



Kansas Legislative Research Department

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To: Kansas Legislature

From: Jordan Milholland, Managing Research Analyst

Re: Report of the August 21, 2023, Meeting of the Joint Committee on Administrative Rules and Regulations

With this report, the Joint Committee on Administrative Rules and Regulations (Committee) provides its comments on rules and regulations reviewed at its meeting on August 21, 2023. Agencies are asked to respond to each comment or request for information; responses are compiled and maintained by staff of the Kansas Legislative Research Department.

Secretary of State

KAR 7-36-7, processing advance voting ballot applications; KAR 7-47-1, postelection audit implementation.

KAR 7-36-7. The Committee is concerned that because the proposed amendments to the rule and regulation do not contain a deadline for which advance mail voting ballot applications are to be returned to the county election office, it could result in confusion amongst county clerks in determining how to address applications received after either the county or statutory deadline.

Kansas Department of Health and Environment

KAR 28-35-603, requirements for radon measurement technician; KAR 28-35-604, requirements for radon mitigation technician; KAR 28-35-605, continuing education.

KAR 28-14-2, schedule of fees. [public water supply tests]

The Committee requests the agency provide additional information on radon measurements in Kansas, including information that indicates where Kansas ranks nationally in the average amount of radon measured in homes; and studies that show health outcomes, including the number of cancer cases attributed to radon poisoning in Kansas.

KAR 28-35-604. The Committee notes that among the radon mitigation technician certification requirements, the applicant must receive a passing score of at least 70 percent in a

radon mitigation exam approved by the agency. The Committee requests information indicating whether 70 percent is the standard nationally or whether other states currently require a higher score for certification. The Committee further requests information on continuing education hours, including the reasons for lowering the required amount, and how the lower amount of continuing education hours compares to other states in the region.

KAR 28-14-2. The Committee requests the agency provide a comparison of the fees charged for laboratory testing of public water supply samples by the agency's lab and fees charged by agencies conducting similar testing in contiguous states.

Kansas Department of Health and Environment—Division of Health Care Finance

KAR 129-6-86, poverty-level, low-income, and expanded low-income medicare beneficiaries; determined eligible.

KAR 129-6-86. The Committee is concerned that the newly proposed language to create an exception for low income beneficiaries who receive Medicare Part B immunosuppressive drug benefits to receive Kansas Medicaid benefits is vague and may result in confusion by the regulated community. Therefore, the Committee asks that the agency consider revising the language to more explicitly state the exception.

State Board of Healing Arts

KAR 100-6-6, reentry active license; medicine and surgery and osteopathic medicine.

The Committee had no comments.

State Board of Pharmacy

KAR 68-2-24, pharmacy owner responsibilities; KAR 68-7-26, remote practice of pharmacy; KAR 68-20-23, revocation (was N-Benzylpiperazine included in schedule I); KAR 68-20-31, revocation (was 2,5-dimethoxy-4-methyl-n-(2-methoxy benzyl)phenethylamine included in schedule I).

KAR 68-7-26. The Committee expresses its concerns regarding the potential public safety implications of expanding the definition of "direct supervision of a pharmacist" to include remote work settings. The Committee further notes this proposal is not related to any recently enacted legislation. The Committee recommends the proposed rule and regulation be withdrawn at this time and this proposal be brought before the Legislature.

State Board of Emergency Medical Services

KAR 109-1-1, definitions; KAR 109-5-1, continuing education; KAR 109-5-1e, revocation (was Instructor-coordinator (I-C) continuing education); KAR 109-6-2, renewal of EMS provider certificate; KAR 109-7-1,

schedule of fees; KAR 109-8-1, examination; KAR 109-9-1, revocation (was Instructor-coordinator certification); KAR 109-9-4, revocation (was Requirements for acceptance into an instructor- coordinator initial course of instruction); KAR 109-10-1e, revocation (was Approved instructor-coordinator standards); KAR 109-10-4, student transfers; KAR 109-11-7, revocation (was Instructor-coordinator course approval); KAR 109-11-8, successful completion of a course of instruction; KAR 109-16-1, graduated sanctions.

The Committee notes there appears to be instances in this set of proposed rules and regulations where acronyms are not listed in long-form before employment of the acronym. The Committee asks the agency to review this set of rules and regulations for such and consider making technical revisions to spell out acronyms where necessary.

Kansas Department of Revenue

KAR 92-12-140, scope; definitions; KAR 92-12-141, revocation (was Tax credit agreement); KAR 92-12-143, revocation (was Quarterly reports); KAR 92-12-144, revocation (was Reallocation of credits); KAR 92-12-145, revocation (was Transfer of tax credits).

The Committee had no comments.

Behavioral Sciences Regulatory Board

KAR 102-1-13, fees [psychologist license]; KAR 102-2-3, fees [social work license]; KAR 102-3-2, fees [professional counselor or clinical professional counselor license]; KAR 102-4-2, fees [community-based master's level psychologist license]; KAR 102-5-2, fees [board-approved clinical supervisor license, community-based marriage and family therapist license]; KAR 102-7-2, fees [addiction counselor license].

KAR 102-5-2 The Committee notes a misspelling of the word “license” in subparagraph (b)(2) of the proposed rule and regulation.

The Committee requests the agency provide updated fee fund balance figures and projections of future fee fund balances, when available.

Kansas Department of Agriculture

KAR 4-2-1, labeling prohibitions; KAR 4-2-8a, definition of noxious weed seed; KAR 4-2-8b, official analysis; KAR 4-2-9a, restricted weed seeds; KAR 4-2-9b, prohibited weed seeds; KAR 4-2-14, seed offered for sale.

KAR 4-7-716, adoption by reference.

KAR 4-2-9a. The Committee is concerned that all stakeholders may not have been contacted during the drafting of the proposed rule and regulation, specifically with regard to the

two new seed varieties classified as “restricted.” The Committee is further concerned the potential economic impact to those stakeholders is not fully contained in the economic impact statement for this set. The Committee recommends the proposed rule and regulation be withdrawn at this time and this proposal be brought before the Legislature.

The Committee requests the agency provide a copy of educational materials used to inform county weed officers of Kansas statutory and regulatory requirements for addressing noxious weeds.