K.A.R. 100-28b-6;
 - (b) a completed application on a form provided by the board;
 - (c) a signed waiver agreement and statement for fingerprint-based record checks;
 - (d) an official transcript for the applicant from an educational program approved by the board under K.A.R. 100-28b-3 that specifies the degree awarded;
 - (e) an official verification of licensure to practice as an advanced practice registered nurse in the role of nurse-midwife provided directly to the board from the state board of nursing;
 - (f) an official verification of approved national certification provided directly to the board from the American midwifery certification board; and
 - (g) an official verification of licensure, registration, or certification to practice a health profession provided directly to the board from each state or jurisdiction where the applicant holds a current license, registration, or certification to practice a health profession.
- (Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b03, 65-28b04, 65-28b05, 65-28b08; effective P-_____.)

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AUG 23 2022

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K.A.R. 100-28b-4. Approved national certification. The national certification approved by the board to obtain authorization to engage in the independent practice of midwifery shall be the certification offered by the American midwifery certification board. (Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b03; effective P-_____.)

APPROVED

APR 11 2022

DIVISION OF THE BUDGET

APPROVED

APR 16 2022

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K.A.R. 100-28b-7. Continuing education. (a) As a condition of renewal, evidence of completion within the preceding one-year period of 15 contact hours of continuing education may be requested by the board. The continuing education shall meet or exceed the standards specified in K.S.A. 65-1132(a)(2), and amendments thereto.

(b) For the purposes of this regulation, "contact hour" shall mean a total of 50 minutes of participation in a learning experience intended to build upon the educational and experiential bases of an advanced practice registered nurse midwife. Fractions of hours over 30 minutes to be computed towards a contact hour shall be accepted.

(c) An individual initially licensed to engage in the independent practice of midwifery less than 12 months before the renewal date shall not be required to submit the evidence of completion of continuing education required by subsection (a) for the first renewal period.

(d) An extension of not more than six months to submit evidence of completion of continuing education may be granted by the board for a substantiated medical condition, natural disaster, death of a spouse or an immediate family member, or any similar circumstance beyond the licensee's control that renders the licensee incapable of meeting the requirements of subsection (a). Each such request shall be submitted with or before submitting an application for renewal and shall include a plan for completion of the continuing education requirements within the requested extension period. (Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b04; 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. 100-28b-2, K.A.R. 100-28b-4, and K.A.R. 100-28b-7
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 these regulations is to effectuate the provisions of the Independent Practice of Midwifery Act, K.S.A. 65-28b01 et seq. Specifically, the proposed regulations establish the application requirements, establish the approved national certification, and continuing education requirements.

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;

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

There are routine and expect costs associated with maintaining continuing education required for licensure. The agency is not aware of additional implementation and compliance costs caused by implementing these regulations. The agency is also not aware of any implementation and compliance costs to public utility ratepayers or local governments. While a qualified economist would be required to provide an opinion of the regulations 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(s) and regulation(s);

Business and solo practitioners that include the services of a licensed independent certified nurse midwife.

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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 are no expected costs associated with the regulations other than the usual resource costs associated with the process of promulgating regulations.

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;

In the lay opinion of agency staff, there are no expected costs or impact other than usual resource costs associated with the promulgation process.

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.

The estimate is based on lay opinion and rational as described above.

- ☐ 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
- ☐ No and regulation(s), did the agency hold a public hearing to find that the estimated costs
- ☒ Not have been accurately determined and are necessary for achieving legislative intent? If
- Applicable applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

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~~

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can be given for any individual(s), small employers, and the general public, give specific reasons why no estimate is possible.

The agency is not aware of annual implementation cost to these regulations. This estimate is based on lay opinion and rationale 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.

Although the agency does not employ an economist, the agency does not believe these regulations will meaningfully impact the revenue of cities or school district.

- 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. 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.

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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