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March 7, 2018

The Honorable Bud Estes, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 136-E
Topeka, Kansas 66612

Dear Senator Estes:

SUBJECT: Fiscal Note for SB 421 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 421 is respectfully submitted to your committee.

SB 421 would require any person, board, commission or similar body that determines the qualifications of individuals for licensure, certification or registration to revise their existing requirements to list the specific civil and criminal records that would disqualify an applicant from receiving a license, certification or registration within 120 days of the effective date of the bill. Such person, board, commission or similar body may only list any disqualifying criminal records or civil court records that are directly related to protecting the general welfare and the duties and responsibilities and in no case, could any non-specific terms, such as moral turpitude or good character, or any arrests that do not result in a conviction be used to disqualify an individual's application for licensure, certification or registration.

If an individual has a criminal record or civil court record that would disqualify the individual from receiving a license, certification or registration and the individual has not been convicted of any other crime in the last five years, the record could not be used to disqualify the individual for licensure, certification or registration for more than five years from the date of conviction, unless the conviction is for a crime that is a person felony or a sexually violent crime, as defined in KSA 22-4902. An individual with a civil or criminal record may petition the person, board, commission or similar body responsible for licensure, certification or registration at any time for a determination of whether the individual's civil or criminal record would disqualify the individual from obtaining a license, certification or registration. The petition must include details of the individual's civil or criminal record. The person, board, commission or similar body responsible for licensure, certification or registration must respond to the petition within 30 days of receiving the petition from the applicant. All persons, boards, commissions or similar licensing

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bodies must adopt and publicly maintain all necessary rules and regulations for the implementation of the bill.

The Kansas Board of Pharmacy estimates SB 421 would increase its expenditures by \$127,600 annually for 2.00 Administrative Assistant or Paralegal FTE positions, including \$119,600 for salaries and wages, \$5,000 for office space, \$3,000 for computer equipment, software and supplies. Additional other operating costs would include \$5,200 for two additional board meetings, \$500 to publish new rules and regulations in the *Kansas Register*, \$5,000 for software and website updates, and a minimum of \$125 per month for monthly meetings with its investigative member. The Board indicates the bill could also increase administrative and attorney costs related to additional complaints, investigations, and disciplinary actions related to impaired licensees and violations of the Pharmacy Practice Act, but an estimate of these costs is unknown. In addition, the Board indicates the bill could reduce annual revenues, but no estimate was provided.

The Kansas State Board of Healing Arts estimates SB 421 would increase annual expenditures by \$126,600 which includes \$61,100 for 1.00 Legal Assistant FTE position; \$47,840 for 1.00 Licensure Analyst FTE position, \$14,000 for additional office and computer equipment and supplies; \$2,400 for additional phone, email and internet lines; and \$1,260 to publish new rules and regulations in the *Kansas Register*. The Board indicates the bill could also increase administrative and attorney costs related to additional complaints, investigations, and disciplinary actions related to violations, but an estimate of these costs cannot be made. In addition, the Board indicates the bill could reduce annual revenues for those individuals who are disqualified from licensure under these provisions.

The Behavioral Sciences Regulatory Board indicates the requirements of SB 421 would increase its expenditures by \$53,707 annually which includes costs for one additional staff member and for doubling the number of board meetings required to be held. In addition, the Board indicates the bill could increase revenues to the Board by increasing the number of individuals eligible for licensure.

The Kansas Board of Optometry indicates the provision in SB 421 that would require the Board to respond to petitions within 30 days of receipt could increase its expenditures by \$5,400 annually for additional board member pay, travel expenses and legal fees, since it would double the number of board meetings required. The Board estimates the bill could also decrease revenues by \$1,500 annually for those individuals who are disqualified from licensure under these provisions.

The Kansas Dental Board indicates that SB 421 would require an extensive, comprehensive legal review of the Board's statutory and regulatory structure relative to current and future investigations and existing administrative litigation. It would also require the Board to ascertain whether an applicant's past conviction in another state could or should be classified as a person felony or sexually violent crime under KSA 22-4902. In addition, it would require the Board to support additional in-person or telephonic meetings to process each petition to pre-determine whether a civil or criminal record would disqualify the applicant from obtaining a license. While

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the cost is difficult to predict, the Board indicates its contract attorney rate is \$150 per hour and its contract dentist investigator has a rate of \$125 per hour. The Board notes that it has nine members and if it was required to make the pre-determination decisions in-person, each Board member would also receive a daily rate of \$35 per day, plus mileage and hotel reimbursement. If the Board could make the pre-determination decisions telephonically, each member would receive their daily rate of \$35 per day. The Board currently holds only four public meetings each year with its attorney and dentist investigator.

The Real Estate Appraisal Board indicates it is unable to determine if the enactment of SB 421 would have a fiscal effect on its operation.

Both the Kansas Bureau of Investigation and the Kansas Board of Accountancy indicate SB 421 would have no fiscal effect on agency operations.

This bill note includes fiscal effect information provided from only a sample of agencies that could be affected by the provisions in SB 421. Any fiscal effect associated with SB 421 is not reflected in *The FY 2019 Governor's Budget Report*.

Sincerely,



Larry L. Campbell
Chief Budget Officer

cc: Shelia Sawyer-Tyler, KBI
Alexandra Blasi, Board of Pharmacy
Max Foster, Behavioral Sciences
Charity Carlat, Dental Board
Jake Fisher, KCC
Susan Somers, Board of Accountancy
Dawn Palmberg, Department of Labor
Colleen Becker, Department of Administration
Lynn Robinson, Department of Revenue