

Proposed

**STATE OF KANSAS
BOARD OF HEALING ARTS**

Notice of Public Hearing on Proposed Administrative Regulations

A public hearing will be conducted on Tuesday, January 24, 2019, 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 an amended regulation related to the licensure of and the practice by Acupuncturists.

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 amended 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 amended regulation and the Economic Impact Statement for the amended 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 Jenne Cook at (785) 296-2482, 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 amended 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 amended regulation and the economic impact follows:

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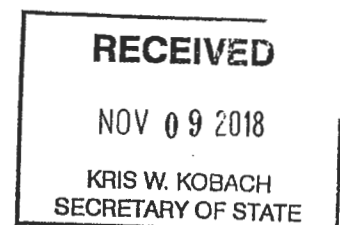
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SECRETARY OF STATE

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K.A.R. 100-76-2. Licensure by examination The purpose of this revised regulation is to remove an unintentional barrier to licensure caused by: (1) language in the existing regulation requiring the licensure examination to specifically contain a separate and distinct biomedicine component of the national exam (biomedicine was not a separate component of the examination prior to 2005); and (2) omission in the existing regulation of “substantial equivalent” language to allow the board flexibility in assessing examinations from other jurisdictions that have equal or higher standards than the national examination.

The revised regulation is more flexible and less restrictive. The revision is likely to enhance business activity because it allows for more flexibility in licensing decisions and makes the process for approving new licenses for practitioners more efficient.



K.A.R. 100-76-2. Licensure by examination. Each ~~person applying~~ applicant for licensure in ~~acupuncture~~ by examination shall provide the following or the substantial equivalent of the following as determined by the board:

(a) Documentation of successful completion of the certification examination offered by the NCCAOM ~~for a diplomate in acupuncture or oriental medicine~~ or an entity with standards equivalent to the standards of NCCAOM at the time the applicant completed the examination as determined by the board. The certification examination shall include the following components:

- (1) Foundations of oriental medicine;
- (2) acupuncture with point location; and
- (3) biomedicine, except that the biomedicine component of the examination shall not be required for any applicant who completed the NCCAOM certification, or its equivalent, before 2005; and

(b) a copy of a clean needle technique (CNT) certificate from the council of colleges of acupuncture and oriental medicine (CCAOM) or NCCAOM. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7606; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018; amended, T-_____, _____; amended P-_____.)

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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. 100-76-2 *(person)*

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 the Division of the Budget.

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

The purpose of this revised regulation is to remove an unintentional barrier to licensure caused by; (1) language in the existing regulation requiring the licensure examination to specifically contain a separate and distinct biomedicine component of the national exam (biomedicine was not a separate component of the examination prior to 2005); and (2) omission in the existing regulation of "substantial equivalent" language to allow the board flexibility in assessing examinations from other jurisdictions that have equal or higher standards than the national examination.

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 makes the requirement less restrictive. The revision is likely to enhance business activity because it allows for more flexibility in licensing decisions and makes the process for approving new licenses for

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- 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 revised regulation is simpler and less restrictive. It is therefore likely to reduce compliance and hiring costs for affected businesses.

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

Businesses that employ acupuncturists, Solo practitioners and the various business entities through which they operate their acupuncture practice.

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

The benefit of the revision is that it allows for more flexibility in licensing decisions and makes the process for approving new licenses for practitioners more efficient. There are no discernible costs, other than routine agency and state resources involved in the process of promulgating regulations. Once instituted, this revision would involve no increased costs

- 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;

This revision is itself a measure taken by the agency to minimize the cost and impact of a regulation on business and economic development while maintaining a high standard of public protection.

- 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 revision. As noted above, this revision would involve less burden on licensees and businesses that employ them. This estimate is based on lay opinion and rationale as described above.

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. Once instituted, this revision would involve no increased costs

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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.

N/A

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).

The agency consulted with the state organization of professional acupuncturists, as well as the members of the agency's acupuncture advisory council, which is comprised of 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).

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This is not an environmental regulation.

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