

State of Kansas
Board of Mortuary Arts

Notice of Public Hearing on Proposed Administrative Regulation

October 30, 2023

A public hearing will be conducted on Thursday, January 11, 2024, at 12:00 p.m. in the Senate Room, located in the lobby level of the Jayhawk Tower Building, 700 S.W. Jackson, Topeka, Kansas to consider the adoption of the proposed rule and regulation of the Kansas State Board of Mortuary Arts, on a permanent basis.

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 State Board of Mortuary Arts, 700 S.W. Jackson, Suite 904, Topeka, Kansas 66603-3733 or by email to jw.carey@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 J.W. Carey, Executive Secretary, at (785) 296-3980 (or TTY 1-800-766-3777). The northwest entrance to the Jayhawk Tower Building is accessible. Parking is located at the northwest end of the Jayhawk Tower Building.

A summary of the proposed regulation and its economic impact follow. (Note: Statements indicating that a regulation is “not anticipated to have any economic impact” are intended to indicate that no economic impact on the Kansas State Board of Mortuary Arts, 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 viewed at the following website: <http://ksbma.ks.gov/>.

K.A.R. 63-2-3 – Responsibilities of funeral director. Amendment to the language of this regulation is to allow a Kansas funeral director to have personal supervision of more than one Kansas licensed funeral establishment. The proposed amendment is not anticipated to have any economic impact.

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63-2-3. Responsibilities of funeral director. ~~(a) A Kansas funeral director shall not have charge of more than one funeral establishment. (b) Any Kansas licensed funeral director owning or having an interest in more than one Kansas funeral establishment shall employ at all times, for each of these establishments, a Kansas licensed funeral director, who shall have personal supervision and charge of the establishments.~~ (a) Each Kansas licensed funeral establishment shall at all times be under the charge and personal supervision of a Kansas licensed funeral director. "Personal supervision" means the licensed funeral director takes responsibility for the actions taken by the licensed funeral director and the funeral establishment staff in the conduct of their employment. The licensed funeral director does not need to be present at the funeral establishment to conduct personal supervision.

(b) A Kansas funeral director may be in charge and have personal supervision of more than one funeral establishment.

(c) A funeral, or any portion of it, and all at-need funeral arrangements shall not be conducted without a licensed funeral director or assistant funeral director being present. (Authorized by K.S.A. 74-1704; implementing K.S.A. 65-1713a; effective Jan. 1, 1966; amended Jan. 1, 1967; amended May 1, 1978; amended May 1, 1982; amended May 1, 1983; amended May 1, 1987; amended April 3, 1995; amended P-_____.)

APPROVED

AUG 03 2023

DEPT. OF ADMINISTRATION

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ATTORNEY GENERAL

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Kansas Administrative Regulations Economic Impact Statement (EIS)

Kansas State Board of Mortuary Arts
Agency

J.W. Carey III
Agency Contact

(785) 296-3980
Contact Phone Number

63-2-3
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).

Responsibilities of funeral director. Each Kansas licensed funeral establishment shall at all times be under the charge and personal supervision of a Kansas licensed funeral director. A Kansas funeral director may be in charge and have personal supervision of more than one funeral establishment.

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.)*

Not applicable.

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;

It will enhance business activities and growth by allowing a Kansas licensed funeral director to be in charge and have personal supervision of more than one funeral establishment.

- 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;

Not applicable.

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

Funeral Establishments.

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

It will benefit a Kansas licensed funeral director to be in charge and have personal supervision of more than one funeral establishment at no cost expected.

- 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;

No measures taken as there is no cost or impact expected.

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- 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 – \$0.00

Costs to Local Governmental Units – \$0.00

Costs to Members of the Public – \$0.00

Total Annual Costs – \$0.00
(sum of above amounts)

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

No costs to be expected.

- ☐ 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.

No changes in revenues or expenditures expected.

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.

No long-range economic impact expected.

- 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.

No increase or decrease of revenues expected.

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- 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).

The agency consulted with the Kansas Funeral Director Association which has membership of many licensed Kansas funeral directors.

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.

- 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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