

Proposed

STATE OF KANSAS
BOARD OF HEALING ARTS

Notice of Public Hearing on Proposed Administrative Regulations

A public hearing will be conducted on Tuesday, March 5, 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 three regulations related to the Kansas Telemedicine Act (K.S.A. 40-2,210 et seq.).

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 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 new 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 new regulations and the Economic Impact Statement for the new 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 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 new 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 regulations and the economic impact follows:

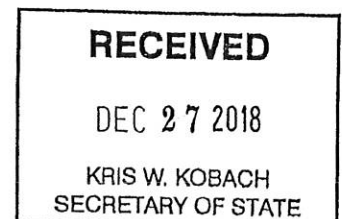


K.A.R. 100-77-1. Definitions. This regulation clarifies that terms used in the regulations that have defined meanings under the Kansas Telemedicine Act have the same meanings for the purpose of the regulations.

K.A.R. 100-77-2. Telemedicine deemed rendered at location of patient. This regulation advises healthcare providers who practice telemedicine that treating a patient located in Kansas is considered practicing in Kansas (subjecting the healthcare provider to the requirements of the Healing Arts Act).

K.A.R. 100-77-3. Prescribing drugs by means of telemedicine. This regulation advises healthcare providers that the same laws and regulations that apply to prescribing drugs by means of in person patient contact also apply to prescribing drugs via telemedicine.

Anticipated Economic Impact: There are no discernible costs, other than routine agency and state resources involved in the process of promulgating regulations. 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 in that the regulations would add clarity to the process of providing telemedicine and the regulations do not impose any new burdens on healthcare providers.



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Article 77. Telemedicine

K.A.R. 100-77-1. Definitions. Each of the following terms, as used in this article of the board's regulations, shall have the meaning specified in K.S.A. 2018 Supp. 40-2,211, and amendments thereto:

(a) "Distant site";

(b) "healthcare provider";

(c) "originating site";

(d) "physician"; and

(e) "telemedicine," including "telehealth." (Authorized by and implementing K.S.A. 2018 Supp. 40-2,214; effective, T-_____, _____; effective P-_____.)

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K.A.R. 100-77-2. Telemedicine deemed rendered at location of patient. For the purposes of this article of the board's regulations, the delivery of healthcare services shall be deemed to occur at the originating site. (Authorized by and implementing K.S.A. 2018 Supp. 40-2,214; effective, T-_____, _____; effective P-_____.)

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K.A.R. 100-77-3. Prescribing drugs by means of telemedicine. The same laws and regulations that apply to a healthcare provider prescribing drugs, including controlled substances, by means of in-person contact with a patient shall apply to prescribing drugs, including controlled substances, by means of telemedicine. (Authorized by and implementing K.S.A. 2018 Supp. 40-2,214; effective, T-_____, _____; effective P-_____.)

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*Kansas Board of Healing Arts
Tucker Poling, General Counsel
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Tucker.Poling@ks.gov*

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

K.A.R. 100-77-1, 100-77-2, 100-77-3 (telehealth regulations)
(permanent)

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 these regulations is to effectuate the provisions of the Kansas telemedicine act as required by K.S.A. 40-2,214.

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 extent the regulations would impact economic growth, in the lay opinion of agency staff, the regulations neither enhance or restrict business activities. The regulations do not impose additional requirements or change any definitions from their commonly understood meaning.

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;

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Although the agency does not employ an economist, the lay opinion of the agency staff is that there will be no economic effect on the affected businesses and business sector because the regulations result in no change from current practice.

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

Businesses incorporating telemedicine into their practice.

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

The benefit of the regulation is it provides clarity to healthcare providers who practice telemedicine by re-iterating that the same rules that currently apply to the practice of the hearing arts apply to patient interactions via telemedicine. There are no new or additional rules that apply to their practice of telemedicine. There is no expected cost associated with the regulations 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 regulation by not imposing technical requirements in the regulation and not proposing any new or additional substance rules that apply to the practice of telemedicine.

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 annual implementation cost to these regulations. No annual compliance costs anticipated at this time to any party. 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.

No total implementation cost to these regulations other than routine state and agency resources necessary to promulgate regulations. No compliance costs anticipated at this time to any party. 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.

See comments above. The basis for the estimates are stated 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.

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 solicited input from the Board of Pharmacy and Board of Nursing. Neither agency has voiced concerns.

- 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).

This is not an environmental regulation.

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