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Proposed

State of Kansas
Kansas Board of Cosmetology

Notice of Public Hearing on Proposed Administrative Regulations

A public hearing will be conducted on August 24, 2021 at 9:30 a.m. to consider the adoption of proposed amendments to regulations K.A.R. 69-1-4, 69-6-2, 69-6-3, and 69-15-31. Due to recent concerns regarding COVID-19, only remote public participation is available. To participate in the teleconference hearing, call 1-785-414-8630 and enter conference code 131233130#. To attend the public hearing by video, please email alexis.henderson@ks.gov. During the hearing, all interested individuals will be given a reasonable opportunity to present their views orally on the proposed regulations. If an individual wishes to give oral comment during the remote hearing, provide a written copy of the comment to the email or postal mailing address or fax number listed below. In order to give each individual an opportunity to present their views, it may be necessary for the hearing officer to request that each presenter limit an oral presentation to an appropriate time frame.

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 regulations. All interested parties may submit written comments prior to the hearing to the Kansas Board of Cosmetology, 714 SW Jackson, Jayhawk Walk Building, Suite 100, Topeka, Kansas, 66603-3714, by fax at 785-296-3002, or by email to alexis.henderson@ks.gov.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulations 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 Alexis Henderson at (785) 249-7061 (or TTY 1-800-766-3777).

A summary of the proposed regulations and their 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 Board of Cosmetology, other state agencies, state employees, or the general public has been identified.)

Copies of the proposed regulations and the Economic Impact Statement for the proposed regulations can be viewed at the following website: www.kansas.gov/kboc.

K.A.R. 69-1-4 Removes the requirement that the client protection portion of the practical examination be scored separately.

K.A.R. 69-6-2 Removes wording in conflict with statute.

K.A.R. 69-6-3 Revokes the regulation due to outdated wording and statutory conflict.

K.A.R. 69-15-31 Identifies and defines any potentially disqualifying civil and criminal records that may disqualify an applicant from receiving a body art practitioner license and provides for

an advisory opinion prior to application for licensure to state if there is a disqualifying civil or criminal record that would disqualify such applicant from licensure.

Economic Impact. The Board anticipates that there should be little, if any, economic impact to State and local governments due to these regulations.

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69-1-4. Grades necessary to pass licensure examinations; development and administration of

licensure examinations. (a) Each applicant taking the state board of cosmetology examinations shall be granted a license authorizing the practice of cosmetology, nail technology, esthetics, or electrology if the applicant attains the following examination scores:

(1) An average of at least 75 percent on the practical examination sections. ~~However, each applicant shall be required to attain a score of at least 75 percent on the client protection section of the practical examination; and~~

(2) at least 75 percent on the written examination.

(b) Each applicant for licensure as an instructor shall be required to attain a score of at least 75 percent on the written examination for instructors, in addition to meeting the applicable requirements specified in K.S.A. 65-1903, and amendments thereto.

(c) The licensure examinations shall be developed and administered by the board or by a board-approved examination provider. (Authorized by and implementing K.S.A. 65-1905; effective Jan. 1, 1966; amended May 1, 1981; amended Feb. 21, 1994; amended March 22, 1996; amended, T-69-12-29-04, Dec. 29, 2004; amended April 15, 2005; amended P-_____.)

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69-6-2. Sale or change of ownership. An Each establishment license shall be valid only for the ~~premise~~ premises named in the license. A Each licensee shall notify the board, in writing, within 15 days of a sale or other change of ownership of the establishment. ~~Upon a sale or other change of ownership of an establishment, the establishment license shall be transferred to the new owner or owners, without inspection, upon payment of a transfer fee.~~ (Authorized by K.S.A. 74-2702a; ~~as amended by L. 1995, Ch. 19, Sec. 3; implementing K.S.A. 65-1904a; effective Jan. 1, 1966; amended May 1, 1978; amended March 22, 1996; amended P-~~_____.)

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69-6-3. (Authorized by K.S.A. 1977 Supp. 65-1904a; effective Jan. 1, 1966; amended May 1, 1978; revoked P-_____.)

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69-15-31. Potentially disqualifying civil and criminal records; advisory opinion; fee. (a)

Conviction of any felony or class A misdemeanor listed in K.S.A. 65-1942, and amendments thereto, may disqualify an applicant from receiving a license.

(b) Civil records that may disqualify an applicant from receiving a license shall be any records of any court judgment or settlement in which the applicant admitted or was found to have engaged in conduct that would constitute a violation of any practice act under the jurisdiction of the board or any of the board's regulations. Those records shall not be used to disqualify an applicant for more than five years after the applicant satisfied any judgment or restitution ordered by the court or agreed to in the settlement.

(c) Any individual with a criminal or civil record described in this regulation may submit a petition to the board for an informal, advisory opinion concerning whether the individual's civil or criminal record may disqualify the individual from licensure. Each petition shall include the following:

- (1) The details of the individual's civil or criminal record, including a copy of court records or the settlement agreement;
- (2) an explanation of the circumstances that resulted in the civil or criminal record; and
- (3) a check or money order in the amount of \$50.00. (Authorized by K.S.A. 74-120 and 74-2702a; implementing K.S.A. 65-1942, 65-1947, and 74-120; effective P-_____.)

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Proposed

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

Board of Cosmetology
Agency

Aubrie Pryer
Agency Contact

785-289-7303
Contact Phone Number

69-1-4, 69-1-8, 69-3-7, 69-6-2, 69-6-3, 69-12-18, 69-15-6; 69-15-9, 69-15-31, and 69-16-1
K.A.R. Number(s)

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: Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

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

The proposed regulations would amend requirements for a separate client protection examination, student record retention, temporary permit and practitioner expiration, access to tanning devices by minors and establishes regulation to provide felony advisory opinions for body art applicants and defines gross negligence and unprofessional conduct.

K.A.R. 69-1-4 Removes the requirement that the client protection portion of the practical examination be scored separately.

K.A.R. 69-1-8 Removes outdated wording referencing the requirement of a doctor's statement to exam.

K.A.R. 69-3-7 Provides clarification on the amount of time student records should be kept by changing the wording from "reasonable period of time" to at least 10 years. Provides requirements for the transfer of student records upon closure of a school.

K.A.R. 69-6-2 Removes wording in conflict with statute.

K.A.R. 69-6-3 Revokes the regulation due to outdated wording and statutory conflict.

K.A.R. 69-12-18 Provides clarification on access by minors to tanning devices in use.

K.A.R. 69-15-6 Limits a person from practicing body art under a temporary permit if the person fails examination.

K.A.R. 69-15-9 Requires body art practitioner licenses to expire two years from issuance. Removes wording in conflict with statute.

K.A.R. 69-15-31 Identifies and defines any potentially disqualifying civil and criminal records that may disqualify an applicant from receiving a body art practitioner license and provides for an advisory opinion prior to application for licensure to state if there is a disqualifying civil or criminal record that would disqualify such applicant from licensure.

K.A.R. 69-16-1 Provides specific definitions and language regarding gross negligence and unprofessional conduct

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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)

The proposed regulations are not mandated by federal law and there are no applicable requirements under federal law.

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 Board does not anticipate these regulations having any impact on business activities and growth.

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;

The Board does not anticipate these regulations having any economic impact in any of the listed categories.

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

Cosmetology profession schools and tanning establishments.

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

There are no costs associated with these regulations updates.

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;

There are no anticipated costs associated with these regulation updates.

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.

There are no anticipated costs associated with these regulation updates.

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 anticipated costs associated with these regulation updates.

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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.

There are no anticipated costs associated with these regulation updates.

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.

These regulations do not increase or decrease revenues as described above.

- 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 Board discussed and reviewed the regulation changes in an open meeting where public comment was offered.

- 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).

The Board does not anticipate any cost impact for these regulation updates whether adopted or not.

