MEMORANDUM

To: Joint Committee on Administrative Rules and Regulations
From: Office of Revisor of Statutes
Date: August 21, 2023
Subject: Authority for Proposed Rules and Regulations for August 21, 2023

Secretary of State
K.A.R. 7-36-7 is authorized by: K.S.A. 25-1122 and 25-1131;
K.S.A. 25-1122
“(m) The secretary of state may adopt rules and regulations in order to implement the provisions of this section and to define valid forms of identification.”

K.S.A. 25-1131
“The secretary of state may adopt rules and regulations, not inconsistent with this act, relating to advance voting ballots and the voting thereof. This section shall not be deemed to require adoption of rules and regulations by the secretary of state to carry out any duty under this act.”

K.A.R. 7-47-1 is authorized by: K.S.A. 25-3009 and 25-2912
K.S.A. 25-3009
“(f) The secretary of state shall adopt rules and regulations governing the conduct and procedure of the audit, including the random selection of the precincts and offices involved in the audit.”

K.S.A. 25-2912
“(c) On or before January 1, 2023, the secretary of state shall adopt rules and regulations to implement the provisions of this section.”

K.A.R. 40-2-14a and 40-3-12 (revocation)

Department of Health and Environment
K.A.R. 28-35-603, 28-35-604, and 28-35-605 are authorized by K.S.A. 48-16a03
“(a) The secretary shall establish a certification program for certified persons performing radon tests or mitigation in the state.

(b) The secretary shall adopt rules and regulations necessary to administer and implement the provisions of the radon certification law. Such rules and regulations shall be adopted no later than July 1, 2011.”
K.A.R. 28-14-2 is authorized by: K.S.A. 65-156
“The secretary of health and environment shall make rules and regulations for the collection of samples and analysis of water, either natural or treated, furnished by municipalities, corporations, companies or individuals to the public, and shall fix the fees for any services rendered under said rules and regulations to cover the cost of the services.”

Department of Health and Environment, Division of Healthcare Finance
K.A.R. 129-6-86 is authorized by: K.S.A. 65-1,245 and 75-7403
K.S.A. 65-1,245
“Not later than 180 days after the effective date of this section, the secretary of health and environment shall adopt rules and regulations in accordance with the provisions of this act to do all of the following subject to available funding:

(a) Implement the birth defects information system;
(b) specify the types of congenital anomalies and abnormal conditions of newborns to be reported to the system under K.S.A. 65-1,241, and amendments thereto;
(c) establish reporting requirements for information concerning diagnosed congenital anomalies and abnormal conditions of newborns;
(d) establish a form for use by parents or legal guardians who seek to have information regarding their children removed from the system and a method of distributing the form to local health departments and to physicians. The method of distribution must include making the form available on the internet.”

K.S.A. 75-7403
“(a) The secretary of health and environment is hereby authorized to establish policies and to adopt rules and regulations for the implementation and administration of the powers, duties and functions prescribed for or transferred to the department as provided by law.”

Board of Healing Arts
K.A.R. 100-6-6 is authorized by: K.S.A. 65-2809
“The requirements for continuing education for licensees of each branch of the healing arts shall be established by rules and regulations adopted by the board.”

Board of Pharmacy
K.A.R. 68-2-24 and 68-7-26 are authorized by: K.S.A. 65-1630
“The board may adopt and promulgate such reasonable rules and regulations, not inconsistent with law, as may be necessary to carry out the purposes and enforce the provisions of this act, which rules and regulations shall be filed in the office of the secretary of state as required by article 4 of chapter 77 of the Kansas Statutes Annotated and amendments thereto.”
K.A.R. 68-2-24 is also authorized by: K.S.A. 65-1643

“The issuance of a registration for any pharmacy shall also have the effect of permitting such pharmacy to operate as a retail dealer without requiring such pharmacy to obtain a retail dealer's permit. On evidence satisfactory to the board: (1) That the pharmacy for which the registration is sought will be conducted in full compliance with the law and the rules and regulations of the board; (2) that the location and appointments of the pharmacy are such that it can be operated and maintained without endangering the public health or safety; and (3) that the pharmacy will be under the supervision of a pharmacist, a registration shall be issued to such persons as the board shall deem qualified to conduct such a pharmacy.”

68-20-23 (revocation) and 68-20-31 (revocation)

Emergency Medical Services Board

K.S.A. 65-6110

“(a) The board shall adopt any rules and regulations necessary for the regulation of ambulance services. Such rules and regulations shall include: (1) A classification of the different types of ambulance services; (2) requirements as to equipment necessary for ambulances; (3) qualifications and training of emergency medical service providers and instructor-coordinators; (4) requirements and fees for the licensure, temporary licensure and renewal of licensure for ambulances; (5) records and equipment to be maintained by operators, instructor-coordinators, sponsoring organizations and emergency medical service providers; (6) requirements for a quality assurance and improvement program for ambulance services; and (7) such other matters as the board deems necessary to implement and administer the provisions of this act.”

K.S.A. 65-6111

“(a) The emergency medical services board shall:

(1) Adopt any rules and regulations necessary to carry out the provisions of this act;
(8) approve all training programs for emergency medical service providers and instructor-coordinators and prescribe certification application fees by rules and regulations;
(9) approve methods of examination for certification of emergency medical service providers and instructor-coordinators and prescribe examination fees by rules and regulations;
(11) approve sponsoring organizations by prescribing standards and requirements by rules and regulations and withdraw or modify such approval in accordance with the Kansas administrative procedure act and the rules and regulations of the board.”

K.A.R. 109-16-1 is also authorized by: K.S.A. 65-6129

“(g) The board shall adopt, through rules and regulations, a formal list of graduated sanctions for violations of article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, that shall specify the number and severity of violations for the imposition of each level of sanction.”

Department of Revenue
K.A.R. 92-12-140 is authorized by K.S.A. 79-32,261
“(g) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this section.”

K.A.R. 92-12-141, 92-12-143, 92-12-144, and 92-12-145 are scheduled for revocation.

Behavioral Sciences Regulatory Board
K.A.R. 102-1-13, 102-2-3, 102-3-2, 102-4-2, 102-5-2, and 102-7-2 are authorized by: 2023 Session Laws, Ch. 90, § 2 and K.S.A. 74-7507
2023 Session Laws, Ch. 90, § 2 (Sub for SB 131)
“(b) (1) The behavioral sciences regulatory board shall adopt rules and regulations to establish an expedited application process for any license, registration, permit or certificate issued by the board.

(2) (A) The board shall set the fee for an expedited application process by adopting rules and regulations. Such fee shall be in addition to any other fee established for the application but shall not exceed $100. The board shall not charge such fee for an expedited application process to any applicant who is a military servicemember or military spouse.”

K.S.A. 74-7507
“(a) (10) adopt rules and regulations as may be necessary for the administration of this act, the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act and the addiction counselor licensure act and to carry out the purposes thereof;”

K.A.R. 102-1-13 is also authorized by: K.S.A. 74-5316, 74-5316a and 74-5318
K.S.A. 74-5316
“(a) (3) the fee for such temporary license may be set by the board and shall not exceed $200, and any such fee shall be established by rules and regulations adopted by the board.

(6) the fee for a renewal of the temporary license may be set by the board and shall not exceed $200 per issuance, and any such fee shall be established by rules and regulations adopted by the board.”
K.S.A. 74-5316a
“(d) The board may charge a fee of a maximum of $200 for a temporary permit to practice and a fee of a maximum of $200 for an extension of a temporary permit to practice as established by rules and regulations of the board.”

K.S.A. 74-5318
“(c) A licensee shall submit the application to the board with a renewal fee set by rules and regulations of the board not to exceed $200.

(f) A person whose license has been suspended or revoked may make written application to the board requesting reinstatement of the license upon termination of the period of suspension or revocation. Such application shall be in a manner prescribed by the board and accompanied by a reinstatement fee not to exceed $200 prescribed by the board in rules and regulations.

(g) (2) A person requesting to reinstate a license that has been expired for longer than one year who has not completed the necessary continuing education hours for reinstatement may submit an application for a six-month reinstatement temporary license in a manner prescribed by the board, and such application shall be accompanied by a fee not to exceed $50 prescribed by the board in rules and regulations.”

K.A.R. 102-2-3 is also authorized by: K.S.A. 65-6309a and 65-6314
K.S.A. 65-6309a
“(d) The board may charge a fee of a maximum of $200 for a temporary permit to practice and a fee of a maximum of $200 for an extension of a temporary permit to practice as established by rules and regulations of the board.”

K.S.A. 65-6314
“(a) The following fees may be established by the board in accordance with the following limitations, and any such fees shall be established by rules and regulations adopted by the board:

(1) Renewal or reinstatement fee for a license as a social work associate shall be not more than $150.
(2) Application, new license, reinstatement or renewal fee for a license as a baccalaureate social worker shall be not more than $150.
(3) Application, new license, reinstatement or renewal fee for a license as master social worker shall be not more than $150.
(4) Application, new license, reinstatement or renewal fee for a license in a social work specialty shall be not more than $150.”
K.A.R. 102-3-2 is also authorized by: K.S.A. 65-5807a and 65-5808

K.S.A. 65-5807a
“(d) The board may charge a fee of a maximum of $200 for a temporary permit to practice and a fee of a maximum of $200 for an extension of a temporary permit to practice as established by rules and regulations of the board.”

K.S.A. 65-5808
“(a) (4) for a six-month reinstatement temporary license as a professional counselor, not more than $50;

(9) for a six-month reinstatement temporary license as a clinical professional counselor, not more than $50;

(10) for a community-based professional counselor license, not more than $175;”

K.A.R. 102-4-2 is also authorized by: K.S.A. 74-5367 and 74-5367a

74-5367
“(c) The board may fix a fee for the application of the temporary master’s level psychology license. The application fee shall not exceed $100. Any such fee shall be established by rules and regulations adopted by the board.”

74-5367a
“(d) The board may charge a fee of a maximum of $200 for a temporary permit to practice and a fee of a maximum of $200 for an extension of a temporary permit to practice as established by rules and regulations of the board.”

K.A.R. 102-5-2 is also authorized by: K.S.A. 65-6405a and 65-6411

K.S.A. 65-6405a
“(d) The board may charge a fee of a maximum of $200 for a temporary permit to practice and a fee of a maximum of $200 for an extension of a temporary permit to practice as established by rules and regulations of the board.”

K.S.A. 65-6411
“(a) The board may collect the following fees, and any such fees shall be established by rules and regulations adopted by the board:

(5) for a six-month reinstatement temporary license as a marriage and family therapist, not to exceed $50;

(9) for a six-month reinstatement temporary license as a clinical marriage and family therapist, not more than $50;

(10) for community-based licensure as a marriage and family therapist, not to exceed $175;”
K.A.R. 102-7-2 is also authorized by: K.S.A. 65-6618
“(a) The board may collect the following fees, and any such fees shall be established by rules and regulations adopted by the board:

(5) for a six-month reinstatement temporary license as an addiction counselor, not to exceed $50;
(6) for a student temporary addiction counselor license, not to exceed $100;
(7) for renewal for a student temporary addiction counselor license, not to exceed $100;
(11) for a temporary license as a master’s addition counselor, not to exceed $100;
(12) for a six-month reinstatement temporary license as a master’s addition counselor, not to exceed $50;
(16) for a six-month reinstatement temporary license as a clinical addiction counselor, not to exceed $50;”

Department of Agriculture
K.A.R. 4-2-1, 4-2-8a, 4-2-8b, 4-2-9a, 4-2-9b, and 4-2-14 are authorized by: K.S.A. 2-1427
“The secretary is hereby empowered to adopt such rules and regulations as the secretary deems necessary to carry out the full intent and meaning of article 14 [Sale and Distribution of Agricultural Seeds] of chapter 2 of the Kansas Statutes Annotated, and amendments thereto. The secretary is hereby empowered to enforce the provisions of this act and the rules and regulations adopted hereunder.”

K.A.R. 4-7-176 is authorized by: K.S.A. 65-772
“(a) The secretary shall adopt such rules and regulations as are necessary to implement the provisions of this act, and shall be charged with the enforcement of this act and of any rules and regulations adopted hereunder.”
* "This act" means K.S.A. 65-771 through 65-791.