

KANSAS STATE BOARD OF EXAMINERS IN OPTOMETRY

Notice of Public Hearing on Proposed Administrative Regulations

The Kansas State Board of Examiners in Optometry will conduct a public hearing on Friday, July 12, 2024, at 8:30 a.m., in the Kansas State Capitol, Committee Room 582-N, 310 SW 10th St., Topeka, KS 66612, to consider the adoption of the proposed regulations K.A.R. 65-5-6 and 65-5-15 of the Kansas State Board of Examiners in Optometry 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 regulations. All interested parties may submit written comments prior to the hearing by mailing them to the Kansas Board of Examiners in Optometry, 3109 W. 6th St., Suite A, Lawrence, KS 66049 or by email to kssbeo@ks.gov. All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulations during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to ask that each participant limit any oral presentation to an appropriate time frame.

Complete copies of the proposed regulations and economic impact statements may be found on the Board's website: <https://kssbeo.ks.gov/> or by contacting Jan Murray, jan.murray@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 statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five (5) working days in advance of the hearing by contacting Jan Murray at 785-832-9986.

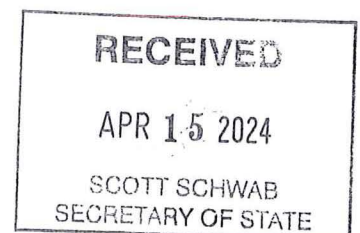
A summary of the proposed regulations and their economic impacts are as follows:

K.A.R. 65-5-6 – Continuing education. K.A.R. 65-5-6 is an amended permanent regulation that updates continuing education requirements.

Economic Impact: The adoption of this regulation has no economic impact. There is no environmental impact.

K.A.R. 65-5-15 – Reciprocal licenses; active practice requirements. K.A.R. 65-5-15 is a permanent regulation that defines active practice requirements for reciprocal applicants.

Economic Impact: The adoption of this regulation has no economic impact. There is no environmental impact.



65-5-6. Continuing education. (a) Each licensed optometrist shall earn ~~annually~~ 24 hours of documented and approved continuing education during each year of the license renewal period.

(b) No more than ~~eight~~ 12 hours of the 24 annually required hours of documented and approved continuing education may be obtained through courses that do not include a live presentation. No more than four of the 24 annually required hours of documented and approved continuing education may be obtained through observing ophthalmic surgery, which shall not be considered as a live presentation. No more than four of the 24 annually required hours of documented and approved continuing education may be in the subject area of practice management. For the purpose of this regulation, the term "live presentation" shall mean a continuing education program offered at a set time during which the licensed optometrist is physically present in the same room as the moderator or presenter to comment and ask questions in real time. eCourses including those presented through the internet, by correspondence, in journals or other publications, and by presentation that is remote or prerecorded, ~~or both~~, shall be subject to the limitations specified in this subsection.

~~(c) Each academic credit hour shall be equivalent to 15 hours of continuing education. Credit for auditing an academic course shall be given for actual hours attended during which instruction was given and shall not exceed the number of hours allowed for academic credit.~~

~~(d)~~ (e) The following educational programs may be used to meet the annual educational requirement:

- (1) Educational meetings of the American optometric association;
- (2) educational meetings of the ~~Kansas~~ state optometric associations;
- (3) scientific sections of the American academy of optometry;

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(4) postgraduate courses offered at any accredited school or college of optometry; and

(5) other educational programs approved by the board.

(ed) Each ~~provider seeking board approval for a continuing education offering~~
educational program required to obtain approval from the board in accordance with (c)(5) above
shall submit a copy of the continuing education program, schedule, or outline to the secretary-
treasurer or their designee at least 6030 days before the date of the program. A comprehensive
program package outlining the following must be submitted for non-COPE (council on
optometric practitioner education) approved courses:

(1) Course outline with 1.5 to 2 pages per hour of presentation;

(2) instructors;

(3) dates;

(4) times;

(5) location;

(6) course description; and

(7) curriculum vitae or biographical sketches of instructors.

(e) Each licensee shall submit a certificate of attendance of all continuing education
courses to the association of the regulatory boards of optometry (ARBO OE tracker) before
submitting licensee's application for renewal to the Board.

(f) The board reserves the right to waive the requirements of subsection (b) for good cause
demonstrated by the licensee.

~~(f) Each licensee shall submit a certificate of attendance to the secretary-treasurer with or~~
~~before the licensee's application for renewal. The certificate of attendance shall contain the~~
~~following:~~

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~~(1) The name of the sponsoring organization;~~

~~(2) the name, signature, and address of the licensee;~~

~~(3) the number of hours attended;~~

~~(4) the subject of the approved education program;~~

~~(5) the date of the educational program; and~~

~~(6) any other evidence of attendance required by the board.~~

~~(g) The certificate of attendance shall be on a form approved by the board and shall be signed by the licensee and an appropriate representative of the sponsoring organization.~~

(Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 2014 Supp. 65-1509a; effective May 18, 1992; amended March 7, 1997; amended June 9, 2000; amended Oct. 3, 2003; amended June 5, 2015; amended P-_____.)

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K.A.R. 65-5-15. Reciprocal licenses; active practice requirements. (a) Each applicant seeking a reciprocal license shall demonstrate their active practice in another state, district or territory of the United States by submitting evidence showing that the applicant has been engaged in direct patient care during the time period required by K.S.A. 65-1505(d) or any other time period provided by applicable law. Direct patient care shall consist of at least one of the following on an annual basis, or the substantial equivalent as determined by the board in accordance with subsection (b):

- (1) At least 1 full day per week, or its equivalent, for at least 50 weeks; or
- (2) a total of 400 hours.

(b) The totality of circumstances may be considered by the board in determining whether the applicant has been engaged in active practice, including gaps in practice necessitated by military service, family leave taken due to the birth of a child of the applicant, or the placement of a child for adoption or foster care with the applicant.

(c) The following shall not qualify as active practice:

- (1) Patient care provided while the applicant is engaged in a training program;
- (2) employment that consists solely of research activities that would not otherwise be considered direct patient care; and
- (3) employment that consists solely of administrative duties.

(d) An applicant's practice in any other state, district or territory of the United States shall not qualify as active practice during the existence of any of the following conditions:

- (1) The applicant's license is limited, suspended, or revoked in any other state, district or territory of the United States or has been surrendered in any other state, district or territory of the

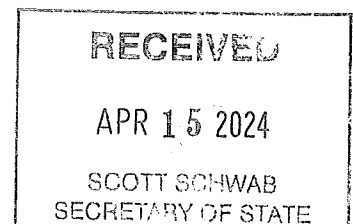
United States at the time of application.
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K.A.R. 65-5-15

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(2) The applicant's authority to utilize controlled substances issued by any state, district or territory of the United States, or a federal agency has been surrendered as a result of the applicant's practice in any other state, district or territory of the United States.

(3) The applicant is subject to an agreement for a limitation to or restriction of privileges at any medical facility or medical care facility as a result of the applicant's practice in any other state, district or territory of the United States.

(4) The applicant's membership on any professional staff or in any professional association or society has been revoked or surrendered while under investigation as a result of the applicant's practice in any other state, district or territory of the United States. (Authorized by K.S.A. 74-1504; implementing K.S.A. 65-1505; effective P-_____.)

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Kansas Administrative Regulations Economic Impact Statement (EIS)

Proposed

KS Board of Examiners in Optometry
Agency

Jan Murray
Agency Contact

785-832-9986
Contact Phone Number

K.A.R. 65-5-6
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).

K.A.R. 65-5-6 Updates annual continuing education requirements

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.)*

N/A

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;

K.A.R. 65-5-6 will have no impact on business growth or activities

- 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;

There will be no costs associated with the implementation of the proposed regulation

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

Optometrists

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

There will be no costs associated with the proposed 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;

None taken

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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

Costs to Local Governmental Units – \$0

Costs to Members of the Public – \$0

Total Annual Costs – \$0

(sum of above amounts)

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

N/A

- ☐ 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.

It will have no effect on state revenues or expenditures

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.

The proposed regulation would have no economic impact.

- 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.

Will not decrease or increase revenues of cities, counties, or school districts or impose functions or responsibilities on cities, counties, or school districts.

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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 proposed regulation was drafted after consulting with the Kansas Optometric Association. Additionally, the Board has posted it on their website and sent an email to all licensees requesting comments.

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.](#)

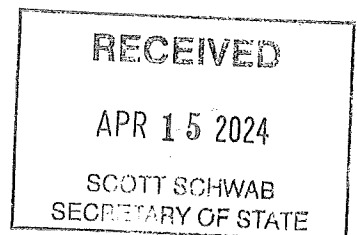
- C. Describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons who would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

[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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**Kansas Administrative Regulations
Economic Impact Statement (EIS)**

Kansas Board of Examiners in Optometry
Agency

Jan Murray
Agency Contact

785-832-9986
Contact Phone Number

65-5-15
K.A.R. Number(s)

☒ Permanent ☐ Temporary

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Section I

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

K.A.R. 65-5-15 defines active practice requirements for reciprocities

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.)*

N/A

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;
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There will be no costs associated with implementation of the proposed regulations.
- C. Businesses that would be directly affected by the proposed rule(s) and regulation(s);
Optometrists
- D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;
There will be no costs associated with the proposed 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;
None taken

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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.
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(sum of above amounts)

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N/A

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It will have no effect on state revenues or expenditures

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The proposed regulation would have no economic impact.

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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).

Posted regulation on the Board's website and requested comments

Section IV

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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.

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- 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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