

# 2021 Supplement

to the

# Kansas

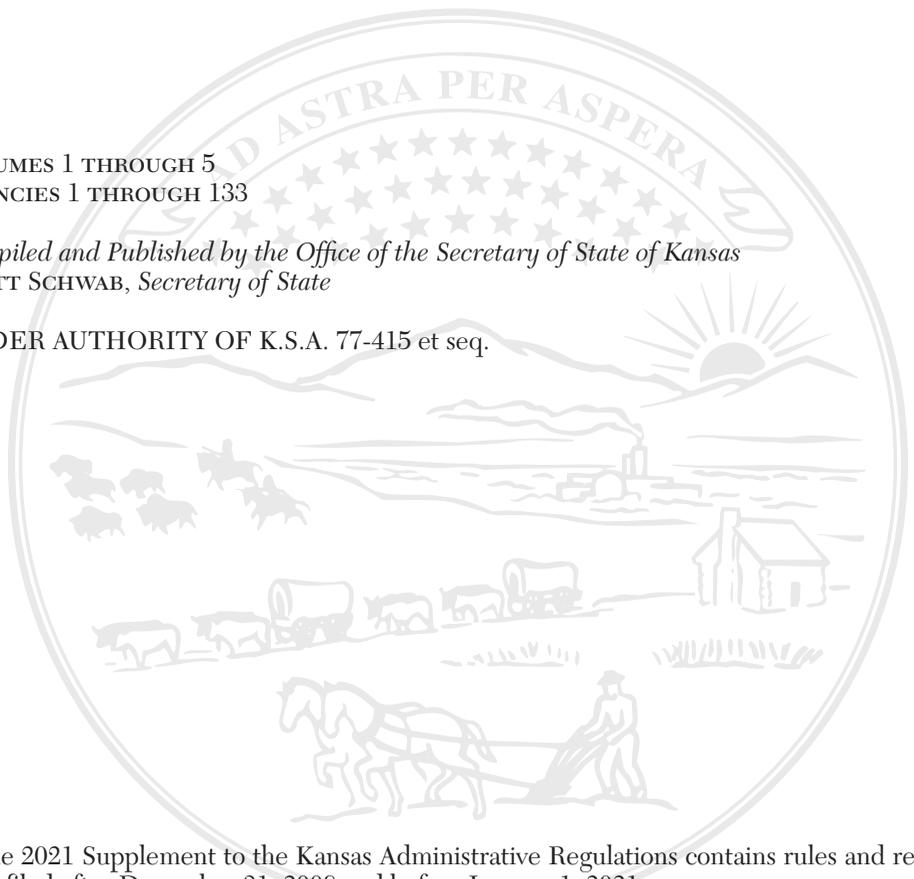
# Administrative

# Regulations

VOLUMES 1 THROUGH 5  
AGENCIES 1 THROUGH 133

*Compiled and Published by the Office of the Secretary of State of Kansas*  
SCOTT SCHWAB, *Secretary of State*

UNDER AUTHORITY OF K.S.A. 77-415 et seq.



The 2021 Supplement to the Kansas Administrative Regulations contains rules and regulations filed after December 31, 2008 and before January 1, 2021.

The 2009 Volumes of the Kansas Administrative Regulations contain regulations filed before January 1, 2009.

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Topeka, KS 66612-1594

## AUTHENTICATION OF RULES AND REGULATIONS

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THIS IS TO CERTIFY That we, Derek Schmidt, Attorney General of and for the State of Kansas, and Scott Schwab, Secretary of State of and for the State of Kansas, pursuant to K.S.A. 77-429 have examined and compared this 2021 Supplement to the Kansas Administrative Regulations; and do hereby certify that this publication of rules and regulations contains all rules and regulations for agencies 1 through 133 approved for printing by the State Rules and Regulations Board subsequent to the publication of the corresponding bound volumes of the 2009 Kansas Administrative Regulations and otherwise complies with K.S.A. 77-415 et seq. and acts amendatory thereof.

Done at Topeka, Kansas, this 1st day of November, 2021.



DEREK SCHMIDT,  
*Attorney General*



SCOTT SCHWAB,  
*Secretary of State*

[SEAL]

## **EXPLANATORY PREFACE**

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This volume has been compiled and published in accordance with K.S.A. 77-430a and other applicable laws.

### **ARRANGEMENT OF RULES AND REGULATIONS**

Administrative rules and regulations of the various state agencies are arranged in accordance with a three-part system of numbers divided by hyphens. The first number indicates the agency; the second number indicates the article (a group of regulations of such agency upon the same subject); the last number indicates the specific section or regulation within the article. For example, "1-4-11" refers to agency No. 1, article No. 4 and section No. 11.

The law requires that agencies cite the statutory authority for the regulation and the section(s) of the statutes which the regulation implements. This is published at the end of the text of the regulation. In addition, the Secretary of State includes a history of the regulation which indicates the original effective date of the regulation and each subsequent amendment.

### **SALES**

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SCOTT SCHWAB, *Secretary of State*

## COMMENTARY

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This volume has been compiled and published in accordance with K.S.A. 77-430a and other applicable laws.

The 2021 Supplement contains rules and regulations filed after December 31, 2008 and before January 1, 2021. Regulations filed before January 1, 2009, are printed in the 2009 Kansas Administrative Regulations, Volumes 1-5. Regulations filed on and after January 1, 2021, may be located by checking the Kansas Register, Kansas' official state newspaper. An index appears at the back of each Kansas Register and lists the volume and page number of the Register issue that contains the most recent version of the regulations filed after December 31, 2020.

To find the most recent version of a regulation:

First, check the table of contents in the most current issue of the Kansas Register

Then, check the Index to Regulations in the most current Kansas Register

Next, check the current K.A.R. Supplement

Finally, check the current K.A.R. Volume

*If the regulation is found at any of these steps, stop. Consider that version the most recent.* The most current regulations, proposed regulations open for public comment, and published regulations with a future effective date may also be found in the online K.A.R. at [https://sos.ks.gov/publications/pubs\\_kar.aspx](https://sos.ks.gov/publications/pubs_kar.aspx).

To determine the authorizing and implementing statute(s), the effective date, or to see when a regulation was amended or revoked, check the history found at the end of each regulation. The authorizing and implementing statute(s) are listed first followed by any subsequent action. For example, in "amended, T-7-12-11-90, Dec. 31, 1990" the "T" means temporary, the "7" is the number assigned to the agency in the K.A.R. volumes, and 12-11-90 is the date that the regulation was filed. Following the last comma is the effective date. Therefore, the amendment was filed as a temporary regulation on December 11, 1990, and the amendment became effective on December 31, 1990. A temporary regulation becomes effective upon approval by the State Rules and Regulations Board and filing in the Secretary of State's Office or at a later date when specified in the body of the regulation. A temporary regulation lasts 120 days unless it is amended or revoked within 120 days. If the "T number" is not included in an action on a regulation, the regulation was filed as a permanent regulation. A permanent regulation is effective 15 days following publication in the Kansas Register or at a later date specified in the body of the regulation. Prior to July 1, 1995, a permanent regulation became effective 45 days following publication in the Kansas Register or at a later date specified in the body of the regulation. The regulation remains in effect until amended or revoked.

Any questions regarding the publication or use of the K.A.R.s or questions regarding the regulation filing procedure may be directed to the Kansas Administrative Regulations Editor at 785-296-0082. For purchasing inquiries call 785-296-4557. Questions concerning the subject matter of a regulation should be directed to the agency administering the regulation.

Issues of the Kansas Register may be viewed and downloaded at <https://sos.ks.gov/publications/kansas-register.html>.

SCOTT SCHWAB, *Secretary of State*

# KANSAS ADMINISTRATIVE AGENCIES

<i>Agency Name</i>	<i>Agency No.</i>
911 COORDINATING COUNCIL.....	132
ABSTRACTERS' BOARD OF EXAMINERS .....	85
ACCOUNTANCY, BOARD OF .....	74
° ACCOUNTING BOARD, MUNICIPAL.....	2
ADJUTANT GENERAL'S DEPARTMENT .....	56
ADMINISTRATION, DEPARTMENT OF .....	1
° ADMINISTRATION, KANSAS DEPARTMENT OF—DIVISION OF HEALTH POLICY AND FINANCE .....	129
° ADMINISTRATIVE HEARINGS, OFFICE OF .....	133
° AGING AND DISABILITY SERVICES, KANSAS DEPARTMENT FOR .....	26
° AGING, KANSAS DEPARTMENT ON .....	26
AGRICULTURAL LABOR RELATIONS BOARD .....	12
AGRICULTURAL REMEDIATION BOARD, KANSAS .....	125
AGRICULTURE, KANSAS DEPARTMENT OF .....	4
° AGRICULTURE, KANSAS DEPARTMENT OF—DIVISION OF ANIMAL HEALTH.....	9
° AGRICULTURE, KANSAS DEPARTMENT OF—DIVISION OF CONSERVATION.....	11
AGRICULTURE, KANSAS DEPARTMENT OF—DIVISION OF WATER RESOURCES.....	5
AGRICULTURE, KANSAS DEPARTMENT OF—DIVISION OF WEIGHTS AND MEASURES.....	99
° ALCOHOLIC BEVERAGE CONTROL BOARD OF REVIEW .....	13
ALCOHOLIC BEVERAGE CONTROL, DIVISION OF—KANSAS DEPARTMENT OF REVENUE.....	14
° ALCOHOLISM, COMMISSION ON .....	42
° ANIMAL HEALTH DEPARTMENT, KANSAS .....	9
° ANIMAL HEALTH, DIVISION OF—KANSAS DEPARTMENT OF AGRICULTURE.....	9
° ATHLETIC COMMISSION .....	15
ATHLETIC COMMISSION, KANSAS—DEPARTMENT OF COMMERCE.....	128
ATTORNEY GENERAL.....	16
BANK COMMISSIONER, OFFICE OF THE STATE .....	17
° BANK COMMISSIONER, STATE—CONSUMER AND MORTGAGE LENDING DIVISION .....	75
BANK COMMISSIONER, STATE—JOINT RULES WITH OTHER AGENCIES .....	103, 104
BANKING DEPARTMENT, KANSAS .....	17
° BARBER EXAMINERS, KANSAS BOARD OF .....	61
° BARBERING, KANSAS BOARD OF .....	61
° BASIC SCIENCE EXAMINERS, BOARD OF.....	76
BEHAVIORAL SCIENCES REGULATORY BOARD .....	102
BOARD OF REGENTS, STATE .....	88
° BOARD OF REVIEW—LABOR.....	48
BUREAU OF INVESTIGATION, KANSAS .....	10
CHILD DEATH REVIEW BOARD, STATE .....	124
° CHILDREN AND FAMILIES, KANSAS DEPARTMENT FOR .....	30
° CIVIL RIGHTS, KANSAS COMMISSION ON .....	21
° COMMERCE, DEPARTMENT OF .....	110
COMMERCE, DEPARTMENT OF—KANSAS ATHLETIC COMMISSION.....	128
° CONSERVATION COMMISSION, STATE .....	11
° CONSERVATION, DIVISION OF—KANSAS DEPARTMENT OF AGRICULTURE.....	11
° CONSUMER CREDIT COMMISSIONER .....	75
CONSUMER CREDIT COMMISSIONER—JOINT RULES WITH OTHER AGENCIES.....	104
CORPORATION COMMISSION, KANSAS .....	82

<i>Agency Name</i>	<i>Agency No.</i>
CORRECTIONS, DEPARTMENT OF .....	44
* CORRECTIONS, DEPARTMENT OF—DIVISION OF JUVENILE SERVICES.....	123
CORRECTIONS OMBUDSMAN BOARD.....	43
* COSMETOLOGY, KANSAS STATE BOARD OF .....	69
CREDIT UNION ADMINISTRATOR—JOINT RULES WITH OTHER AGENCIES.....	104
CREDIT UNIONS, STATE DEPARTMENT OF .....	121
* CRIME VICTIMS COMPENSATION BOARD .....	20
* CROP IMPROVEMENT ASSOCIATION.....	95
DENTAL BOARD, KANSAS .....	71
* EDUCATION COMMISSION .....	87
* EDUCATION, STATE DEPARTMENT OF .....	91
ELECTION BOARD, STATE.....	6
* EMERGENCY MEDICAL SERVICES BOARD .....	109
EMPLOYEE AWARD BOARD .....	18
* EMPLOYMENT, DIVISION OF—DEPARTMENT OF HUMAN RESOURCES.....	50
* ENERGY OFFICE, KANSAS.....	27
* ENGINEERING EXAMINERS, BOARD OF.....	64
* EXECUTIVE COUNCIL .....	46
FAIR BOARD, KANSAS STATE.....	116
FIRE MARSHAL, STATE .....	22
* FOOD SERVICE AND LODGING BOARD .....	41
* GOVERNMENTAL ETHICS COMMISSION .....	19
* GOVERNMENTAL STANDARDS AND CONDUCT, KANSAS COMMISSION ON.....	19
* GRAIN INSPECTION DEPARTMENT, KANSAS STATE .....	25
HEALING ARTS, STATE BOARD OF.....	100
HEALTH AND ENVIRONMENT, DEPARTMENT OF .....	28
* HEALTH AND ENVIRONMENT, DEPARTMENT OF—DIVISION OF HEALTH CARE FINANCE.....	129
HEALTH CARE COMMISSION, KANSAS STATE EMPLOYEES.....	108
* HEALTH CARE DATA GOVERNING BOARD .....	120
* HEALTH CARE FINANCE, DIVISION OF—DEPARTMENT OF HEALTH AND ENVIRONMENT.....	129
* HEALTH POLICY AND FINANCE, DIVISION OF—KANSAS DEPARTMENT OF ADMINISTRATION.....	129
* HEALTH POLICY AUTHORITY, KANSAS.....	129
* HEARING AID EXAMINERS, KANSAS STATE BOARD OF.....	67
* HEARING INSTRUMENTS, KANSAS BOARD OF EXAMINERS IN FITTING AND DISPENSING OF.....	67
HIGHWAY PATROL, KANSAS.....	37
HISTORICAL SOCIETY, STATE.....	118
HOME INSPECTORS REGISTRATION BOARD, KANSAS.....	130
HOUSING RESOURCES CORPORATION, KANSAS .....	127
* HUMAN RESOURCES, DEPARTMENT OF.....	49
* HUMAN RESOURCES, DEPARTMENT OF—DIVISION OF EMPLOYMENT .....	50
* HUMAN RESOURCES, DEPARTMENT OF—DIVISION OF WORKERS COMPENSATION.....	51
* HUMAN RESOURCES, DEPARTMENT OF—EMPLOYMENT SECURITY BOARD OF REVIEW .....	48
* HUMAN RIGHTS COMMISSION, KANSAS .....	21
INDIGENTS' DEFENSE SERVICES, STATE BOARD OF.....	105
INSURANCE DEPARTMENT .....	40

<i>Agency Name</i>	<i>Agency No.</i>
* JUVENILE JUSTICE AUTHORITY.....	123
* JUVENILE SERVICES, DIVISION OF—DEPARTMENT OF CORRECTIONS.....	123
* LABOR—BOARD OF REVIEW.....	48
* LABOR, DEPARTMENT OF.....	49
* LABOR, DEPARTMENT OF—DIVISION OF EMPLOYMENT.....	50
* LABOR, DEPARTMENT OF—DIVISION OF WORKERS COMPENSATION.....	51
* LABOR, DEPARTMENT OF—EMPLOYMENT SECURITY BOARD OF REVIEW.....	48
* LAW ENFORCEMENT TRAINING CENTER.....	107
* LAW ENFORCEMENT TRAINING COMMISSION, KANSAS.....	106
LIBRARY, STATE.....	54
* LIVESTOCK BRAND COMMISSIONER.....	8
* MINED-LAND CONSERVATION AND RECLAMATION (KDHE).....	47
MORTUARY ARTS, STATE BOARD OF.....	63
* MUNICIPAL ACCOUNTING BOARD.....	2
NURSING, STATE BOARD OF.....	60
OPTOMETRY, BOARD OF EXAMINERS IN.....	65
* PARK AND RESOURCES AUTHORITY.....	33
* PAROLE BOARD, KANSAS.....	45
* PEACE OFFICERS' STANDARDS AND TRAINING, KANSAS COMMISSION ON.....	106
PHARMACY, STATE BOARD OF.....	68
* PODIATRY BOARD OF EXAMINERS.....	101
POOLED MONEY INVESTMENT BOARD.....	122
* PRISONER REVIEW BOARD, KANSAS.....	45
PROPERTY VALUATION, DIVISION OF—KANSAS DEPARTMENT OF REVENUE.....	93
* PSYCHOLOGISTS, BOARD OF EXAMINERS OF.....	72
* PUBLIC DISCLOSURE COMMISSION, KANSAS.....	19
PUBLIC EMPLOYEE RELATIONS BOARD.....	84
PUBLIC EMPLOYEES RETIREMENT SYSTEM, KANSAS.....	80
RACING AND GAMING COMMISSION, KANSAS.....	112
* REAL ESTATE APPRAISAL BOARD.....	117
REAL ESTATE COMMISSION, KANSAS.....	86
* RECORDS BOARD, STATE.....	53
* REGENTS, STATE BOARD OF.....	88
* REGISTRATION AND EXAMINATION OF LANDSCAPE ARCHITECTS, BOARD FOR THE.....	55
* REGISTRATION AND EXAMINING BOARD FOR ARCHITECTS.....	73
REVENUE, KANSAS DEPARTMENT OF.....	92
REVENUE, KANSAS DEPARTMENT OF—DIVISION OF ALCOHOLIC BEVERAGE CONTROL.....	14
REVENUE, KANSAS DEPARTMENT OF—DIVISION OF PROPERTY VALUATION.....	93
* SALVAGE BOARD, STATE.....	35
SAVINGS AND LOAN COMMISSIONER—JOINT REGULATIONS WITH OTHER AGENCIES.....	103, 104
SAVINGS AND LOAN DEPARTMENT.....	38
* SCHOOL BUDGET REVIEW BOARD.....	89
* SCHOOL RETIREMENT BOARD.....	90
SECRETARY OF STATE.....	7
SECURITIES COMMISSIONER, OFFICE OF THE.....	81
* SOCIAL AND REHABILITATION SERVICES, DEPARTMENT OF.....	30
STATE EMPLOYEES HEALTH CARE COMMISSION, KANSAS.....	108
STATE LIBRARY.....	54
* STATE RECORDS BOARD.....	53

<i>Agency Name</i>	<i>Agency No.</i>
SURETY BONDS AND INSURANCE, COMMITTEE ON .....	131
* TAX APPEALS, STATE BOARD OF.....	94
* TAX APPEALS, KANSAS COURT OF.....	94
TECHNICAL PROFESSIONS, STATE BOARD OF.....	66
* TRANSPORTATION, KANSAS DEPARTMENT OF .....	36
TREASURER, STATE .....	3
* TURNPIKE AUTHORITY, KANSAS .....	39
UNMARKED BURIAL SITES PRESERVATION BOARD.....	126
* VETERANS AFFAIRS OFFICE, KANSAS COMMISSION ON.....	97
* VETERINARY EXAMINERS, STATE BOARD OF .....	70
WATER OFFICE, KANSAS.....	98
WATER RESOURCES, DIVISION OF—KANSAS DEPARTMENT OF AGRICULTURE.....	5
WEIGHTS AND MEASURES, DIVISION OF—KANSAS DEPARTMENT OF AGRICULTURE.....	99
WHEAT COMMISSION, KANSAS.....	24
* WILDLIFE AND PARKS, KANSAS DEPARTMENT OF .....	23, 115
* WORKERS COMPENSATION, DIVISION OF—DEPARTMENT OF LABOR .....	51

\**Editor's note.*



**2021 SUPPLEMENT**  
to the  
**KANSAS ADMINISTRATIVE REGULATIONS**  
**Volumes 1 through 5**

**TABLE OF CONTENTS**

	<i>Page</i>
1—DEPARTMENT OF ADMINISTRATION .....	1
3—STATE TREASURER .....	21
4—KANSAS DEPARTMENT OF AGRICULTURE .....	25
5—KANSAS DEPARTMENT OF AGRICULTURE—DIVISION OF WATER RESOURCES .....	111
7—SECRETARY OF STATE.....	155
9—KANSAS DEPARTMENT OF AGRICULTURE—DIVISION OF ANIMAL HEALTH.....	165
10—KANSAS BUREAU OF INVESTIGATION .....	189
11—KANSAS DEPARTMENT OF AGRICULTURE—DIVISION OF CONSERVATION.....	193
14—KANSAS DEPARTMENT OF REVENUE—DIVISION OF ALCOHOLIC BEVERAGE CONTROL.....	199
16—ATTORNEY GENERAL.....	231
17—OFFICE OF THE STATE BANK COMMISSIONER .....	259
19—GOVERNMENTAL ETHICS COMMISSION .....	265
20—CRIME VICTIMS COMPENSATION BOARD .....	267
21—KANSAS HUMAN RIGHTS COMMISSION .....	271
22—STATE FIRE MARSHAL.....	273
26—KANSAS DEPARTMENT FOR AGING AND DISABILITY SERVICES .....	289
28—DEPARTMENT OF HEALTH AND ENVIRONMENT.....	385
30—KANSAS DEPARTMENT FOR CHILDREN AND FAMILIES .....	761
36—KANSAS DEPARTMENT OF TRANSPORTATION .....	787
40—INSURANCE DEPARTMENT .....	799
44—DEPARTMENT OF CORRECTIONS .....	815
45—KANSAS PRISONER REVIEW BOARD .....	851
47—MINED-LAND CONSERVATION AND RECLAMATION (KDHE) .....	853
48—DEPARTMENT OF LABOR—EMPLOYMENT SECURITY BOARD OF REVIEW.....	887
49—DEPARTMENT OF LABOR.....	893
50—DEPARTMENT OF LABOR—DIVISION OF EMPLOYMENT.....	897
51—DEPARTMENT OF LABOR—DIVISION OF WORKERS COMPENSATION .....	899
54—STATE LIBRARY .....	905
60—STATE BOARD OF NURSING.....	907
61—KANSAS BOARD OF BARBERING .....	935
63—STATE BOARD OF MORTUARY ARTS .....	939
65—BOARD OF EXAMINERS IN OPTOMETRY.....	945
66—STATE BOARD OF TECHNICAL PROFESSIONS.....	947
67—KANSAS BOARD OF EXAMINERS IN FITTING AND DISPENSING OF HEARING INSTRUMENTS.....	963

68—STATE BOARD OF PHARMACY .....	965
69—KANSAS STATE BOARD OF COSMETOLOGY .....	1011
70—STATE BOARD OF VETERINARY EXAMINERS .....	1019
71—KANSAS DENTAL BOARD .....	1027
74—BOARD OF ACCOUNTANCY .....	1037
75—STATE BANK COMMISSIONER—CONSUMER AND MORTGAGE LENDING DIVISION .....	1053
81—OFFICE OF THE SECURITIES COMMISSIONER .....	1059
82—KANSAS CORPORATION COMMISSION .....	1093
84—PUBLIC EMPLOYEE RELATIONS BOARD .....	1195
85—ABSTRACTERS’ BOARD OF EXAMINERS .....	1197
86—KANSAS REAL ESTATE COMMISSION .....	1199
88—STATE BOARD OF REGENTS .....	1209
91—STATE DEPARTMENT OF EDUCATION .....	1271
92—KANSAS DEPARTMENT OF REVENUE .....	1321
93—KANSAS DEPARTMENT OF REVENUE—DIVISION OF PROPERTY VALUATION .....	1359
94—STATE BOARD OF TAX APPEALS .....	1363
97—KANSAS COMMISSION ON VETERANS AFFAIRS OFFICE .....	1375
98—KANSAS WATER OFFICE .....	1385
99—KANSAS DEPARTMENT OF AGRICULTURE—DIVISION OF WEIGHTS AND MEASURES .....	1401
100—STATE BOARD OF HEALING ARTS .....	1403
102—BEHAVIORAL SCIENCES REGULATORY BOARD .....	1439
105—STATE BOARD OF INDIGENTS’ DEFENSE SERVICES .....	1481
106—KANSAS COMMISSION ON PEACE OFFICERS’ STANDARDS AND TRAINING (KSCPOST) .....	1487
107—LAW ENFORCEMENT TRAINING CENTER .....	1495
108—KANSAS STATE EMPLOYEES HEALTH CARE COMMISSION .....	1497
109—EMERGENCY MEDICAL SERVICES BOARD .....	1507
110—DEPARTMENT OF COMMERCE .....	1541
112—KANSAS RACING AND GAMING COMMISSION .....	1557
115—KANSAS DEPARTMENT OF WILDLIFE AND PARKS .....	1667
117—REAL ESTATE APPRAISAL BOARD .....	1743
120—HEALTH CARE DATA GOVERNING BOARD .....	1763
121—STATE DEPARTMENT OF CREDIT UNIONS .....	1765
123—KANSAS DEPARTMENT OF CORRECTIONS—DIVISION OF JUVENILE SERVICES .....	1769
125—KANSAS AGRICULTURAL REMEDIATION BOARD .....	1775
127—KANSAS HOUSING RESOURCES CORPORATION .....	1777
128—DEPARTMENT OF COMMERCE—KANSAS ATHLETIC COMMISSION .....	1779
129—DEPARTMENT OF HEALTH AND ENVIRONMENT—DIVISION OF HEALTH CARE FINANCE .....	1813
130—KANSAS HOME INSPECTORS REGISTRATION BOARD .....	1883
131—COMMITTEE ON SURETY BONDS AND INSURANCE .....	1889
132—911 COORDINATING COUNCIL .....	1891
133—OFFICE OF ADMINISTRATIVE HEARINGS .....	1893
INDEX .....	1897

## Agency 93

# Kansas Department of Revenue— Division of Property Valuation

### Articles

- 93-4. REAL ESTATE RATIO STUDY.
- 93-6. REGISTERED MASS APPRAISER.
- 93-9. COMPLEX INDUSTRIAL PROPERTY.

### Article 4.—REAL ESTATE RATIO STUDY

**93-4-2. Annotation and disposition of real estate sales validation questionnaires; duties of county officials.** (a) Not later than three business days after the receipt of a three-part real estate sales validation questionnaire, the register of deeds shall annotate each copy with the following information:

(1) The volume and page entry from the general index, indicating where the deed, instrument, or affidavit of equitable interest that accompanies it is recorded;

- (2) the county official validation number;
- (3) the type of instrument; and
- (4) the recording date.

The register of deeds shall retain the original copy and forward the county appraiser's copy and the director of property valuation's copy to the county appraiser. Not later than three business days after the receipt of the county appraiser's and the director's copies, the county appraiser shall enter the parcel identification number on both paper copies of each real estate sales validation questionnaire received from the register of deeds.

(b) The register of deeds may accept a one-part real estate sales validation questionnaire when authorized by the director of property valuation to process real estate sales validation questionnaires by electronic imaging. An electronic copy may be accepted by the register of deeds if questionnaires are received by means of digital media transmission and retained in an electronic document management system. (Authorized by K.S.A. 79-1491; implementing K.S.A. 79-1487 and 79-1488; effective June 26, 1998; amended Oct. 3, 2014.)

**93-4-3. Split and combined real estate parcel sales; duties of county officials.** Not later than 10 business days after the receipt of

a real estate sales validation questionnaire concerning the sale of a split parcel or a parcel to be combined with one or more parcels, the county appraiser shall perform one of the following:

(a) On or after January 1 of the current appraisal year and before the creation of working files for the next appraisal year, enter the sales information on the parent parcel record in the county's computer-assisted mass appraisal system; or

(b) on or after the creation of working files for the next appraisal year and before January 1 of the next appraisal year, enter the sales information on the split or combined parcel record in the county's computer-assisted mass appraisal system. (Authorized by K.S.A. 79-1491; implementing K.S.A. 79-1487; effective June 26, 1998; amended Oct. 3, 2014.)

**93-4-4. Assemblage and entering of sales data; accounting for real estate sales validation questionnaires; duties of county officials.**

(a) Not later than the 10th day of each month, the county appraiser shall assemble and enter into the county's computer-assisted mass appraisal system the sales data pertaining to property transfers that were recorded on or before the last day of the preceding month, as obtained from the real estate sales validation questionnaires received from the register of deeds.

(b) The county appraiser shall meet the following requirements:

(1) Account for all real estate sales validation questionnaires by entering sales information from all questionnaires into the database fields in the county's computer-assisted mass appraisal system;

(2) maintain in a void file those questionnaires that cannot be matched with a parcel of real estate, those that contain information that cannot be entered in the county's computer-assisted mass

appraisal system, and those that were not required by K.S.A. 79-1437e and amendments thereto;

(3) electronically upload the recorded monthly sales data from the county’s computer-assisted mass appraisal system to the current year’s ratio study database at the division of property valuation, not later than the 15th day of the following month; and

(4) perform one of the following, not later than the 15th day of the following month:

(A) Submit the complete set of sales validation questionnaire documents recorded in the previous month to the director of property valuation or the director’s agents; or

(B) electronically upload the complete set of recorded monthly sales as digital image files that meet specified file-naming conventions, resolution, and format standards to the sales validation questionnaire database at the division of property valuation. (Authorized by K.S.A. 79-1491; implementing K.S.A. 79-1487 and 79-1488; effective June 26, 1998; amended Oct. 3, 2014.)

**93-4-5. Access to county records by the director of property valuation; duties of county officials.** (a) The county shall make its computer-assisted mass appraisal system available to the director of property valuation and the director’s agents, to generate and print reports and to prepare data files to enable the electronic extraction of sale information on a monthly basis.

(b) The county appraiser shall prepare and transmit the electronic assessment administration file of all appraised values to the director not later than three business days after the mailing of the annual valuation notices pursuant to K.S.A. 79-1460, and amendments thereto. (Authorized by K.S.A. 79-1491; implementing K.S.A. 79-1487; effective June 26, 1998; amended Oct. 3, 2014.)

**93-4-6. Performance standards.** Table 2-3 of the “standard on ratio studies,” adopted by the executive board of the international association of assessing officers in April 2013, is hereby adopted by reference and shall constitute the performance standards used to evaluate the appraisal of residential and commercial and industrial real estate. However, the coefficient of dispersion shall have a range of 5.0 to 20.0, with a level of confidence of 95 percent. (Authorized by K.S.A. 79-1491; implementing K.S.A. 79-1485, 79-1486, 79-1487, and 79-1488, K.S.A. 2013

Supp. 79-1489, K.S.A. 79-1490, 79-1492, and 79-1493; effective June 26, 1998; amended April 20, 2001; amended Oct. 3, 2014.)

**Article 6.—REGISTERED MASS APPRAISER**

**93-6-2. Education requirements.** (a) Each candidate for the registered mass appraiser (RMA) designation shall complete 200 hours of courses, which shall include those courses specified in subsection (b). Each course shall require the successful completion of a written exam. “Hour,” as used in this regulation, shall mean one clock-hour of at least 50 minutes.

(b) Mandatory courses shall consist of the following:

International association of assessing officers (IAAO) course 101 or equivalent course approved by the secretary of revenue .....	30 hours
IAAO course 102 or equivalent course approved by the secretary of revenue .....	30 hours
IAAO course 151 or equivalent course approved by the secretary of revenue .....	15 hours
IAAO course 300, 311, 312, or 331 or equivalent course approved by the secretary of revenue .....	30 hours
IAAO course 400 or equivalent course approved by the secretary of revenue .....	30 hours
Kansas property tax law course approved by the secretary of revenue.....	20 hours
Personal property course approved by the secretary of revenue .....	15 hours
Total mandatory course hours.....	170 hours

Any candidate may substitute successfully completed appraisal courses with an emphasis on mass appraisal approved by the real estate appraisal board appointed by the governor pursuant to K.S.A. 58-4104, and amendments thereto. However, no course substitution shall be permitted for the Kansas property tax law course and the personal property course. Course substitution shall be subject to the approval of the secretary of revenue upon finding that the course approved

by the real estate appraisal board is substantially equivalent to the corresponding course required by this regulation.

(c) The remaining 30 course hours may be selected from courses offered or approved by the secretary of revenue. To obtain course approval, the candidate shall demonstrate that the content of the course is directly related to the appraisal of real or personal property for ad valorem taxation purposes. (Authorized by and implementing K.S.A. 2013 Supp. 19-430; effective, T-93-8-29-97, Aug. 29, 1997; effective Dec. 5, 1997; amended April 20, 2001; amended Dec. 20, 2013.)

**93-6-3. Continuing education requirements.** (a)(1) Each individual who has obtained the registered mass appraiser (RMA) designation shall successfully complete at least 120 hours of continuing education every four years in order to retain the designation. "Hour," as used in this regulation, shall mean one clock-hour of at least 50 minutes. The four-year period shall correspond with the four-year appointment period for county appraisers pursuant to K.S.A. 19-430, and amendments thereto. Each individual who first obtains the RMA designation during any of the six-month periods of the appointment period specified in this paragraph shall successfully complete course hours during the remainder of the appointment period as follows:

First six months.....	120 hours
Second six months .....	105 hours
Third six months .....	90 hours
Fourth six months.....	75 hours
Fifth six months .....	60 hours
Sixth six months .....	45 hours
Seventh six months .....	30 hours

An individual who obtains the RMA designation during the final six months of the appointment period shall not be required to complete any course hours.

No more than half of the course hours shall be obtained from workshops or seminars.

(2)(A)(i) At least 60 hours of continuing education shall be accumulated through appraisal courses, each of which shall require the successful completion of a written exam. No more than 21 of these 60 hours may be accumulated through online courses, each of which shall include a non-proctored exam.

(ii) The remaining 60 hours of continuing education may be seminar hours.

(B) At least 90 hours of continuing education shall be completed during each four-year period. No more than 30 hours may be carried forward from one four-year period to the next four-year period.

(b) The continuing education courses shall include those established by the director of property valuation for an eligible Kansas appraiser pursuant to K.S.A. 19-432, and amendments thereto. In addition, each individual with the RMA designation shall complete the following courses during each four-year period:

(1) IAAO (international association of assessing officers) course 151, IAAO course 181, or IAAO course 191 or equivalent course approved by the secretary of revenue; and

(2) the Kansas property tax law course or the Kansas property tax law update course. (Authorized by and implementing K.S.A. 2015 Supp. 19-430; effective, T-93-8-29-97, Aug. 29, 1997; effective Dec. 5, 1997; amended April 20, 2001; amended Dec. 20, 2013; amended May 6, 2016.)

**93-6-6. Reciprocity.** Any candidate for the registered mass appraiser (RMA) designation who has completed one or more case studies as a prerequisite for obtaining a professional designation from the international association of assessing officers may file an application with the secretary of revenue to waive either or both of the case study requirements of K.A.R. 93-6-5. Either or both of the case study requirements of K.A.R. 93-6-5 may be waived by the secretary of revenue upon finding that the candidate has completed a case study that is comparable to the case study sought to be waived. (Authorized by and implementing K.S.A. 2012 Supp. 19-430; effective, T-93-8-29-97, Aug. 29, 1997; effective Dec. 5, 1997; amended Dec. 20, 2013.)

**Article 9.—COMPLEX INDUSTRIAL PROPERTY**

**93-9-1. Appraiser qualifications; appraisal reports.** (a) Each appraiser of any complex industrial property who is included on the list of qualified appraisers required to be maintained by the director of property valuation pursuant to K.S.A. 2014 Supp. 79-5b01, and amendments thereto, shall be certified or licensed pursuant to the state certified and licensed real property appraisers act, K.S.A. 58-4101 et seq. and amendments thereto.

(b) Each request for an appraisal of any complex

industrial property shall be submitted on a form prescribed by the director of property valuation.

(c) Each appraisal report shall meet the following requirements:

(1) Be developed and reported in compliance with the 2014-2015 edition of the uniform standards of professional appraisal practice or later versions as established in regulations adopted by the Kansas real estate appraisal board pursuant to K.S.A. 58-4121 and amendments thereto, Kansas statutes and regulations pertaining to the valuation and classification of property for ad valorem taxation purposes, and the personal property appraisal guide promulgated by the director

of property valuation pursuant to K.S.A. 75-5105a and amendments thereto; and

(2) include a determination of whether commercial and industrial machinery and equipment should be classified as real property or as personal property.

(d) Any appraiser may be required to defend that appraiser's classification and valuation determinations pursuant to the property tax hearings and appeals processes prescribed by K.S.A. 79-1448, 79-1606, 79-1609, and 79-2005, and amendments thereto. (Authorized by K.S.A. 2014 Supp. 79-5b04; implementing K.S.A. 2014 Supp. 79-5b01; effective April 17, 2015.)

# Agency 94

## State Board of Tax Appeals

**Editor's Note:**

The State Court of Tax Appeals was renamed the State Board of Tax Appeals. See L. 2014, Ch. 141.

**Editor's Note:**

The State Court of Tax Appeals was created pursuant to 2008 Substitute for House Bill 2018, which became effective July 1, 2008. The State Court of Tax Appeals is the successor in authority to the State Board of Tax Appeals, which was abolished.

*Articles*

- 94-2. PROCEEDINGS BEFORE THE COURT.
- 94-3. ECONOMIC DEVELOPMENT REVENUE BONDS.
- 94-5. PROCEEDINGS BEFORE THE COURT.

### Article 2.—PROCEEDINGS BEFORE THE COURT

**94-2-1 through 94-2-3.** (Authorized by and implementing K.S.A. 74-2437, as amended by 2008 HB 2018, sec. 13; effective May 1, 1981; amended May 1, 1988; amended Aug. 15, 1997; amended May 24, 2002; amended, T-94-6-25-08, July 1, 2008; amended Oct. 24, 2008; revoked Oct. 29, 2010.)

**94-2-4.** (Authorized by and implementing K.S.A. 74-2437, as amended by 2008 HB 2018, sec. 13; effective May 1, 1981; amended May 1, 1987; amended May 1, 1988; amended Aug. 15, 1997; amended May 24, 2002; amended, T-94-8-28-03, Aug. 28, 2003; amended Dec. 5, 2003; amended, T-94-6-25-08, July 1, 2008; amended Oct. 24, 2008; revoked Oct. 29, 2010.)

**94-2-5.** (Authorized by and implementing K.S.A. 74-2437, as amended by 2008 HB 2018, sec. 13; effective May 1, 1981; amended May 1, 1988; amended Aug. 15, 1997; amended May 24, 2002; amended, T-94-6-25-08, July 1, 2008; amended Oct. 24, 2008; revoked Oct. 29, 2010.)

**94-2-6 and 94-2-7.** (Authorized by and implementing K.S.A. 74-2437; effective May 1, 1981; amended May 1, 1988; amended Aug. 15, 1997; amended May 24, 2002; revoked Oct. 29, 2010.)

**94-2-8.** (Authorized by and implementing K.S.A. 74-2437, as amended by 2008 HB 2018, sec. 13; effective May 1, 1981; amended May 1,

1988; amended Aug. 15, 1997; amended May 24, 2002; amended, T-94-6-25-08, July 1, 2008; amended Oct. 24, 2008; revoked Oct. 29, 2010.)

**94-2-9.** (Authorized by K.S.A. 74-2437, as amended by 2008 HB 2018, sec. 13; implementing K.S.A. 74-2437, as amended by 2008 HB 2018, sec. 13, and 74-2437a, as amended by 2008 HB 2018, sec. 14; effective May 1, 1981; amended May 1, 1988; amended Aug. 15, 1997; amended May 24, 2002; amended, T-94-6-25-08, July 1, 2008; amended Oct. 24, 2008; revoked Oct. 29, 2010.)

**94-2-10.** (Authorized by and implementing K.S.A. 74-2437, as amended by 2008 HB 2018, sec. 13; effective May 1, 1981; amended May 1, 1987; amended May 1, 1988; amended Aug. 15, 1997; amended May 24, 2002; amended, T-94-6-25-08, July 1, 2008; amended Oct. 24, 2008; revoked Oct. 29, 2010.)

**94-2-11.** (Authorized by and implementing K.S.A. 74-2437, as amended by 2008 HB 2018, sec. 13; effective May 1, 1981; amended May 1, 1988; amended Aug. 15, 1997; amended May 24, 2002; amended, T-94-6-25-08, July 1, 2008; amended Oct. 24, 2008; revoked Oct. 29, 2010.)

**94-2-12.** (Authorized by K.S.A. 74-2437, as amended by 2008 HB 2018, sec. 13; implementing K.S.A. 74-2426, as amended by 2008 HB 2018, sec. 1, and K.S.A. 74-2437, as amended by 2008 HB 2018, sec. 13; effective May 1, 1981; amended May 1, 1988; amended Aug. 15, 1997;

amended May 24, 2002; amended, T-94-6-25-08, July 1, 2008; amended Oct. 24, 2008; revoked Oct. 29, 2010.)

**94-2-13 through 94-2-16.** (Authorized by and implementing K.S.A. 74-2437, as amended by 2008 HB 2018, sec. 13; effective Aug. 15, 1997; amended May 24, 2002; amended, T-94-6-25-08, July 1, 2008; amended Oct. 24, 2008; revoked Oct. 29, 2010.)

**94-2-17.** (Authorized by K.S.A. 74-2437; implementing K.S.A. 74-2437, K.S.A. 2000 Supp. 79-213, K.S.A. 79-213a, K.S.A. 79-1409, K.S.A. 2000 Supp. 79-1609, K.S.A. 2000 Supp. 79-1702, K.S.A. 2000 Supp. 79-2005; effective Aug. 15, 1997; amended May 24, 2002; revoked Oct. 29, 2010.)

**94-2-18.** (Authorized by K.S.A. 74-2437; implementing K.S.A. 79-1426, K.S.A. 79-1409; effective Aug. 15, 1997; amended May 24, 2002; revoked Oct. 29, 2010.)

**94-2-19 and 94-2-20.** (Authorized by and implementing K.S.A. 74-2437, as amended by 2008 HB 2018, sec. 13; effective May 24, 2002; amended, T-94-8-28-03, Aug. 28, 2003; amended Dec. 5, 2003; amended, T-94-6-25-08, July 1, 2008; amended Oct. 24, 2008; revoked Oct. 29, 2010.)

**94-2-21.** (Authorized by and implementing K.S.A. 2007 Supp. 74-2438a, as amended by 2008 HB 2018, sec. 17; effective, T-94-8-28-03, Aug. 28, 2003; effective Dec. 5, 2003; amended, T-94-5-27-04, May 27, 2004; amended Oct. 1, 2004; amended, T-94-6-25-08, July 1, 2008; amended Oct. 24, 2008; revoked Oct. 29, 2010.)

### Article 3.—ECONOMIC DEVELOPMENT REVENUE BONDS

**94-3-2. Filing, fees, and forms.** Each informational statement required to be filed pursuant to the act shall be governed by the following procedures:

(a) Filing procedures.

(1) The informational statement, together with the fees required in paragraph (b)(1), shall be deemed filed and the requisite seven-day filing period shall commence upon the date the informational statement and fees are received in the office of the court. Each applicant shall address or deliver all communications, documents, informa-

tion, and inquiries to the office of the secretary, court of tax appeals.

(2) Each applicant shall file one informational statement for each proposed issuance of bonds.

(3) If the informational statement is not complete as originally filed, the applicant shall be notified of the incomplete filing. The applicant shall correct the deficiency in writing within 14 days.

(4) If the chief judge finds, following a review of the informational statement, that all information and documents required to be filed are complete and, based upon the proposed date of issuance of the bonds, that the statement has been filed in a timely manner, an order or letter indicating that finding shall be rendered by the chief judge to the appropriate government officials and bond counsel.

(5) The following disclaimer shall appear in boldface type upon the second page of each preliminary offering document:

“THE CHIEF JUDGE OF THE KANSAS COURT OF TAX APPEALS HAS NOT REVIEWED ANY INFORMATION OR DOCUMENT FILED PURSUANT TO THIS INFORMATIONAL FILING FOR THE AD-EQUACY OR ACCURACY OF THE DISCLOSURE THEREIN. THIS INFORMATIONAL FILING DOES NOT CONSTITUTE A RECOMMENDATION OR AN ENDORSEMENT BY THE CHIEF JUDGE OR THE COURT.”

Evidence that this disclaimer appears in boldface type upon the second page of each preliminary offering document shall be filed contemporaneously with the certificate of issuance required by K.S.A. 12-1744c, and amendments thereto.

(6) The certificate of issuance required to be filed by K.S.A. 12-1744c, and amendments thereto, shall include the court of tax appeals' filing number.

(b) Fees.

(1) All fees shall accompany the application and shall be paid by check or money order made payable to the court of tax appeals. A cash remittance shall not be accepted. If the chief judge receives notice of refusal of payment of the check or money order presented in payment of these fees, the application shall be deemed to be incomplete and not timely filed as required by the act.

(2) Copies of documents filed and recorded in the office of the court of tax appeals shall be available upon request. Postage and copy fees shall be paid in advance and in conformity with K.S.A. 45-219, and amendments thereto.

(c) Forms. The informational statement shall be submitted on forms approved by the chief judge. (Authorized by K.S.A. 2010 Supp. 12-1744a, K.S.A. 2010 Supp. 12-1744b, and K.S.A. 2010 Supp. 74-2437; implementing K.S.A. 2010 Supp. 12-1744a and K.S.A. 2010 Supp. 74-2437; effective May 1, 1983; amended, T-85-38, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1987; amended May 1, 1988; amended Aug. 15, 1997; amended May 24, 2002; amended, T-94-6-25-08, July 1, 2008; amended Oct. 24, 2008; amended Sept. 16, 2011.)

## Article 5.—PROCEEDINGS BEFORE THE COURT

### 94-5-1. Court regulations and procedures.

(a) To the extent that the Kansas administrative procedure act or procedures prescribed by other statutes do not specifically apply, the Kansas code of civil procedure, and amendments thereto, shall apply in all proceedings before the regular division of the court.

(b) Directives guiding the court's internal affairs, access to litigants, and practice before the court may be issued by the court if the directives do not conflict with this article or other applicable provisions of Kansas law.

(c) The regulations, policies, procedures, and directives of the court shall be construed to secure expeditious determinations of all issues presented to the court. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-2. Definitions.** (a) "Counsel" means legal counsel admitted to practice before the supreme court of the state of Kansas or legal counsel duly licensed and admitted to practice law in another state, if counsel has complied with the Kansas supreme court rules governing admissions *pro hac vice*.

(b) "Court" means the court of tax appeals of the state of Kansas.

(c) "Judge" means any tax law judges or the chief hearing officer serving as a judge pro tempore pursuant to K.S.A. 74-2433, and amendments thereto.

(d) "Party" means any of the following:

(1) A taxpayer, appellant, or applicant bringing or defending an action;

(2) a governmental unit bringing or defending an action;

(3) an intervenor permitted to intervene by the court; or

(4) a necessary person or entity joined by the court.

(e) "Party's attorney" means the counsel who signed the initial pleading, application, or appeal form, or has filed an entry of appearance, on behalf of a party.

(f) "Presiding officer" means any of the following:

(1) A panel of judges;

(2) the judge assigned pursuant to K.S.A. 77-514, and amendments thereto, to conduct a status conference, prehearing conference, oral arguments, hearing, or any similar proceeding; or

(3) a court staff attorney conducting a status conference or prehearing conference to which the staff attorney has been assigned.

(g) "Secretary" means the person serving as secretary of the court pursuant to K.S.A. 74-2435, and amendments thereto. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-3. Service.** (a) All court filings, including pleadings, motions, briefs, orders, decisions, notices, appearances, and any other similar documents relating to a case, shall be served on each of the parties. Service may be made by mail, facsimile, or electronic mail, unless a specific statute requires another manner of service. Postage or cost of service shall be borne by the person effecting service.

(b) Service on an attorney of record shall be deemed to be service on the party represented by that attorney. Service by mail shall be deemed complete upon mailing.

(c) The party responsible for effecting service shall endorse a certificate of mailing or service showing proof of compliance with these regulations. In the absence of this proof of compliance, a filing may be disregarded and deemed null and void.

(d) The court shall be notified within seven days of a change of mailing address of any party, any party's attorney, or any party's duly authorized representative. A separate notice of address change shall be filed for each case affected by the address change. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-4. Commencement of action; pleadings.** (a) Each action shall be initiated through the filing of a notice of appeal or other pleading with the court.

(b) Except as provided in subsection (c), all notices of appeal and other pleadings shall be prepared on forms approved by the court, signed by the party or the party's attorney, and filed with all information and supporting documentation requested in the forms. If a pleading is filed with insufficient information or is otherwise deficient, the pleading may be rejected by the court or may be accepted by the court, with supplementation by the parties required by the court.

(c) Each pleading initiating an appeal from a final action of the secretary of the Kansas department of revenue or the secretary's designee may be prepared on forms approved by the court or may be typewritten on 8½ × 11-inch white paper, with at least one-inch margins on all sides and with type appearing on only one side of the paper. Each typewritten pleading prepared pursuant to this subsection shall contain at least the following:

(1) The heading "BEFORE THE COURT OF TAX APPEALS OF THE STATE OF KANSAS" centered at the top of the page;

(2) the court docket number, if one has been assigned;

(3) a brief description of the nature of the action and citation to the specific statute under which the action is authorized;

(4) pertinent allegations of fact and law in concise and direct terms set forth in numbered paragraphs;

(5) a concise and complete statement of all relief sought;

(6) the signature of the party filing the pleading or the party's attorney; and

(7) the address and telephone number of the party and, if the party is represented by counsel, the party's attorney. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

#### **94-5-5. Signatures of parties or counsel.**

The signature of a party or the party's attorney on any pleading shall constitute a certification by the signer of all of the following:

(a) The signer has reviewed the pleading.

(b) To the best of the signer's knowledge, information, and belief formed after reasonable inquiry, the pleading is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

(c) The pleading is not for any improper purpose, including to harass or cause unnecessary

delay or needless increase in costs. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-6. Authorized representation.** (a) In the regular division of the court, counsel may enter an appearance either by signing the pleading or by filing an entry of appearance.

(b) In the absence of an entry of appearance by counsel, a party shall be deemed to appear on the party's own behalf. Any individual may represent that person and participate fully in matters before the court. Any corporation or other artificial entity may participate by and through a duly authorized representative, including an authorized officer of the corporation, an authorized member or partner of the entity, or an authorized employee of the corporation or entity. Any estate or trust may participate by a fiduciary of the estate or trust. Any county, city, or other taxing district may participate by an elected or appointed official or a designee of the official.

(c) All persons authorized to represent entities as specified in this regulation shall be identified in writing.

(d) A duly authorized representative of an individual or an artificial entity who is not a lawyer shall not engage in the unauthorized practice of law. The participation of any duly authorized representative other than a lawyer shall be limited to providing fact and opinion testimony or other evidence deemed competent by the court.

(e) Any corporation, county, or other artificial entity may be required by the court to participate by counsel. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

#### **94-5-7. Information and assistance to self-represented litigants.**

(a) Information concerning the court's rules of practice and procedures shall be made available by the court to litigants. Court staff shall be available to assist self-represented litigants concerning general matters of court procedure and access to court services. Court staff shall observe the rules prohibiting ex parte communications.

(b) All communications and filings with the court shall be directed to the offices of the court in Topeka and shall meet the requirements in these regulations and the Kansas supreme court rules of judicial conduct. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-8. Filing fees.** (a) Subject to subsections (f) and (g), the following fees shall apply to applications and appeals filed with the regular division of the court:

(1) Economic development exemption applications filed pursuant to Kansas constitution article 11, §13 for property with a total valuation in excess of \$1,000,000

\$1,000.00

(2) Economic development exemption applications filed pursuant to Kansas constitution article 11, §13 for property with a total valuation of \$1,000,000 or less

\$500.00

(3) Industrial revenue bond exemption applications filed pursuant to K.S.A. 79-201a Second, and amendments thereto, for property with a total valuation in excess of \$1,000,000

\$1,000.00

(4) Industrial revenue bond exemption applications filed pursuant to K.S.A. 79-201a Second, and amendments thereto, for property with a total valuation of \$1,000,000 or less

\$500.00

(5) Industrial revenue bond information statements filed pursuant to K.S.A. 12-1744a, and amendments thereto

\$500.00

(6) Tax exemption applications for real property and tax exemption applications for oil leases filed pursuant to K.S.A. 79-201t, and amendments thereto

\$400.00

(7) Tax exemption applications for personal property except tax exemption applications for oil leases filed pursuant to K.S.A. 79-201t, and amendments thereto

\$100.00

(8) Tax grievance applications filed pursuant to K.S.A. 79-332a, 79-1422, 79-1427a, or 79-1702, and amendments thereto

\$25.00

(9) Equalization appeals filed pursuant to K.S.A. 79-1609, and amendments thereto, and payment-under-protest appeals filed pursuant to K.S.A. 79-2005, and amendments thereto, involving real estate other than single-family residential properties and farmsteads for the following valuations:

\$250,000 or less	\$125.00 per parcel
\$250,001 through \$1,000,000	\$200.00 per parcel
\$1,000,001 through \$5,000,000	\$300.00 per parcel
\$5,000,001 through \$10,000,000	\$400.00 per parcel
more than \$10,000,000	\$500.00 per parcel

(10) Equalization appeals filed in the regular division of the court pursuant to K.S.A. 79-1609, and amendments thereto, and payment-under-protest appeals filed in the regular division of the court pursuant to K.S.A. 79-2005, and amendments thereto, involving single-family residential properties and farmsteads

\$25.00 per parcel

(11) Equalization appeals filed pursuant to K.S.A. 79-1609, and amendments thereto, and payment-under-protest appeals filed pursuant to K.S.A. 79-2005, and amendments thereto, involving personal property

\$150.00

(12) Appeals of mortgage registration fees filed pursuant to K.S.A. 79-3107c, and amendments thereto

\$25.00

(13) Appeals from final decisions of the director, or the director's designee, of the Kansas department of revenue, division of property valuation, involving real estate other than single-family residential properties and farmsteads for the following valuations:

\$250,000 or less	\$125.00 per parcel
\$250,001 through \$1,000,000	\$200.00 per parcel
\$1,000,001 through \$5,000,000	\$300.00 per parcel
\$5,000,001 through \$10,000,000	\$400.00 per parcel
more than \$10,000,000	\$500.00 per parcel

(14) Appeals from final decisions of the secretary, or the secretary's designee, of the Kansas department of revenue, excluding homestead property tax refund appeals under K.S.A. 79-4501 et seq., and amendments thereto, and food sales tax refund appeals under K.S.A. 79-3632 et seq., and amendments thereto, for the following amounts in controversy:

\$1,000 or less	\$100.00
\$1,001 through \$10,000	\$150.00
\$10,001 through \$100,000	\$300.00
more than \$100,000	\$500.00

(15) No-fund warrants, temporary notes or bond applications, requests to exceed the adopted budget, and mill levy disagreements filed pursuant to K.S.A. 79-2938, 79-2939, 79-2941, 79-2951, 79-5023, 12-110a, 12-1662 et seq., or 19-2752a, and amendments thereto, or any other related statute

\$150.00

(16) Applications by school districts to levy an ad valorem tax pursuant to K.S.A. 72-6441 or 72-6451, and amendments thereto

No fee

(17) Requests for reappraisal and complaints filed pursuant to K.S.A. 79-1413a, 79-1479, or 79-1481, and amendments thereto

\$2,000.00

(18) Appeals by board of county commissioners of any county of the final ratios determined for the county by the director, or the director's designee, of the Kansas department of revenue, division of property valuation, filed pursuant to K.S.A. 79-1489, and amendments thereto

\$2,000.00

(b) Subject to subsections (f) and (g), the following fees shall apply to applications and appeals filed with the small claims and expedited hearings division of the court:

(1) Equalization appeals filed pursuant to K.S.A. 79-1609, and amendments thereto, and payment-under-protest appeals filed pursuant to K.S.A. 79-2005, and amendments thereto, involving appeals of the valuation or classification of single-family residential properties and farmsteads

No fee

(2) All other equalization appeals filed pursuant to K.S.A. 79-1609, and amendments thereto, and payment-under-protest appeals filed pursuant to K.S.A. 79-2005, and amendments thereto, for the following valuations:

\$250,000 or less	\$100.00 per parcel
\$250,001 through \$1,000,000	\$150.00 per parcel
\$1,000,001 through \$1,999,999	\$200.00 per parcel

(3) Appeals from final decisions of the secretary, or the secretary's designee, of the Kansas department of revenue, excluding those final decisions addressed in paragraph (b)(5), for the following amounts in controversy:

Less than \$500	No fee
at least \$500 but less than \$10,001	\$50.00
\$10,001 through \$14,999	\$150.00

(4) Appeals from final decisions of the director, or the director's designee, of the Kansas department of revenue, division of property valuation, involving real estate other than single-family residential properties and farmsteads for the following valuations:

Less than \$500	No fee
at least \$500 but less than \$250,001	\$100.00 per parcel
\$250,001 through \$1,000,000	\$150.00 per parcel
\$1,000,001 through \$1,999,999	\$200.00 per parcel

(5) Appeals from final decisions of the secretary, or the secretary's designee, of the Kansas department of revenue involving homestead property tax refund appeals under K.S.A. 79-4501 et seq., and amendments thereto, and food sales tax refund appeals under K.S.A. 79-3632 et seq., and amendments thereto

No fee

(c) For purposes of this regulation, the following definitions shall apply:

(1) "Single-family residential property" means any parcel containing a residential structure or any portion of the structure that is designed for occupancy by no more than one family, regardless of whether the boundary of the parcel is ground, shared walls, or other structural elements. A parcel containing a structure designed to accommodate more than one family, including an apartment building, is not single-family residential property.

(2) "Valuation" means the value shown on the county notice of valuation or the value at the time of the filing of the appeal if the value has been

reduced by the county appraiser at the informal hearing, by a local hearing officer panel, or by the small claims division of the court.

(d) Except as specified in this subsection, each application and appeal listed in subsections (a) and (b) shall be accompanied by the applicable filing fee in the form of a check or money order made payable to the "Court of Tax Appeals." If the fee does not accompany the filed application or appeal, the fee shall be received by the court within seven business days of the receipt of the application or appeal. If the fee is not received within this time period, the application or appeal shall be considered not properly filed with the court, and the application or appeal shall be dismissed.

(e)(1) A filing fee may be waived by the court if an applicant or taxpayer by reason of financial hardship is unable to pay the fee and has filed an affidavit stating this reason, with any accompanying supporting documentation that may be deemed appropriate by the court.

(2) Filing fees may be abated by the court as prescribed in this paragraph upon written motion demonstrating that multiple appeals or applications involving multiple properties filed by a taxpayer or applicant should be consolidated into a single matter. For multiple applications or appeals involving contiguous parcels owned by the same person or entity that together comprise a single economic unit, the consolidated filing fee shall be the fee for the parcel with the highest valuation plus \$25.00 for each additional parcel within the economic unit. If multiple applications or appeals do not involve contiguous parcels but involve substantially similar issues that, in the interest of administrative economy, should be heard and decided together, the filing fee may be abated by the court to reflect the administrative cost savings anticipated from consolidating the multiple filings for decision. If, after a filing fee has been remitted, the court determines that abatement is appropriate under this paragraph, the abated portion of the fee shall be refunded by the court.

(f) Public school districts..... No fee

(g) Each not-for-profit organization shall be charged a fee of \$10 for any appeal if the valuation of the property that is the subject of the controversy does not exceed \$100,000, excluding all governmental entities except as provided in subsection (f). There shall be no filing fee reduction under this subsection (g) for property owned by a not-for-profit organization with a valuation

exceeding \$100,000. (Authorized by and implementing K.S.A. 2010 Supp. 74-2438a; effective Oct. 29, 2010; amended Sept. 16, 2011.)

**94-5-9. Filing procedures; time limitations.** (a) Each party filing any action with the court shall file the application or appeal and shall pay any applicable fees required by K.A.R. 94-5-8. Each pleading or other document filed with the court shall be deemed to have been filed when actually received and file-stamped by the secretary or the secretary's designee, and the action shall commence on that date, if the document is in a form prescribed by these regulations or by statute.

(b) In computing any period of time prescribed by the Kansas administrative procedure act, the computation shall be made pursuant to K.S.A. 77-503(c), and amendments thereto. In computing any period of time not prescribed by the Kansas administrative procedure act, the computation shall be made pursuant to K.S.A. 60-206, and amendments thereto.

(c) When by these regulations or by notice given by the court, an act is required to be completed within a specified time, the time for completing the act may be extended by the court if a motion is filed before the expiration of the specified time. A motion for extension of time filed after the time limit has expired may be granted only if failure to act within the time limit was the result of excusable neglect.

(d) Any individual or entity may file documents at the court's office between the hours of 8:00 a.m. and 5:00 p.m. on any business day. Each document, whether mailed, hand-delivered, or sent by facsimile machine or electronically, shall be received by 5:00 p.m. in order to be file-stamped and considered filed on that date. The time of receipt shall be that time shown by the court's time clock, the time printed by the court's facsimile machine on the final page of the facsimile-received document, or the time shown as received by the court's electronic mail system or other electronic docketing system. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-10. Electronic mail filings.** (a) Each document filed through electronic mail shall be sent to the court's central electronic mail address in order to be considered filed with the court. Electronic mail sent to any electronic mail address other than the court's central electronic mail

address shall be ignored and shall not be considered filed with the court.

(b) All pleadings filed by electronic mail shall be followed by any applicable filing fees.

(c) Each electronic mail filing shall include a return electronic mail address along with the name and telephone number of the individual sending the electronic mail.

(d) Each document filed with the court by electronic mail and in accordance with these regulations shall have the same effect as if the document had been filed by any other means and in accordance with these regulations. All requirements for pleadings and other filings with the court shall apply to pleadings and other filings transmitted by electronic mail. Only one copy of the pleading or document shall be transmitted. An electronic signature or the symbol "/s/" on the signature line in place of a signature shall have the same effect as that of an original signature.

(e) Electronic mail received in the court's office at the central electronic mail address on or before 5:00 p.m. shall be deemed filed on that date. Electronic mail received after 5:00 p.m. shall be deemed to be filed on the following regular workday of the court. The time of receipt shall be the time shown by the court's electronic mail system. Electronic mail received on a Saturday, Sunday, or legal holiday shall be deemed filed on the following regular workday of the court.

(f) If an electronic mail message indicates that there is an attachment but an attachment is not included or the attachment cannot be opened, the sender shall be notified by the court of the deficiency, with the court's request that the electronic mail be re-sent and the deficiency corrected. The date and time of the filing shall be the date and time the electronic mail is re-sent without deficiency. Each attachment shall be sent in a format that meets the court's specifications.

(g) The sender of an electronic mail filing may petition the court for an order filing the document *nunc pro tunc* if the electronic mail document is not filed with the court because of either of the following reasons:

(1) An error in the transmission of the document, the occurrence of which was unknown to the sender at the time of transmission; or

(2) a failure to process the electronic mail document when received by the court.

(h) Each petition filed pursuant to subsection (g) shall be accompanied by the transmission record, a copy of any document included in the

transmission, and an affidavit of transmission by electronic mail as prescribed by Kansas supreme court rule 119, appendix B.

(i) Each party who files a document by electronic mail shall retain a copy of that document in the party's possession or control during the pendency of the action and shall produce the document upon request pursuant to K.S.A. 60-234, and amendments thereto, by the court or any party to the action. Failure to produce the document may result in the document being stricken from the record and may result in sanctions pursuant to K.S.A. 60-211, and amendments thereto. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-11. Facsimile filing.** (a) The court's facsimile machine shall be available on a 24-hour basis, seven days each week. This requirement shall not prevent the court from sending documents by fax or from making repairs to and maintaining the facsimile machine.

(b) Each complete facsimile filing received in the court's office at or before 5:00 p.m. on a regular workday shall be deemed filed on that day. Each filing received after 5:00 p.m. shall be filed as if received on the next regular court workday. The time of receipt shall be the time printed by the court's facsimile machine on the final page of the facsimile-received document. Each filing received on a Saturday, Sunday, or legal holiday shall be filed as if received on the next regular court workday. Each pleading filed by facsimile shall be followed by any applicable filing fees.

(c) Each pleading or other document filed by facsimile transmission shall have the same effect as that of any pleading or other document filed with the court by other means. A facsimile signature shall have the same effect as that of an original signature. Only one copy of the pleading or other document shall be transmitted.

(d) Each certificate of service shall state the date of service and the facsimile telephone numbers of both the sender and the receiver.

(e) The sender may petition the court for an order filing a document *nunc pro tunc* if a facsimile filing is not filed with the court because of either of the following:

(1) An error in transmission of the document, the occurrence of which was unknown to the sender at the time of transmission; or

(2) a failure to process the facsimile filing when received by the court.

(f) The petition specified in subsection (e) shall be accompanied by the transmission record, a copy of the document transmitted, and an affidavit of transmission by fax as specified in Kansas supreme court rule 119 relating to district courts, appendix B. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-12. Confidentiality.** (a) Each document filed and all evidence received by the court shall be a public record, unless a protective order is issued by the court designating all or portions of the record confidential.

(b) Any party may file a motion for a protective order, or a motion and agreed order may be jointly submitted by the parties, showing cause why specifically identified information in the record or information likely to become part of the record should be kept confidential. The motion shall state a legally valid basis for the protective order and shall include sworn statements or affidavits supporting the motion.

(c) If a motion for protective order is granted, any measures permitted by law may be taken by the court to protect the confidential information. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-13. Intervention; joinder.** Each petition or request to intervene shall be governed by K.S.A. 77-521, and amendments thereto. Each joinder of any party needed for just adjudication shall be governed by K.S.A. 60-219, and amendments thereto. Each permissive joinder of any party shall be governed by K.S.A. 60-220, and amendments thereto. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-14. Consolidation.** If two or more cases involve the same or substantially similar issues or if joint presentation of the evidence or legal arguments would be economical, a written order of consolidation may be issued by the court either on its own motion or on a motion by one or more parties. If cases are consolidated, orders may be issued by the court in a consolidated format. In the absence of a formal written order of consolidation, individual cases shall be deemed separate, unconsolidated matters. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-15. Motion practice.** (a) Each motion shall include the heading information required of court pleadings, as well as the following information:

(1) Reference to the provision of statute, regulation, or other procedural authority upon which the motion is based;

(2) a concise statement of the pertinent facts and legal authorities;

(3) a concise statement of the relief sought;

(4) a request for oral argument, if desired; and

(5) a proposed form of order to be adopted by the court if the motion is granted.

(b) Each response to a motion shall be filed not later than 10 days from the date of service of the motion, or within any shorter or longer period that the court may allow. Each reply, if any, shall be filed within seven days of service of the response or within any shorter or longer period that the court may allow.

(c) Regular times for hearings on motions shall be established by the court at intervals sufficiently frequent for the prompt dispatch of business.

(d) Notwithstanding subsections (a), (b) and (c), all motions for summary judgment shall be governed by the court rules governing motions for summary judgment in state district court actions, including K.S.A. 60-256 and amendments thereto, and Kansas supreme court rule 141, as amended. Motion for summary judgment shall be specially set by the court for oral argument. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-16. Discovery.** (a) All discovery matters, including disputes and requests for sanctions, shall be governed by the Kansas administrative procedure act and the Kansas code of civil procedure.

(b) Discovery shall be completed expeditiously. The parties and counsel shall conduct orderly discovery and shall freely exchange discoverable information and documents.

(c) The parties and counsel shall make all reasonable efforts to resolve discovery disputes before involving the court in these matters. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-17. Subpoenas.** (a) Any party may issue a subpoena or subpoena *duces tecum* in a court proceeding. Each subpoena shall be prepared by the requesting party and shall be in sub-

stantial compliance with this regulation and any published court forms.

(b) Each subpoena shall state the following information:

(1) The name of the witness;

(2) the address where the witness can be served;

(3) the location where the witness is required to appear and the date and time of the appearance;

(4) the matter in which the witness is required to testify; and

(5) for a subpoena *duces tecum*, a detailed listing of the documents or other material to be produced.

(c) A subpoena may be used for the purpose of discovery or for the purpose of securing evidence for a hearing. The duties of the person responding to a subpoena shall be those specified in K.S.A. 60-245(d), and amendments thereto.

(d) Each subpoena issued under the authority of the court shall be signed by the secretary or a judge under the seal of the court. Upon request, the secretary shall issue a blank subpoena bearing the seal of the court with the secretary's signature or a facsimile of the signature. The party to whom a blank subpoena has been issued shall be solely responsible for preparing the substance of the subpoena. Subpoenas shall not be prepared by the court.

(e) Service of each subpoena shall be the responsibility and at the cost of the party requesting the subpoena and shall be made in accordance with K.S.A. 77-522, and amendments thereto. Witness fees and mileage shall be allowed pursuant to K.S.A. 28-125, and amendments thereto.

(f) Any person subject to a subpoena issued by the court may seek appropriate protection as provided under K.S.A. 60-245(c), and amendments thereto. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-18. Stipulations.** (a) The parties and counsel shall to the fullest extent possible stipulate to facts, issues, and other matters that are not the subject of reasonable dispute.

(b) Any stipulation may be made either by written stipulation or by oral statement shown upon the hearing record. All stipulations shall be binding upon all parties so stipulating and may be regarded by the court as conclusive evidence of the fact stipulated.

(c) Each stipulation that finally and conclusively settles an appeal involving the valuation of county-assessed property shall be made by means of a fully executed order of stipulation and dismissal.

Each order shall be filed within 30 days from the date the parties notify the court of the pending stipulation. All stipulations executed by county officials shall be presumed by the court to have been made in keeping with the legal duties and obligations of those county officials.

(d) Each settlement negotiation shall be confidential, unless all participants to the negotiation agree otherwise in writing. Facts disclosed, offers made, and all other aspects of negotiation shall not be part of the record. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-19. Prehearing conferences.** A prehearing conference may be held by the court for purposes of narrowing the issues and facts in dispute, simplifying the presentation of evidence, and otherwise assisting the parties and counsel in their preparation for trial. Each prehearing conference shall be conducted in accordance with K.S.A. 77-516 and K.S.A. 77-517, and amendments thereto. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-20. Continuances.** (a) Any hearing scheduled on the court's calendar may be continued by the court upon a written motion filed at least 30 days before the date of the scheduled hearing. This requirement may be waived by the court at its discretion upon a showing of good cause. Before requesting a continuance, the moving party shall consult with all other parties and shall state in the motion the position of the other parties with respect to the continuance request. Each motion for continuance shall clearly state the reason for the requested continuance. Parties and counsel shall not contact court staff in an attempt to reschedule a matter before the court. These requests shall be filed in writing as specified in this subsection. All necessary rescheduling shall be initiated by the court after a motion has been received.

(b) A motion to continue a hearing shall be granted only in exceptional and unforeseen circumstances. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-21. Exchange of evidence and witness lists.** Unless otherwise ordered by the court, the following deadlines for the exchange of evidence and witness lists shall apply:

(a) At least 10 calendar days before a scheduled hearing involving single-family residential proper-

ty, each party shall have exchanged copies of each document, photograph, or other evidence that the party intends to present at the hearing.

(b) At least 20 calendar days before a scheduled hearing except a hearing involving single-family residential property as specified in subsection (a), each party shall have exchanged copies of each document, photograph, or other evidence that the party intends to present at the hearing, along with a listing of all witnesses expected to be called at the hearing. At least 10 calendar days before the scheduled hearing, each party shall have exchanged copies of any rebuttal evidence, along with a listing of any rebuttal witnesses.

(c) In computing the time periods specified in subsections (a) and (b), the day of the scheduled hearing shall not be included. If the 10th or 20th calendar day before the hearing falls on a Saturday, Sunday, or legal holiday, the last business day before the day shall be the deadline for the exchange of evidence.

(d) If the parties fail to comply with the deadlines specified in this regulation or with any modified deadline ordered by the court, the presiding officer may take appropriate measures in the interest of preserving a fair hearing, which may include barring or limiting the presentation of evidence. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-22. Hearings.** (a) Each hearing shall be open to the public and shall be conducted in accordance with the Kansas administrative procedure act. Each hearing shall be recorded by a certified shorthand reporter selected by the court or by audio or video recording systems. The court's record shall be the only official record of the proceedings.

(b) The use of recording, photographic, or television devices during any hearing shall be permitted only if the use of these devices is not disruptive.

(c) The cost of obtaining a transcript of any hearing shall be borne by the person requesting the transcript. A certified shorthand reporter shall be selected by the court to transcribe the official record of the proceedings. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-23. Evidence.** (a) Unless otherwise limited by a specific statutory or regulatory provision, the presentation of evidence shall be gov-

erned by K.S.A. 60-401 et seq., and amendments thereto, and by K.S.A. 77-524, and amendments thereto.

(b) Evidence may be received in writing instead of through oral presentation, in accordance with K.S.A. 77-524(d) and amendments thereto. However, the filing of a document shall not signify its receipt into evidence. Only those documents that have been received into evidence shall be considered as evidence in the official record.

(c) Whenever an evidentiary objection is made, the grounds relied upon shall be stated briefly when the evidence is offered. Any evidentiary objection may be ruled upon by the court, or the objection may be taken under advisement by the court. Evidence may be received by the court, subject to a motion to strike at the conclusion of the hearing.

(d) The discontinuation of the presentation of evidence may be ordered by the court upon its own motion if the evidence is cumulative, irrelevant, or otherwise objectionable. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-24. Failure to appear.** (a) Failure of any party to appear at the time and place appointed by the court may result in dismissal or a default judgment.

(b) Within 10 days after service of an order of dismissal or default, the party against whom the order was entered may file a written objection requesting that the order be vacated and stating the specific grounds relied upon. The written objection shall be served on all parties in accordance with these regulations. An entry of dismissal or default may be set aside by the court, for good cause.

(c) If all parties agree to waive the right to a hearing and submit stipulated facts and written arguments, a hearing may be waived. However, the parties' waiver may be rejected by the court at its discretion, and the parties may be required by the court at its discretion to appear for hearing if the court deems the action necessary or proper under the circumstances. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)

**94-5-25. Petitions for reconsideration.**

Each petition for reconsideration of a final order of the court shall be filed pursuant to K.S.A. 77-529, and amendments thereto. Each response to a petition for reconsideration shall be filed with the court within 11 calendar days after the petition for reconsideration is filed with the court. (Authorized by and implementing K.S.A. 2009 Supp. 74-2437; effective Oct. 29, 2010.)



## Agency 97

# Kansas Commission on Veterans Affairs Office

### Editor's Note:

Effective July 1, 2014, the Kansas Commission on Veterans' Affairs was abolished and powers, duties and functions were transferred to the Kansas Commission on Veterans Affairs Office. See L. 2014, Ch. 83.

### Articles

- 97-1. SOLDIERS' HOME; MEMBERSHIP.
- 97-2. RULES GOVERNING MEMBERS.
- 97-3. DISCHARGES; TERMINATION OF MEMBERSHIP.
- 97-4. VETERAN MEMORIAL DONATIONS TO THE KANSAS COMMISSION ON VETERANS' AFFAIRS FOR THE CONSTRUCTION AND MAINTENANCE OF CAPITAL IMPROVEMENT PROJECTS.
- 97-7. VIETNAM WAR ERA MEDALLION PROGRAM.

### Article 1.—SOLDIERS' HOME; MEMBERSHIP

**97-1-1.** (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

**97-1-1a. Definitions.** As used in these regulations, the following terms shall have the meanings specified in this regulation: (a) "Applicant" means a person who has submitted to the Kansas commission on veterans' affairs a completed application packet and military discharge papers.

(b) "Commission" means the body of commissioners appointed by the governor to oversee the Kansas commission on veterans' affairs (KCVA).

(c) "Discharge" means the permanent removal by the commission of a member from a KCVA home.

(d) "Executive director" means the person who serves as executive director of the KCVA.

(e) "Furlough" means the temporary eviction of a member by the respective superintendent or designee, for any infraction of these regulations.

(f) "KSH" means Kansas soldiers' home at Fort Dodge, Kansas.

(g) "KVH" means Kansas veterans' home in Winfield, Kansas.

(h) "Licensed medical authority" means a person who is authorized by law to diagnose mental diseases or disorders.

(i) "Pass" means a superintendent's prior written permission for the voluntary, temporary absence of the veteran or nonveteran member from the

home for a period in excess of 23 hours, as specified in K.A.R. 97-3-3a. An approved pass shall not affect the eligibility status of the member.

(j) "Release" means a voluntary separation granted by a superintendent upon request of a veteran or nonveteran member. The member leaves the home in good standing, and this departure does not affect the member's standing or subsequent KCVA or United States department of veterans affairs benefits.

(k) "Residence hall" means a domiciliary, including cottages, or long-term health care facility.

(l) "State" means the state of Kansas.

(m) "Superintendent" means the person appointed by the KCVA as superintendent for the KSH or KVH.

(n) "USDVA" means United States department of veterans affairs.

(o) "Weapon" means any of the following:

(1) Bludgeon, sand club, metal knuckles, throwing star, dagger, dirk, billy, or blackjack;

(2) any firearm; or

(3) (A) Any knife that is more than four inches long or opens automatically by hand pressure applied to a button, spring, or other device in the handle of the knife; or

(B) any knife having a blade that opens, falls, or is ejected into position by the force of gravity or by outward, downward, or centrifugal thrust or movement. (Authorized by and implementing K.S.A. 76-1904, 76-1927, 76-1951, and 76-1955; effective May 1, 2009.)

**97-1-2.** (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

**97-1-2a. Administrative oversight.** These regulations shall apply to the Kansas soldiers' home and the Kansas veterans' home, which are administered by the commission. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1904, 76-1927, 76-1951, and 76-1955; effective May 1, 2009.)

**97-1-3.** (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended Jan. 1, 1969; amended May 1, 1980; revoked May 1, 2009.)

**97-1-3a. Eligibility.** (a) General. Eligibility for admission shall be based upon K.S.A. 76-1908 and K.S.A. 76-1954, and amendments thereto.

(b) Mental illness, legal incompetence, alcohol abuse, and drug abuse.

(1) Mental illness. No person who has been diagnosed by a licensed medical authority as being mentally ill shall be admitted to the KSH or KVH unless the illness is managed by medication prescribed by a licensed medical authority and that medical authority certifies both of the following:

(A) With the prescribed medication, the individual will not be a threat to that person, any other person, or the property of others.

(B) The individual can be cared for and medicated by KSH or KVH staff with medication that is reasonably available through the KSH or KVH.

(2) Legal incompetence. No person who meets any of the following conditions and has not been restored to competency by the court pursuant to the applicable act shall be admitted unless the person's guardian or conservator, or both, or curator is available to make the legal, financial, and medical decisions on behalf of the person:

(A) Has been adjudged in need of a guardian or conservator, or both, by a court in this state pursuant to the act for obtaining a guardian or a conservator, or both, K.S.A. 59-3050 et seq. and amendments thereto;

(B) has been adjudged in need of a curator pursuant to the curators for veterans act, K.S.A. 73-501 et seq. and amendments thereto; or

(C) has been adjudged by a court of competent jurisdiction in another state or the District of Columbia pursuant to an act similar to either of the acts specified in paragraphs (b)(2)(A) and (B).

(3) "Abuse" shall mean a person's lack of self-control in the use or ingestion of alcohol or drugs

or a person's use or ingestion of alcohol or drugs to the extent that the person's health is substantially impaired or endangered or the person's social or economic functioning is substantially disrupted.

(4) Alcohol abuse. No person who is abusing alcohol and not participating in a program conducted, managed, or operated by an alcohol treatment facility licensed under the alcoholism and intoxication treatment act, K.S.A. 65-4001 et seq. and amendments thereto, shall be admitted to the KSH or KVH. A member who abuses alcohol may be furloughed and may be considered for discharge by the commission.

(5) Drug abuse. No person who is abusing drugs and not participating in a program conducted, managed, or operated by a drug treatment facility licensed under the drug abuse treatment facilities act, K.S.A. 65-4601 et seq. and amendments thereto, shall be admitted to the KSH or KVH unless the abuse is the result of the use of a legally prescribed medication. A member who abuses drugs, prescription or illegal, may be furloughed and may be considered for discharge by the commission.

(6) Removal from the KSH or KVH. Any member who becomes mentally ill or legally incompetent or who becomes addicted to or abuses alcohol or drugs as specified in this regulation may be subject to furlough or discharge.

(c) Children. Only minor children shall be eligible for admission to the KSH and the KVH. No minor child shall be eligible for admission unless accompanied by a member parent or member guardian. No child who is 16 years of age or older shall be admitted to or reside in the KSH or KVH unless the child is incapable of self-support and the superintendent makes such a declaration. Determination of eligibility of dependent children shall be in accordance with federal laws and USDVA regulations applicable to state veterans' homes.

(d) Dependents. No person shall be admitted as the spouse of the applicant unless the marriage is valid under the laws of the state of Kansas. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1904, 76-1908, 76-1928, 76-1931, 76-1951, 76-1954, and 76-1955; effective May 1, 2009.)

**97-1-4.** (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

**97-1-4a. Application for membership.** (a) Processing and approval. No application for membership shall be considered until the person has submitted a complete application packet on forms furnished by the KSH or KVH.

(1) Application packets may be obtained at and returned to any KCVVA field office or service organizational office. The application packet shall be submitted by the office to the superintendent at the KSH or KVH, as applicable, for review of completeness. If the application packet is not complete, the application packet shall be returned to the applicant, with an indication of the portions that are incomplete. Upon determination of completeness, the superintendent shall forward the application packet to the executive director.

(2) Except for applications submitted by individuals with felony convictions, each complete application shall be required to be approved by the executive director before the applicant may be admitted to the KSH or KVH.

(3) For each applicant with a felony conviction, that applicant's completed application shall be evaluated by the commission regarding the rehabilitation of the applicant and current degree of dangerousness to the applicant, other persons, and the property of others before the applicant may be admitted to the KSH or KVH.

(4) Each spouse or dependent who desires membership in the KSH or KVH shall complete the appropriate forms in the application packet.

(5) Each applicant shall include a certification of inability to provide self-support without additional aid.

(b) Investigation of applicants. The information on each application shall be verified by a staff member, as directed by the superintendent.

(c) False applications; procedure. An applicant may be denied admission or a member may be discharged if the commission ascertains that the applicant or member has committed either of the following:

(1) Has misrepresented the age of a minor child. The veteran or veteran's spouse, or both, shall be responsible for ensuring the accuracy of the information in the application of a minor child; or

(2) has misrepresented any other material matter for the purpose of obtaining admission, continuing membership, or obtaining any other benefits of either home. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1908 and 76-1954; effective May 1, 2009.)

**97-1-5.** (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

**97-1-5a. Priority for admission.** (a) Priority criteria. Admission shall be granted pursuant to K.S.A. 76-1908(g) and K.S.A. 76-1954(g)(1), and amendments thereto.

(1) The first priority for admission shall be given to veterans who have no adequate means of support. Within this group, priority shall be based on the severity of medical care required and the ability to pay for health care.

(2) The second priority for admission shall be given to a veteran's spouse or surviving spouse, parents, or children who have no adequate means of support, with priority based on the criteria specified in paragraph (a)(1) of this regulation.

(3) The third priority shall be given to veterans who have a means of support.

(4) The fourth priority shall be given to a veteran's spouse or surviving spouse, parents, or children who have a means of support.

(b) Residence halls. The superintendent of the KSH or KVH shall consult with that person's medical staff to assist in the prioritization of members.

(c) Cottages.

(1) Cottages, which are located only at the KSH, shall be available to eligible members, including those in need of domiciliary care.

(A) If domiciliary care is needed, the veteran member shall show that the care will be provided by that member's spouse, parent, or child. If a family member can not provide domiciliary care, the KSH superintendent shall be so notified, and the veteran member shall be directed to undergo a medical evaluation to determine whether that person can reside alone.

(B) If the KSH superintendent suspects that an applicant or a veteran member needs domiciliary care, the superintendent may direct that applicant or veteran member to undergo a medical evaluation to determine whether that person can reside alone.

(C) If the medical staff determines that the veteran member needs domiciliary care and resides alone, the KSH superintendent may direct that the veteran member be placed in the domiciliary unit for care until a permanent arrangement is made.

(2) No cottage shall be initially assigned to the spouse, parent, or child of a deceased veteran member. If the veteran member dies, the surviv-

ing spouse, parent, or child shall have 180 days to vacate the premises. Before the end of the 180-day period, any surviving nonveteran spouse may move to a domiciliary unit or a one-bedroom cottage, if available, at the rental rate established for nonveterans. If a one-bedroom cottage is not available, the superintendent may allow the nonveteran spouse to remain by exception in the two-bedroom cottage past the 180-day period, contingent upon pending admissions. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1908 and 76-1954; effective May 1, 2009.)

**97-1-6a. Approval or denial of application, notification to applicant, and right of reconsideration; right of hearing; final decision.** (a) Approval of application. If an applicant qualifies for admission, the application shall be approved if there is space available in the KSH or KVH or shall be conditionally approved until space is available. Each applicant shall be notified in writing by the appropriate superintendent or by the executive director, whether the application is approved or denied.

(b) Denial of application.

(1) If an applicant is denied admission, written notification shall be sent to the last known address of the applicant by the appropriate superintendent, the executive director, or the commission. The notification shall state the reason or reasons for the denial.

(2) Within 30 days of the date of the decision, the applicant may file at the office of the executive director a written request for reconsideration by the commission. The request shall state the reasons supporting approval of the application. If no timely request is filed, the notification of denial shall become the final decision.

(3) Unless waived by the applicant, a hearing shall be set upon receipt of a request for reconsideration. The hearing shall be scheduled at the earliest available commission docket. The applicant shall be notified by the executive director of the date, time, and place of the hearing. The notice shall be mailed to the last known address of the applicant at least 10 days before the hearing.

(4) At the hearing, notice may be taken by the commission of its administrative records and files, and any other relevant evidence and arguments offered by the applicant, employees of the KCVA, or other interested persons may be heard by the commission. The applicant may appear in person,

through telephone, by an attorney, or any combination of these.

(5) If the applicant fails to attend the hearing, the commission's decision may be made based upon the KCVA's records, files, and any other evidence that was presented at the hearing. The commission's decision shall be determined by a majority vote. A written decision shall be filed by the commission with the executive director, setting forth the facts and reasons for the commission's decision. Within 30 days after the hearing, a copy of the decision shall be sent by the executive director to the applicant at the applicant's last known address. The filed decision shall be considered the final agency action. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1908 and 76-1954; effective May 1, 2009.)

## **Article 2.—RULES GOVERNING MEMBERS**

**97-2-1.** (Authorized by and implementing K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1980; amended May 1, 1984; revoked May 1, 2009.)

**97-2-1a. Charges.** Charges to each member shall be based on the member's ability to pay and shall not exceed the applicable KSH or KVH per diem cost of care for the prior year or the charges made to patients pursuant to K.S.A. 59-2006 and amendments thereto, whichever is less. Each member shall notify the superintendent, within five business days, of any increase or decrease in income or assets. The business manager shall submit an annual accounting to the superintendent, or designee, of each member's resources to determine the member's appropriate charges. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1904a and 76-1952; effective May 1, 2009.)

**97-2-2.** (Authorized by K.S.A. 76-1932; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

**97-2-2a. Comfort money.** Comfort money shall mean a protected amount of each member's income that is not used in determining the member's charges and is held for the member's use, benefit, and burial. The amount of comfort money shall be annually determined by the commission at its November meeting and shall become effective on February 1 of the following year. Each

member shall be given written notice by that member's superintendent, within 45 days after the commission's November meeting, of the amount of comfort money authorized by the commission. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1904a, 76-1935, 76-1952, and 76-1956; effective May 1, 2009.)

**97-2-3.** (Authorized by K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

**97-2-4.** (Authorized by K.S.A. 76-1927; effective Jan. 1, 1966; revoked May 1, 2009.)

**97-2-5.** (Authorized by and implementing K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1980; amended May 1, 1984; revoked May 1, 2009.)

**97-2-6.** (Authorized by K.S.A. 76-1906, 76-1927; effective Jan. 1, 1966; amended Jan. 1, 1969; amended May 1, 1980; revoked May 1, 2009.)

**97-2-7.** (Authorized by K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

**97-2-8.** (Authorized by and implementing K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1980; amended May 1, 1984; revoked May 1, 2009.)

### **Article 3.—DISCHARGES; TERMINATION OF MEMBERSHIP**

**97-3-1.** (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

**97-3-1a. Personal conduct; guests.** (a) Personal conduct. The following actions by any member or any member's guest while at the KSH or KVH shall be prohibited:

(1) Violating any state statute, state regulation, or lawful order of any superintendent or designee of the superintendent;

(2) brandishing a weapon;

(3) cursing, swearing, quarreling, or using violent, profane, vulgar, or threatening language or conduct that tends to arouse alarm or anger, disturbs others, or provokes an assault or other breach of the peace;

(4) intentionally or willfully damaging or destroying any property of another person or entity, the KSH or KVH, or the state;

(5) being under the influence of alcohol or illegal drugs, or both; and

(6) engaging in any activity or behavior not otherwise specified in this subsection that interferes with the orderly conduct of the KSH or KVH.

(b) Guests. Each member shall be responsible for informing that member's guest of the personal conduct prohibited by this regulation. No member of the KSH or KVH shall house any person as an overnight guest without the prior approval of the superintendent. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1904, 76-1927, 76-1951, and 76-1955; effective May 1, 2009.)

**97-3-2.** (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

**97-3-2a. Pets and service or therapeutic animals; hunting prohibition.** (a) No animals may be kept on the premises of the KSH or KVH by members, guests, or employees, except as specified in this regulation.

(b) As used in this regulation, "pet" shall mean a domesticated cat weighing 25 pounds or less or a domesticated dog weighing 80 pounds or less.

(c)(1) Horses may be kept on the grounds at the KSH or KVH as designated by prior written authorization from the superintendent.

(2) Any guest may have a pet on the premises of the KSH or KVH, for not more than a six-hour period between 7 a.m. and 10 p.m.

(3) Each pet at the KSH or KVH shall meet the following requirements:

(A) Have current vaccinations;

(B) be restrained with a leash and wear a collar with a tag identifying its owner while in public or open areas of the KSH or KVH;

(C) be properly maintained;

(D) not become a nuisance or threat to staff, members, or guests; and

(E) not interfere with the normal conduct and operation of the KSH or KVH.

(d)(1) Only an employee or member living in a cottage at the KSH may be allowed to maintain more than one pet if the requirements in paragraph (c)(3) are met and prior approval for each pet has been given by the superintendent.

(2) Each employee or member living in a cottage at the KSH who utilizes a service or therapeutic animal shall notify the superintendent that the animal is maintained at that employee's or member's cottage.

(e) Only service and therapeutic animals shall be allowed to be maintained by employees or members living in residential halls other than the cottages at the KSH and KVH.

(f) Hunting shall not be allowed on the premises of the KSH or KVH. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1904, 76-1927, 76-1951, and 76-1955; effective May 1, 2009.)

**97-3-3.** (Authorized by K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

**97-3-3a. Passes.** (a) Absences.

(1) Twenty-three hours or less. Each member who desires to be absent from the KSH or KVH for 23 hours or less shall obtain the prior written approval of the superintendent or the superintendent's designee.

(2) More than 23 hours. Each member shall be required to obtain a pass from the superintendent for any absence longer than 23 hours. No pass shall exceed a total of three months in any 12-month period.

(3) Absences by members residing in cottages at the KSH. Each cottage member who is absent for more than 30 days with a pass shall pay an additional rent payment at the rate prescribed in K.A.R. 97-1-1a.

(4) Extensions. Any pass may be extended once by the superintendent for not more than 30 days.

(5) Early return. Each member who is absent with a pass or pass extension and who wants to return before the expiration of the pass or pass extension shall notify the superintendent at least 10 days before the date on which the member desires to return to the KSH or KVH.

(b) Medical pass. A veteran member shall request that the superintendent issue a medical pass for the purpose of being hospitalized or domiciled in a USDVA medical center. During the period that the veteran member is absent with a medical pass, the status of the veteran member's dependents shall remain unchanged. The veteran member shall be readmitted by the superintendent under the same terms and conditions as those under which the veteran member was originally admitted. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1904, 76-1927, 76-1951, and 76-1955; effective May 1, 2009.)

**97-3-4.** (Authorized by K.S.A. 76-1929; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

**97-3-5.** (Authorized by K.S.A. 76-1929; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

**97-3-6.** (Authorized by and implementing K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1984; revoked May 1, 2009.)

**97-3-7.** (Authorized by K.S.A. 76-1929; effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 2009.)

**97-3-8.** (Authorized by K.S.A. 76-1929; effective Jan. 1, 1966; revoked May 1, 2009.)

**97-3-9.** (Authorized by K.S.A. 76-1927; effective Jan. 1, 1966; revoked May 1, 2009.)

**Article 4.—VETERAN MEMORIAL  
DONATIONS TO THE KANSAS  
COMMISSION ON VETERANS'  
AFFAIRS FOR THE CONSTRUCTION  
AND MAINTENANCE OF CAPITAL  
IMPROVEMENT PROJECTS**

**97-4-1a. Disciplinary actions; discharge.**

(a) Complaints. Any person may make a verbal or written complaint to the superintendent alleging a violation of any statute or regulation.

(b) Investigation. Upon receipt of a complaint, the superintendent shall conduct an investigation. If the investigation reveals reasonable grounds to believe that a member has violated a statute or regulation, no warning has been given for prior offenses in the past 12 months, and the current offense did not cause property damage or bodily injury, the superintendent may advise the member of the violation and warn the member that if the conduct or activity does not cease, proceedings will be commenced to discharge the member. As an alternative, a report by the superintendent may be sent to the KCVA detailing the investigation of the complaint, identifying the regulation that was violated, and recommending discharge of the member.

(c) Notice. Upon recommendation that a member be discharged, a hearing shall be scheduled at the earliest available commission docket. The member shall be notified by the executive director of the factual allegations of the complaint, the applicable statute or regulation, and the date, time, and place of the hearing. The notice shall be mailed to the last known address of the member at least 10 days before the hearing.

(d) Proceedings. At the hearing, notice may be taken by the commission of its administrative files and records, and any other relevant evidence and arguments offered by the member, staff, employees of KCVA, or any other interested persons may be heard by the commission. The member may appear in person, through telephone, by an attorney, or any combination of these. If the member fails to attend, the decision may be made by the commission based upon its files and records and any other evidence that was presented at the hearing.

(e) Final decision. A written decision shall be filed by the commission with the executive director. The written decision shall set forth the facts and reasons for the commission's decision. A copy of the decision shall be sent by the executive director to the member at the member's last known address. The filed decision shall be considered the final agency action.

(f) Vacating premises. If the decision is adverse to the member, the member shall vacate the residence or cottage within 30 days of the date on which a copy of the commission's decision was sent to the member. The member may ask the superintendent for an additional 14 days due to unusual and extenuating circumstances. As used in this subsection, "unusual and extenuating circumstances" shall mean any condition that is caused by an unexpected event that is beyond the member's control and that is sufficiently extreme in nature to result in the inability or inadvisability to vacate the premises by the deadline specified. (Authorized by K.S.A. 76-1927 and 76-1955; implementing K.S.A. 76-1928, 76-1931, 76-1932, and 76-1955; effective May 1, 2009.)

#### **Article 7.—VIETNAM WAR ERA MEDALLION PROGRAM**

**97-7-1. Definitions.** As used in L. 2009, ch. 62, secs. 1 through 6 and amendments thereto and these regulations, each of the following terms shall have the meaning specified in this regulation:

(a) (1) "Active service" and "active duty" shall include the following:

(A) For a member of an active component of the armed forces of the United States, the time served on active duty for which the member has received or is eligible to receive the Vietnam war era medallion for service related to the Vietnam war; and

(B) for a member of the armed forces of the United States, time served on active duty for the

support of operations in the Vietnam war whether or not that service was in the country of Vietnam.

(2) These terms shall include any time spent in a hospital as a result of service-connected wounds, diseases, or injuries sustained on active service. Proof of this service shall be the official military records of the United States or other evidence as deemed sufficient by the director of veteran services.

(3) These terms shall not include time served on active duty for annual training or schooling, except for training and schooling in preparation for active duty in the Vietnam war.

(b) "Director of veteran services" means the designated director of the veteran services program for the Kansas commission on veterans' affairs, who is appointed by the executive director of the Kansas commission on veterans' affairs.

(c) "Parent" shall include the following:

(1) The natural or adoptive parent of a veteran; and

(2) any person who, for a period of at least one year, acted in the capacity of a foster parent to a veteran immediately before the veteran attained 18 years of age.

(d) "Program" means the Vietnam war era medallion program.

(e) "Spouse or eldest living survivor of a deceased veteran" means any of those individuals listed in K.A.R. 97-7-4. (Authorized by and implementing L. 2009, ch. 62, sec. 2; effective March 12, 2010.)

**97-7-2. Veteran status.** (a) To be considered a veteran for purposes of the program, each applicant shall establish both of the following to the satisfaction of the director of veteran services:

(1) The person for whom the application under the program is submitted is a veteran.

(2) The person for whom the application under the program is submitted meets the requirements specified in L. 2009, ch. 62, sec. 1, and amendments thereto.

(b) In addition to meeting the requirements in subsection (a), the applicant shall certify that the person for whom the application under the program is submitted meets both of the following requirements:

(1) Was not, at any time during the Vietnam war, separated from the armed forces under other than honorable conditions, including a bad conduct discharge or dishonorable discharge, or an administrative discharge under other than honorable conditions; and

(2) has never renounced United States citizenship. (Authorized by L. 2009, ch. 62, sec. 2; implementing L. 2009, ch. 62, sec. 1 and sec. 2; effective March 12, 2010.)

**97-7-3. Legal resident status.** (a) Proof of residence. In addition to establishing the veteran status of the person for whom an application under the program is submitted as specified in K.A.R. 97-7-2, the applicant shall establish to the satisfaction of the director of veteran services that the person was a legal resident of Kansas during the person's active service within the period beginning February 28, 1961 and ending May 7, 1975. The proof of residence shall be the official records of the United States or other evidence deemed sufficient by the director of veteran services.

A legal resident of Kansas shall mean an individual for whom Kansas was the state of domicile while serving in the United States armed forces or a reserve component of the United States armed forces within the period specified in this subsection and who did not claim legal residence in any other state during that period of active service, without regard to the place of enlistment, commission, or induction. A service member's legal residence shall not change by virtue of military assignment to another state.

(b) Home of record in Kansas shown in official military records. Each veteran whose home of record is listed as Kansas in official military records showing qualifying active service within the period beginning February 28, 1961 and ending May 7, 1975 shall be considered a legal resident without regard to the veteran's place of enlistment, commission, or induction.

(c) Home of record in Kansas not shown in official military records. In making a determination of legal residence if official military records do not show Kansas as the veteran's home of record for the period of active service, the director of veteran services shall apply a rebuttable presumption that the veteran was not a legal resident of Kansas. The applicant may rebut this presumption by showing facts and circumstances establishing that Kansas was the veteran's legal residence because Kansas was the veteran's permanent place of abode to which the veteran intended to return.

(d) Documentation. If an applicant is unable to document the veteran's legal residence in Kansas by means of official military records showing a home of record in Kansas during the period of active service, the director of veteran services may

consider the following documentation when determining whether sufficient evidence exists to show that the veteran was a legal resident of Kansas who did not claim legal residence in any other state at that time:

(1) Voter registration records for the period beginning February 28, 1961 and ending May 7, 1975;

(2) proof of payment of state income tax as a resident for the period beginning February 28, 1961 and ending May 7, 1975;

(3) (A) Kansas driver's license or Kansas identification card; and

(B) any similar documentation for the period beginning February 28, 1961 and ending May 7, 1975;

(4) other proof of a Kansas residential address for the period beginning February 28, 1961 and ending May 7, 1975, including a high school diploma or attendance record for a Kansas high school, real estate records, utility receipts, and any other records showing residence in Kansas; and

(5) an affidavit of residence submitted by the applicant under penalty of law in which the applicant swears or affirms that the veteran on whose behalf the application under the program is submitted remained a legal resident of Kansas and did not claim legal residence in any other state for any purpose during the period of active service occurring within the period beginning February 28, 1961 and ending May 7, 1975. (Authorized by L. 2009, ch. 62, sec. 2; implementing L. 2009, ch. 62, sec. 1 and sec. 2; effective March 12, 2010.)

**97-7-4. Applicants on behalf of deceased veterans.**

(a) The following individuals shall be eligible to apply under the program on behalf of eligible deceased veterans. Eligible deceased veterans shall include eligible veterans who died in performance of active service or as a result of service-connected wounds, diseases, or injuries and veterans who would, but for their death before submission of an application, be eligible to apply under the program based on active service. Applicants shall be considered in the following order:

(1) The surviving spouse of the eligible veteran, unless the surviving spouse was living separate and apart from the veteran when the veteran commenced active service. The proof of spousal status required shall be the same as the proof that would be accepted by the United States department of

veterans affairs. The surviving spouse shall certify that the individual was not living separate and apart from the eligible veteran when the veteran commenced active service. If a surviving spouse qualifies under the program, the Vietnam war era medallion, medal, and certificate of appreciation shall be awarded to the surviving spouse at the time of the veteran's death;

(2) survivor, which shall mean the eldest surviving child of the eligible veteran if there is no eligible surviving spouse. The eldest surviving child shall certify that there is no eligible surviving spouse, as part of the application; and

(3) the surviving parents of the eligible veteran, if there are no eligible surviving spouse and no eligible surviving children. The surviving parents shall certify that there are no eligible surviving spouse and no eligible surviving children, as part of the application.

(b) If the eligibility of a surviving spouse, surviving child, or surviving parents is disputed, the director of veteran services shall defer awarding the Vietnam war era medallion, medal, and certificate of appreciation until the parties resolve the dispute or a court of competent jurisdiction issues an order making a determination on the issue. (Authorized by L. 2009, ch. 62, sec. 2; implementing L. 2009, ch. 62, secs. 3, 4, and 5; effective March 12, 2010.)

**97-7-5. Application procedures.** (a) Forms. Each application for benefits under the program shall be submitted on a form provided by the Kansas commission on veterans' affairs.

(b) Submission. Each application shall be submitted to the address designated by the Kansas commission on veterans' affairs on the application form.

(c) Additional documentation. Each application shall be accompanied by the required number of copies, as stated on the application, of supporting documentation from official military records of the United States armed forces or its reserve components, including DD form 214 or similar documentation showing periods of active service, and documentation of the veteran's home of record. If the application is submitted on behalf of a deceased veteran, a copy of the death certificate shall be attached.

(d) Review of applications. The director of veteran services shall conduct a review of each application for completeness. If the application is deemed complete, the director shall review the application to determine eligibility.

(e) Incomplete applications. Each incomplete application shall be returned to the applicant. (Authorized by L. 2009, ch. 62, sec. 2, and implementing L. 2009, ch. 62, sec. 2 and sec. 5; effective March 12, 2010.)

**97-7-6. Reconsideration of denied applications.** Any applicant who is dissatisfied with the disposition of the application may ask the Kansas commission on veterans' affairs to reconsider the disposition. Each request for reconsideration shall meet the following requirements:

(a) Be submitted within 30 days of receipt of the initial disposition of the application;

(b) be in the form of a letter or memorandum;

(c) state why the applicant is dissatisfied with the disposition; and

(d) state the reasons, including facts and circumstances, the applicant believes the disposition should be altered. (Authorized by L. 2009, ch. 62, sec. 2; implementing L. 2009, ch. 62, sec. 5; effective March 12, 2010.)



# Agency 98

## Kansas Water Office

### Articles

- 98-1. DEFINITIONS.
- 98-2. PUBLIC HEARINGS ON THE STATE WATER PLAN.
- 98-4. WEATHER MODIFICATION.
- 98-5. STATE WATER PLAN STORAGE.
- 98-6. WATER ASSURANCE PROGRAM.
- 98-7. LOWER SMOKY HILL WATER SUPPLY ACCESS PROGRAM.
- 98-8. EASEMENT AUTHORITY ON NAVIGABLE RIVERS.

### Article 1.—DEFINITIONS

**98-1-1. Definitions.** The following definitions shall apply to all regulations of the Kansas water office:

- (a) “Assignment” means either of the following:
  - (1) The transfer of any right under a water purchase contract to a third person; or
  - (2) the transfer to a third person of any of the duties and obligations owed by a water contract holder to the state.
- (b) “Authority” means Kansas water authority.
- (c) “Conservation storage water supply capacity” means the space in a reservoir that meets the following requirements:
  - (1) Has been purchased, contracted for purchase, or otherwise acquired by the state; and
  - (2) has been designated for the storage of water for any beneficial purpose or for sediment accumulation purposes in proportion to the amount of storage purchased, contracted for purchase, or otherwise acquired by the state.
- (d) “Cooperating landowner” means a person requesting that the office issue an easement along a navigable river for purposes authorized in K.S.A. 2012 Supp. 82a-220, and amendments thereto.
- (e) “Days” has the meaning specified in K.S.A. 60-206(a), and amendments thereto.
- (f) “Designated representative” means any person designated to perform on another’s behalf.
- (g) “Director” means director of the Kansas water office or the director’s designee.
- (h) “Discharge” means the volume of water per unit of time passing a specific cross section of a river.
- (i) “Drought having a two percent chance of occurrence in any one year” means a drought having a statistical chance of occurring once every 50

years, on the average, using all available statistics and information.

- (j) “Industrial use” means any use of water primarily for the production of goods, food, or fiber or for providing utility services. This term shall include any incidental uses.
- (k) “Irrigation use” means the use of water for growing agricultural crops, watering gardens, orchards, and lawns exceeding two acres in area and for watering golf courses, parks, cemeteries, athletic fields, racetrack grounds, and similar facilities.
- (l) “Municipal use” means the use of water that meets the following conditions:
  - (1) Is obtained from a common water supply source by a municipality, rural water district, other water supply district, or group of householders;
  - (2) is delivered through a common distribution system; and
  - (3) is for domestic, commercial, trade, industrial, and any other related incidental uses for any beneficial purposes.
- (m) “Natural flow” means that portion of the flow in a natural stream that consists of precipitation on the stream and reservoir water surface, direct runoff from precipitation on the land surface, groundwater infiltration to the stream, and return flows to the natural stream from municipal uses, agricultural uses, or other uses, unless otherwise defined in an operations agreement.
- (n) “Office” means Kansas water office.
- (o) “Operations agreement” means a document agreed to by the director and either a water assurance district or water supply access district, describing the terms by which the coordinated system of reservoir operations is to be managed.
- (p) “Participant” means a person seeking an easement on state property along a navigable river

in the state for a conservation project, as defined in K.S.A. 2012 Supp. 82a-220 and amendments thereto.

(q) “Person” means any natural person, private corporation, government unit, municipality, or public corporation.

(r) “Program agency” means any state, federal, or local agency that provides oversight, services, funding, or other support for a project or group of projects for which a landowner seeks an easement on state property along a navigable river, pursuant to K.S.A. 2012 Supp. 82a-220 and amendments thereto.

(s) “Recreational use” means the use of water for activities including fishing, swimming, boating, and hunting or for entertainment, enjoyment, relaxation, and fish and wildlife benefits.

(t) “Reservoir” means a lake or other impoundment in which water is stored.

(u) “Reservoir yield” means the quantity of water that can be withdrawn from the conservation storage water supply capacity of a reservoir during a drought having a two percent chance of occurrence in any one year, as determined through the procedure specified in K.A.R. 98-5-9.

(v) “Target flow” means the discharge at specific points along a river designated within an operations agreement.

(w) “Water supply access contract” and “water assurance contract” mean a contract to provide for the development of a coordinated system of reservoir operations designed to supplement natural flows, in order to meet demands of eligible water right holders during low-flow periods, by release of water supply from state-owned or state-controlled conservation storage water supply capacity of the major reservoirs in the designated basin.

(x) “Water assurance district” means an organization of eligible water right holders established under K.S.A. 82a-1330 et seq., and amendments thereto.

(y) “Water purchase contract” means a contract for the sale of water from the conservation storage water supply capacity of a reservoir made pursuant to the state water plan storage act, K.S.A. 82a-1301 et seq. and amendments thereto.

(z) “Water reservation right” means the state’s right to divert and store waters of all streams flowing into the conservation storage water supply capacity of a reservoir. The water reservation right shall be sufficient to ensure the yield of water throughout a drought having a two percent chance of occurrence in any one year.

(aa) “Water supply access district” means an organization of eligible water right holders established under K.S.A. 2012 Supp. 82a-2309, and amendments thereto.

(bb) “Year” means a 12-month period beginning with a specified month and day.

(cc) “Yield” means the quantity of water that can be withdrawn from storage in a reservoir for a given period of time. (Authorized by and implementing K.S.A. 2012 Supp. 82a-220, K.S.A. 82a-923, K.S.A. 82a-1319, K.S.A. 82a-1345, K.S.A. 82a-1403, K.S.A. 2012 Supp. 82a-2324; effective Jan. 1, 1966; amended Aug. 30, 2013.)

**98-1-2.** (Authorized by K.S.A. 82a-923; effective Jan. 1, 1966; revoked Aug. 30, 2013.)

## Article 2.—PUBLIC HEARINGS ON THE STATE WATER PLAN

**98-2-1. Notice.** (a) Notice of public hearings on the state water plan or any section of the plan shall be given by the authority to those agencies and persons, both public and private, specified in K.S.A. 82a-905, and amendments thereto. The authority shall give notice of these hearings to any other individuals and organizations that the authority deems to have an interest in the subject of that portion of the state water plan.

(b) Notice of any hearing shall be published in the Kansas register at least twice. The first publication shall be no earlier than two months before the first public hearing. In addition to the official notice of public hearings, the authority may issue press releases and post information on the office webpage. (Authorized by K.S.A. 82a-923; implementing 82a-905; effective Jan. 1, 1966; amended Aug. 30, 2013.)

**98-2-2. Conduct of hearing.** (a) The chairperson of the authority or a member of the authority designated by the chairperson shall preside at each public hearing on the state water plan.

(b) The authority shall request those persons desiring to appear at any public hearing on the state water plan to notify the authority at least five days before the date of the hearing. Those persons who have notified the authority in advance of the hearing of their desire to be heard shall be scheduled to be heard first at any hearing. Any person who has not notified the authority may be heard if the time schedule for the hearing permits. Each person who desires to have a statement made a part of the public record of any

hearing on the state water plan shall submit two copies of the statement to the authority. An oral summary of the statement may be presented at the hearing.

(c) The chairperson, members of the authority, and members of the staff of the office may question any person who presents a statement.

(d) The person presiding at any hearing on the state water plan may set time limits on oral presentations and may establish other procedures as appropriate. Hearing procedures shall be announced at the beginning of each hearing.

(e) Any person who is unable to appear at a scheduled hearing may submit a written statement to the office. Statements submitted when the hearing record is open shall be made a part of the public record of the hearing. The hearing record shall remain open for at least 10 days following the hearing. (Authorized by K.S.A. 82a-923; implementing K.S.A. 82a-905; effective Jan. 1, 1966; amended Aug. 30, 2013.)

**98-2-3 through 98-2-20.** (Authorized by K.S.A. 82a-923; effective Jan. 1, 1966; revoked Aug. 30, 2013.)

#### Article 4.—WEATHER MODIFICATION

**98-4-1. Licenses.** (a) No person may engage in any weather modification activity within the state of Kansas without a valid license issued under this regulation and a permit issued under K.A.R. 98-4-2. “Weather modification activity” shall mean any activity, operation, or experimental process that has as its objective inducing change, by artificial means, in the composition, behavior, or dynamics of the atmosphere.

(b) In order to obtain a license under the Kansas weather modification act, the applicant shall demonstrate that the applicant is qualified to conduct a weather modification project of the kind the applicant wishes to conduct in Kansas by the applicant’s knowledge of meteorology and cloud physics and that individual’s field experience in weather modification. The applicant shall meet the following requirements, in addition to meeting the requirements in subsection (c):

(1) Submit an application for a license to the authority on forms provided by the director. Forms may be requested from the office and may be posted on the office web site. Forms shall be submitted at least 60 days before the start of the proposed operational period and the next authority meeting for consideration; and

(2) pay the \$100.00 license fee, unless that fee is waived by the authority because of the educational or experimental nature of the work proposed. The candidate for exemption shall file a request with the director indicating that the educational or experimental nature of the work merits exemption from fees.

(c) The license applicant shall meet one of the following professional or educational requirements:

(1) Have eight years of professional experience in weather modification or field research activities and at least three years of experience as a project director;

(2) hold a baccalaureate degree in an applicable discipline, as determined by the director, and have three seasons of experience in the application of those studies to weather modification activities; or

(3) hold a baccalaureate degree that includes 25 hours of meteorological studies and have two seasons of practical experience in weather modification research or activities.

(d) Each license shall expire at the end of the calendar year for which it is issued.

(e) Weather modification licenses may be renewed annually, effective January 1 each year. Renewal shall be granted if both of the following conditions are met:

(1) Receipt by the director of a request for renewal from the license holder no later than November 30; and

(2) receipt by the director of the \$100 annual license fee, unless this fee is waived pursuant to paragraph (b)(2). (Authorized by K.S.A. 82a-1403; implementing K.S.A. 2012 Supp. 82a-1405, K.S.A. 82a-1406, and K.S.A. 82a-1407; effective, E-74-39, July 26, 1974; effective May 1, 1976; amended Aug. 30, 2013.)

**98-4-2. Permits.** (a) A weather modification permit, which is a document issued by the director authorizing weather modification activity in Kansas, shall be required annually, on a calendar-year basis, for each weather modification project. If a weather modification project will extend over more than one calendar year, a permit may be extended on a year-to-year basis upon payment of the annual fee, a review by the director, and the publication of a notice of intent to continue the operation. A public hearing on any renewal may be held by the director. A permit shall not be assigned or transferred by the permit holder.

(b) Each permit application shall be submitted at least 60 days before the initial date of the

proposed operational period for which the permit is sought. Each permit applicant shall also provide the application at least 30 days before an applicable authority meeting to ensure timely consideration.

(c) Each applicant for a permit to conduct weather modification activities in Kansas shall meet the following requirements:

(1) Submit to the director a completed application for permit on a form provided by the director. Forms may be posted on the office web site;

(2) pay the \$100.00 permit fee, if applicable;

(3) present evidence that the applicant is, or has in its employ, a license holder;

(4) demonstrate proof of ability to meet the liability requirements of section 1411 (4) of the Kansas weather modification act. This proof may be provided in the form of an insurance policy written by a company authorized to do business in Kansas or by a statement of individual worth, including a profit-and-loss statement, that is accepted by the director;

(5) submit a complete and satisfactory operational plan for the proposed weather modification project that includes the following:

(A) A map of the proposed operating area specifying the primary target area and showing the area reasonably expected to be affected. "Primary target area" shall mean the area within which the weather modification activity is intended to have an effect;

(B) the name and address of the license holder specified in paragraph (c)(3);

(C) the nature and object of the intended weather modification activities;

(D) the meteorological criteria to be used to initiate or suspend modification activities;

(E) the person or organization on whose behalf the project is to be conducted;

(F) a statement showing any expected effect upon the environment; and

(G) the methods that will be used in determining and evaluating the proposed weather modification project;

(6) at least seven days before any required public hearing, publish a "notice of intent" to engage in weather modification activities in each county of which all or part could be within the primary target area or within the areas reasonably expected to be affected. The time and place of the public hearing shall be approved by the director. The notice of intent shall include notice published in a newspaper or newspapers of general circulation

in the area. The notice shall meet the following requirements:

(A) Describe the primary target area;

(B) describe the area that might reasonably be affected;

(C) specify the period of operation, including starting and ending dates. Operational periods shall not be required to be continuous;

(D) describe the general method of operation;

(E) describe the intended effect of the operation;

(F) state the time and place of a public hearing on the application. The hearing shall be held in or near the primary target area; and

(G) state that complete details of the application for a permit will be available for examination in the office of the authority in Topeka and at a location within the project area as described in the public hearing notice;

(7) provide satisfactory evidence of publication of the notice of intent to the director before the public hearing; and

(8) provide any other relevant information as may be required by the director.

(d) At the discretion of the director, additional information may be required of the applicant. This additional information may include a comprehensive environmental impact analysis similar to the statements required for federal projects.

(e) Each permit issued for a weather modification activity shall be subject to revision, suspension, or modification of its terms and conditions by the director, if necessary to protect the health, safety, or property of any person or to protect the environment.

(f) In order to modify the boundaries of a project for which a permit has previously been obtained, a revised permit shall be required, with conditions similar to those under which the original permit was issued or as modified by the director. (Authorized by K.S.A. 82a-1403; implementing K.S.A. 82a-1406, K.S.A. 82a-1411, K.S.A. 82a-1415; effective, E-74-39, July 26, 1974; effective May 1, 1976; amended Aug. 30, 2013.)

### **98-4-3. Evaluation of permit application.**

(a) Each permit application shall be evaluated based on the following considerations:

(1) The project can reasonably be expected to benefit the residents of the primary target area or an important segment of the state's population.

(2) The testimony and information presented at the public hearing are generally favorable to the proposed activity.

(3) Economic, social, or research benefits are expected.

(4) The applicant has provided adequate safeguards against potentially hazardous effects to health, property, or the environment and has outlined a program for the implementation of these safeguards.

(5) The proposed project will not have any detrimental effect on previously authorized weather modification projects.

(6) The proposed project is scientifically and technically feasible.

(7) If the application is for a scientific research and development project, it offers promise of expanding the knowledge and technology of weather modification.

(b) Each permitted project shall be under the personal direction, on a day-to-day basis, of an individual who holds a valid license issued under the Kansas weather modification act.

(c) The permit holder shall not conduct activities outside the limits stated in the operational plan specified in K.A.R. 98-4-2. All activities planned for periods of severe weather shall be listed in the permit application and identified at the public hearing. (Authorized by K.S.A. 82a-1403; implementing K.S.A. 82a-1406, K.S.A. 82a-1411, and K.S.A. 82a-1412; effective, E-74-39, July 26, 1974; effective May 1, 1976; amended Aug. 30, 2013.)

**98-4-4. Reports.** (a) Each permit holder shall maintain at that individual's project office a current log of all operations, which shall mean a log that has up-to-date information from the past 24 hours. This log shall be available for inspection by any person authorized by the director. The log shall include information at least equivalent to information required on the log forms available from the office.

(b) Each permit holder shall submit a monthly report of weather modification activities under the permit for each calendar month for which the permit is valid. Each monthly report shall be submitted no later than the close of business on the 15th day of the following month. One copy of all entries made in the weather modification logs shall be included when making the monthly reports, unless more detailed information is required when the permit is granted by the director.

(c) Each permit holder shall submit a preliminary annual report within 30 days after the end of each calendar year or within 30 days after the end of the project, whichever comes first. The permit

holder shall also submit a final annual report on the project within 90 days after the end of the project. These reports shall include the following:

(1) Monthly and project period totals for information required in the logs; and

(2) the permit holder's interpretation of project effects as compared to those anticipated in the original application for the permit. (Authorized by K.S.A. 82a-1403; implementing K.S.A. 82a-1417; effective, E-74-39, July 26, 1974; effective May 1, 1976; amended Aug. 30, 2013.)

**98-4-5. Procedure for granting emergency permits.** (a) A permit may be granted on an emergency basis if evidence is presented to the director that clearly identifies the situation as an emergency. "Emergency" shall mean an unusual condition that could not have reasonably been expected or foreseen and in which it can be anticipated that damage can be avoided or reduced by prompt weather modification action.

(b) Upon the applicant's presentation of evidence satisfactory to the director that an emergency exists or could reasonably be expected to exist in the very near future that could be alleviated or overcome by weather modification activities, an emergency permit may be issued by the director to an individual holding a license issued under K.S.A. 82a-1401 et seq., and amendments thereto. Coincident with the issuance of the permit, the information contained in the permit shall be released by the director to the news media in the area intended to be affected.

(c) If the permit holder desires to continue the permit activities and the director grants an emergency permit, a date for the public hearing shall be set by the director within 10 days after the permit is granted. The permit holder shall be responsible for providing public notice of the hearing through the local news media in the area. At the public hearing, the permit holder shall describe the following:

- (1) The objectives of the emergency action;
- (2) the success to date; and
- (3) any future plans under the permit.

On the basis of the information presented at the public hearing, the decision of whether to revoke the emergency permit, modify it, or allow continued operation under conditions specified by the director shall be made by the director. (Authorized by K.S.A. 82a-1403; implementing K.S.A. 82a-1414; effective, E-74-39, July 26, 1974; effective May 1, 1976; amended Aug. 30, 2013.)

**98-4-6.** (Authorized by K.S.A. 1975 Supp. 82a-1403; effective, E-74-39, July 26, 1974; effective May 1, 1976; revoked Aug. 30, 2013.)

**98-4-7.** (Authorized by K.S.A. 1975 Supp. 82a-1403; effective May 1, 1976; revoked Aug. 30, 2013.)

**98-4-8. Field operations.** As provided in K.A.R. 98-4-3 (b), the license holder or a substitute license holder approved by the director shall be on duty at the license holder's project site at all times while weather modification activities are being carried out. (Authorized by K.S.A. 82a-1403; implementing K.S.A. 82a-1412; effective May 1, 1976; amended Aug. 30, 2013.)

**98-4-9.** (Authorized by K.S.A. 1975 Supp. 82a-1403; effective May 1, 1976; revoked Aug. 30, 2013.)

**98-4-10.** (Authorized by K.S.A. 1975 Supp. 82a-1403; effective May 1, 1976; revoked Aug. 30, 2013.)

#### **Article 5.—STATE WATER PLAN STORAGE**

**98-5-1.** (Authorized by K.S.A. 82a-1319; implementing K.S.A. 82a-1305; effective May 1, 1979; amended May 1, 1980; amended May 1, 1984; amended Nov. 22, 1996; revoked Aug. 30, 2013.)

**98-5-2. Applications.** (a) Each application to enter into a water purchase contract shall be submitted in writing on forms prescribed by the director and shall be signed by the person making the application or the person's chief officer or designated representative. The application shall be filed with the director.

(b) Each application shall include the following information:

- (1) The name and address of the applicant;
- (2) the reservoir from which the applicant proposes to withdraw water;
- (3) the peak daily rate at which the applicant proposes to withdraw water and the total annual quantity to be withdrawn;
- (4) the uses proposed to be made of waters withdrawn; and
- (5) the estimated date of first withdrawal of water.

(c) Each application shall be reviewed by the director or designee for compliance with statutory and regulatory requirements and for completeness.

(d) Each application that is complete and meets statutory and regulatory requirements shall be assigned an application number. Application numbers shall be assigned in chronological order according to the date and time of receipt of each application. The applicant shall be notified of the receipt of and the application number assigned to the application. Notice may be provided through any means, including electronic mail or first-class mail, to the applicant.

(e) Each application that is not complete or does not meet statutory or regulatory requirements shall be returned to the applicant for further information or resubmission in order to meet the statutory and regulatory requirements. No application number shall be assigned to incomplete or nonconforming applications.

(f) When an application to enter into a water purchase contract is accepted by the director, notice of the acceptance shall be provided to other applicants for withdrawal of water from the same reservoir and each water assurance district or water supply access district with a water assurance contract relating to the same reservoir at the last known address of each applicant or water assurance district. The notice shall specify the name of the applicant whose application has just been accepted and the annual quantity of water included in the application. Notice shall be provided by first-class mail, postage prepaid, to the last address on file for the applicant.

(g) If a water purchase contract has not been executed before 10 years from the date of the receipt of the application and if the applicant has not requested an extension of time for the application, the application shall be cancelled, according to subsection (h).

(h) Before cancellation of an application, the applicant shall be notified by the director in writing that the application shall be cancelled 30 days after date of the notice unless the applicant submits to the director a written request for an extension of time for the application. The notice shall be sent by first-class mail, postage prepaid, to the applicant's last known address. Notice may also be provided by electronic mail. The application shall be cancelled if a written request to extend the application is not received within 30 days from date of the notice.

(i) Ten years from the date of the receipt of the application, the applicant may request, in writing, that the application be extended for no more than three years. The extension shall be granted,

unless the application is found to be incomplete or not in compliance with statutory or regulatory requirements.

(j) Any part of the application, except the reservoir from which the applicant proposes to withdraw water, may be amended at any time. Each applicant wanting to change the reservoir from which the applicant proposes to withdraw water shall file a new application. The new application shall be assigned a date and application number as provided in subsection (e). (Authorized by K.S.A. 82a-1319; implementing K.S.A. 82a-1310a, K.S.A. 82a-1311a; effective May 1, 1979; amended May 1, 1980; amended May 1, 1981; amended May 1, 1984; amended May 1, 1987; amended April 26, 1993; amended Aug. 30, 2013.)

**98-5-3. Request to negotiate.** (a) When an applicant is ready to enter into a water purchase contract, the applicant shall provide written notice of the applicant's desire to enter into negotiations for a contract with the director.

(b) Any applicant may be required by the director to provide information in addition to that included in the application required in K.A.R. 98-5-2(b). This information shall be for the purpose of determining the following:

- (1) What is the annual quantity of water needed;
- (2) whether the proposed sale of water supply is in the public interest; and
- (3) whether the benefits to the state from approval of the contract are greater than the disadvantages to the state from rejection of the contract.

(c) When the director believes that there is sufficient information available to determine whether the proposed sale is in the interest of the people of Kansas and will advance the purposes specified in K.S.A. 82a-901 et seq. and amendments thereto, the authority shall be notified by the director indicating that a request to enter into negotiations for a written contract has been received.

(d) The authority shall be provided by the director with the information collected or developed to show that the proposed sale is in the interest of the people of Kansas and will advance the purposes specified in K.S.A. 82a-901 et seq., and amendments thereto.

(e) The authority shall consider the request to begin negotiations for a written contract and make a finding of one of the following:

(1) The proposed sale is in the public interest and will advance the purposes specified in K.S.A. 82a-901 et seq., and amendments thereto.

(2) The proposed sale is not in the public interest and will not advance the purposes specified in K.S.A. 82a-901 et seq., and amendments thereto.

(f) If the authority finds that the proposed sale is not in the public interest or will not advance the purposes specified in K.S.A. 82a-901 et seq. and amendments thereto, the authority shall do one of the following:

(1) Reject the request to begin negotiations and advise the applicant of the reasons; or

(2) ask the applicant or the director to provide additional information that would permit the authority to find that the proposed sale is in the public interest and will advance the purposes specified in K.S.A. 82a-901 et seq., and amendments thereto.

(g) If the authority finds that the proposed sale is in the public interest and will advance the purposes specified in K.S.A. 82a-901 et seq. and amendments thereto, the authority shall authorize the director to negotiate with the applicant for the purposes of entering into a written contract for sale of water supply.

The authorization to negotiate shall be valid for a period not to exceed three years. If the parties have not concluded a contract within that period, the authority shall reconsider authorizing contract negotiations. (Authorized by K.S.A. 82a-1319; implementing K.S.A. 82a-1305 and K.S.A. 82a-1311a; effective May 1, 1979; amended May 1, 1980; amended, E-82-7, April 10, 1981; amended May 1, 1981; amended May 1, 1984; amended May 1, 1987; amended April 26, 1993; amended Aug. 30, 2013.)

**98-5-4. Contract negotiation procedures.**

(a) Upon approval of the authority to begin negotiations, the applicant shall be notified by the director and asked to submit the following items before the commencement of negotiations, unless the requirement is waived:

(1) The anticipated location, legal description, engineering plans, and specifications of all works, ditches, conduits, and watercourses proposed to be constructed or used for the transportation of waters;

(2) the engineering report or other evidence to support the need for the annual quantity of water requested throughout the term of the contract;

(3) a list of alternative sources of water available to the applicant;

(4) specification of whether the applicant has adopted and implemented a water conservation plan;

(5) an engineering report and specifications for metering water pumped or used under the contract;

(6) proof of any easement that is granted by the federal government for rights-of-way across, in, and upon federal government land that is required for intake, transmission of water, and necessary appurtenances;

(7) engineering plans and specifications for any pump, siphon, conduit, canal, or any other device planned to be used to withdraw water from the reservoir; and

(8) any other relevant information that the director may deem necessary, specify, or require for that specific contract request or set of negotiations.

(b) After negotiations for a water purchase contract have been authorized by the authority and if the proposed sale is not for surplus waters, all other persons with a pending application shall be notified by the director or a designee that a water purchase contract or a request to negotiate a water purchase contract relating to the same reservoir has been authorized by the authority. Notice shall be given, by first-class mail with postage prepaid, to the last address provided by each applicant. The notice shall include the name of the applicant with whom negotiations are underway and the application date, number, and annual quantity requested. Each person so notified shall, within 20 days following notification by the director, file in writing a request to begin negotiations for a written water purchase contract, water assurance contract, or water supply access contract or a request to negotiate a water purchase contract, water assurance contract, or water supply access contract on file with the director relating to the reservoir from which water is proposed to be sold.

(c) Within 30 days after the authority authorizes negotiations, a draft water purchase contract shall be sent by the director or a designee to the applicant with whom the negotiations are authorized.

(d) When contract negotiations have been completed and a contract has been drafted, a proposed final contract shall be sent by the director to the applicant.

(e) After receipt of the proposed final contract, the applicant shall perform one of the following, within 45 days:

(1) Indicate acceptance of the contract by signing and returning it to the director or by other communication to the director;

(2) return the contract to the director with written comments;

(3) request a meeting with the director to discuss the contract; or

(4) request an extension of time for consideration of the contract.

(f) If the applicant and the director cannot agree on terms or language in the contract, the negotiations may be terminated by the director.

(g) After the applicant and the director agree to a contract, the contract shall be submitted to the authority for consideration at the next regular meeting of the authority or at a special meeting, if deemed necessary by the chairperson and the director.

(h) Before approving any contract, the authority shall find that all of the following conditions are met:

(1) The sale of water by written contract is in the interest of the people of the state of Kansas.

(2) The state has filed or will file, before initiation of water use under the contract, a water reservation right for storage of water in the reservoir designated in the contract.

(3) The state, if necessary, has signed an agreement with an agency or department of the United States for water supply storage in the named reservoir.

(4) The person has filed an application to negotiate the purchase of water from the named reservoir at an average daily rate equal to or greater than the rate specified in the contract.

(5) The quantity of water from the reservoir being negotiated does not exceed the yield capability from the conservation storage water supply capacity available to the state for use under the water marketing program through a drought having a two percent chance of occurrence in any one year.

(6) The annual withdrawal and use of the quantity of water contracted by the applicant will advance the purposes specified in K.S.A. 82a-901 et seq., and amendments thereto.

(i) If the authority finds that the proposed sale of water is not in the interest of the people of the state of Kansas or that the proposed sale will not advance the purposes in K.S.A. 82a-901 et seq. and amendments thereto, the authority shall reject the contract and perform one of the following:

(1) Terminate the contract negotiations. The application shall be removed from the list of current applications and shall be void. The applicant shall be required to reapply for any future water supply contract; or

(2) return the contract to the applicant and director with recommendations for contract changes or additional contract negotiation.

(j) If the authority approves the contract, copies shall be provided to the house of representatives and the senate and to the secretary of state, pursuant to K.S.A. 82a-1307 and amendments thereto.

(k) The application shall be terminated when a contract is signed by the applicant, the director, and the chair, or their designees, and if the contract is not disapproved by the legislature. If the contracted quantity of water is less than the quantity stated in the application, the applicant shall not retain the application number for the remaining quantity. A new application shall be filed for additional water.

(l) If the legislature has not disapproved the contract when the period for legislative review has expired, a copy of the water purchase contract shall be filed by the director with the chief engineer.

(m) Any regulatory requirements may be waived by the director in order to sell surplus waters. (Authorized by K.S.A. 82a-1319; implementing K.S.A. 82a-1305, K.S.A. 82a-1307, K.S.A. 82a-1311a, K.S.A. 82a-1312, and K.S.A. 82a-1316; effective May 1, 1979; amended May 1, 1980; amended May 1, 1981; amended May 1, 1984; amended Aug. 30, 2013.)

**98-5-5. Assignment.** Each water purchase contract shall have the following provisions: (a) The purchaser shall not assign, sell, convey, or transfer all or any part of the water purchase contract or interest in it, unless and until the assignment, sale, conveyance, or transfer has been approved by the director and the authority.

(b) To request permission to assign, sell, convey, or transfer all or any part of a water purchase contract, the purchaser shall provide information requested by the director to consider the request.

(c) Before approving any assignment, sale, conveyance, or transfer of all or any part of the water purchase contract, the authority shall determine that both of the following conditions are met:

(1) The contract was negotiated and signed by the parties to the contract pursuant to K.S.A. 82a-901a et seq. and K.S.A. 82a-1301 et seq., and amendments thereto.

(2) The assignment is consistent with, and will advance, the purposes specified in K.S.A. 82a-901a et seq., and amendments thereto. (Authorized by K.S.A. 82a-1319; implementing K.S.A. 82a-1306; effective May 1, 1984; amended May 1, 1987; amended April 26, 1993; amended Aug. 30, 2013.)

**98-5-6. Rate charged for water.** (a) The rate to be charged for water shall be fixed by the director pursuant to K.S.A. 82a-1308a, and amendments thereto. The rate fixed by the director shall be approved by the authority on or before July 15 of each calendar year. The rate shall take effect on January 1 of the following year.

(b) The fixed rate shall include amounts to cover the components required in K.S.A. 82a-1308a, and amendments thereto, and to meet the needs of the water marketing capital development and storage maintenance plan, as approved by the authority.

(c) The rate fixed for each calendar year shall apply to all water use under contracts negotiated on or after March 17, 1983.

(d) For any contract negotiated before March 17, 1983, the rate in effect on the date established by the contract for review and adjustment of the rate charged for water shall become the new rate to be charged for all water that shall be paid for under terms of the contract, up to a maximum rate not to exceed 10 cents per 1,000 gallons. The new rate shall remain in effect until the next rate established by the contract for review of the rate charged for water. (Authorized by K.S.A. 82a-1319; implementing K.S.A. 2012 Supp. 82a-1308a; effective, T-84-29, Oct. 19, 1983; effective May 1, 1984; amended May 1, 1987; amended Aug. 30, 2013.)

**98-5-7. Rate charged for surplus water.** (a) No charges shall be made for surplus water if the water is for streamflow maintenance or reservoir pool management.

(b) The rate to be charged for surplus water shall be the rate set in K.S.A. 82a-1308a, and amendments thereto, and defined in K.A.R. 98-5-6. The purchaser shall be obligated to pay for at least 50 percent of the quantity specified in the contract.

(c) The rate charged for surplus water shall change on January 1 of each calendar year, when the new water rate, as described in K.A.R. 98-5-6, becomes effective. (Authorized by K.S.A. 82a-1319; implementing K.S.A. 82a-1305; effective May 1, 1984; amended May 1, 1987; amended Aug. 30, 2013.)

**98-5-8. Contract provisions.** (a) Each contract for the sale of water supply shall be on a form specified by the director. If the director determines, during the contract negotiation process, that any article or portion of any article in the

standard contract format is not needed or is not applicable, the article or portion of it may be deleted from the standard contract by the director.

(b) Any special requirement not covered in the standard contract format may be added as an additional article in the contract. (Authorized by K.S.A. 82a-1319; implementing K.S.A. 82a-1306; effective Nov. 22, 1996; amended Aug. 30, 2013.)

**98-5-9. Determination of reservoir yields through a drought with a two percent chance of occurrence in any one year.**

(a) The following information shall be used by the director in determining the yield of a reservoir through a drought with a two percent chance of occurrence in any one year:

(1) The reservoir analysis as part of the basin system in which the reservoir lies, using one of the following:

(A) All available climatic and hydrologic information for the period of record; or

(B) if the climatic and hydrologic information does not include the drought period of 1952 through 1957, estimation of the climatic and hydrologic information for the drought period of 1952 through 1957; and

(2) the conservation storage water supply capacities of the reservoirs in the basin system determined by capacities anticipated to be available after accounting for sedimentation in the reservoirs.

(b) The reservoir yield may be recalculated upon the office's receipt of information that could influence the yield calculations. (Authorized by K.S.A. 82a-1319; implementing K.S.A. 82a-1305; effective Aug. 30, 2013.)

**Article 6.—WATER  
ASSURANCE PROGRAM**

**98-6-1.** (Authorized by K.S.A. 1988 Supp. 82a-1345(e); implementing K.S.A. 1988 Supp. 82a-1330 *et seq.*; effective Sept. 4, 1989; revoked Aug. 30, 2013.)

**98-6-3. Contract negotiation procedures.**

(a) Any water assurance district may request, in writing, to negotiate with the director for a water assurance contract. The request shall be submitted on forms provided by the office and include all information requested on those forms. Each request shall include a copy of the district's certificate of incorporation filed with the secretary of state.

(b) The request to negotiate and the information provided by the water assurance district shall be reviewed by the director to determine if the information provided is sufficient to begin negotiations for a water assurance contract. The district shall be notified by the director if there is a need for additional information or if the request submitted is sufficient to begin negotiations. The notice shall be in writing and shall be provided within 30 days of receipt of the request.

(c) If the director finds that the information provided by the assurance district is sufficient, the negotiations shall commence.

(d) Each person who has a water purchase contract or an application for a water purchase contract on file with the director, or a water assurance contract pertaining to storage in reservoirs in the designated basin, shall be notified in writing that negotiations with an assurance district have begun. The notice shall be mailed to each person's last known address. Each person so notified shall, within 20 days following notification by the director, file in writing a request to begin negotiations for a written contract, or forfeit the right to participate in current negotiations for a written contract for water purchase or for a water assurance contract.

(e) Water assurance contract negotiations shall be conducted by the director and the board members of the assurance district or their designees.

(f) If the district and the director cannot agree on terms or language in the contract, the negotiations may be terminated by either party.

(g) A water assurance contract shall be approved by the director if the director finds that all of the following conditions are met:

(1) The approval of the water assurance contract is in the best interest of the people of the state of Kansas.

(2) The water assurance contract refers to and incorporates by reference an operations agreement that includes the following:

(A) The rules of operation for designated assurance reservoirs to provide assurance water;

(B) quantities of water supply in designated assurance reservoirs;

(C) the quantities of water supply use by eligible members of the water assurance district;

(D) a provision that establishes procedures for allocating inflows in any reservoir in which a water assurance district has purchased storage;

(E) target flows along designated rivers;

(F) a provision to release water from storage from one or more reservoirs in order to meet specified instream purposes; and

(G) any other related matters to which the parties agree.

(3) The state has filed or will file, if necessary, before initiation of the operations agreement, a water reservation right for storage of water in the reservoirs designated in the contract.

(4) The state has signed or will sign, if necessary, an agreement with an agency or department of the United States for water supply storage space in reservoirs named in the operations agreement.

(5) The water assurance contract includes a statement that the water assurance storage component of the major reservoirs in the designated basin are designated for the sole use and benefit of the water assurance district in accordance with the operations agreement.

(6) The remaining water supply capacity satisfies any present water purchase contract.

(7) Before any member of the water assurance district receives benefits or water pursuant to a water assurance contract, that member has adopted a water conservation plan consistent with the guidelines for conservation plans and practices developed and maintained by the Kansas water office pursuant to K.S.A. 74-2608, and amendments thereto.

(8) The water assurance contract contains a provision that establishes procedures for allocating inflows in any reservoir in which a water assurance district has purchased storage.

(h) Upon completion of negotiations, a proposed final water assurance contract shall be sent by the director to the water assurance district.

(i) After receipt of the proposed final water assurance contract, the water assurance district shall perform one of the following, within 45 days:

(1) Indicate acceptance of the water assurance contract by signing and returning it to the director;

(2) return the unsigned water assurance contract to the director with written comments;

(3) request a meeting with the director to discuss the water assurance contract; or

(4) request an extension of time for consideration of the water assurance contract.

(j) Upon final agreement and signing of a water assurance contract by the president and chairperson of the district board of directors, an original of the water assurance contract shall be filed with the following persons:

(1) The director;

(2) the president of the contracting water assurance district board of directors;

(3) the chief engineer, division of water resources in the Kansas department of agriculture;

(4) the Kansas secretary of state; and

(5) the district engineer of the U.S. army corps of engineers or the regional director of the bureau of reclamation. (Authorized by K.S.A. 82a-1345; implementing K.S.A. 82a-1345 and 82a-1347; effective Sept. 4, 1989; amended Aug. 30, 2013.)

**98-6-4. Calculation of charges.** The charges to be paid by the district shall be determined by the director as provided in K.S.A. 82a-1345 and amendments thereto, which shall include the following:

(a) The amount necessary to cover the amortized capital costs to the state for acquisitions of assurance storage capacity from the federal government necessary to meet the requirements of the operations agreement. The amortized capital costs to the state shall be determined on an individual reservoir basis for reservoirs in the designated basin in which the assurance district is formed as follows:

(1) One lump sum, up-front payment for principal and interest paid, or due to be paid, including any interest which has accumulated through the date of commencement of operations of storage space under the operations agreement;

(2) annual principal and interest payments on revenue bonds issued by the state pursuant to K.S.A. 82a-1360 et seq. and amendments thereto;

(3) annual principal and interest payments on revenue bonds issued under authority of the Kansas development finance authority;

(4) equal annual installments for a period not to exceed 10 years for any equity that the state may already have in conservation water supply storage capacity with interest based on a five-year average of the published one-year investment rate for public funds of the pooled money investment board of the state of Kansas, as provided in K.S.A. 12-1675a(g) and amendments thereto, to be adjusted by the office on January 15 of each calendar year of the installment agreement; and

(5) equal annual installments for future use conservation water supply storage capacity called into service by the state under contracts with the army corps of engineers, under the same cost repayment conditions available to the state under those contracts;

(b) the amount necessary to cover 100% of the annual cost to the state for the actual operation, maintenance, major replacement, and rehabilitation costs allocated to the assurance storage capacity necessary to meet the requirements of the operations agreement;

(c) the amount necessary to cover the annual costs to the state for administration and enforcement of laws and agreements associated with ensuring the continuous operations of the water assurance district; and

(d) any additional charges agreed upon by both parties. (Authorized by and implementing K.S.A. 82a-1345; effective Sept. 4, 1989; amended Aug. 30, 2013.)

### **Article 7.—LOWER SMOKY HILL WATER SUPPLY ACCESS PROGRAM**

**98-7-1. District formation.** (a) The application for membership to form the district shall include the following:

(1) The name and signature of each person interested in membership in the district when the application is submitted and an address to receive communication from the director;

(2) the name of one person to answer questions and receive notices from the director;

(3) the quantity of access water that each person desires to purchase if a district is formed;

(4) water right information for each person to be included as part of the district; and

(5) any other information that the applicants can provide to assist in consideration of the petition.

(b) Upon the director's receipt of an application for membership to form the district, the application shall be reviewed. Within 15 business days of the director's receipt of the application, a determination that additional information is needed may be made by the director. A letter outlining the request for additional information shall be sent to the person indicated in the petition. The applicants shall provide the additional information within 15 business days of the date of the request.

(c) The application shall be considered by the director to determine if there is a need to form the district and provide certification of district formation or if the district should be refused formation and certification. The director's determination shall be made no more than 60 days following receipt of the application or, if requested, receipt of any additional information requested.

(d) Notice of the organizational meeting shall be mailed to all persons signing the application.

(e) A copy of all application documents shall be provided by the office to the chief engineer.

(f) The organization meeting shall be presided over by the director until the incorporating chairperson is selected. (Authorized by K.S.A. 2012 Supp. 82a-2324; implementing K.S.A. 2012 Supp. 82a-2304, K.S.A. 2012 Supp. 82a-2305; effective Aug. 30, 2013.)

**98-7-2. District membership after district formation.** (a) All persons included in the application to form the district shall become members of the district, without additional application as may be required by this regulation, if these persons are deemed eligible for membership by the director upon forming the district as provided in K.A.R. 98-7-1.

(b) After the district has been formed, each person seeking to join the district shall submit an application for membership, on forms provided by the office, to the director. Each applicant shall submit sufficient information for the director to consider whether the proposed membership in the district meets the requirements of K.S.A. 82a-2305b, and amendments thereto. Additional information may be requested by the director from the prospective member, as needed, to consider the application. Notice of the application for membership shall be given to the district by the director, which shall provide for no more than 30 business days for a response from the district about the application for membership. A determination of membership shall be made by the director no more than 180 days from the receipt of the application for membership. (Authorized by K.S.A. 2012 Supp. 82a-2324; implementing K.S.A. 2012 Supp. 82a-2305; effective Aug. 30, 2013.)

**98-7-3. Special irrigation district; organization.** (a) The petition to form the special irrigation district shall include the following:

(1) The name of each person seeking membership in the special irrigation district when the petition is submitted and an address to receive communication from the director;

(2) the name of the petitioner's designee to answer questions and receive notices from the director;

(3) the quantity of access water that each petitioner seeks to purchase if the special irrigation district is formed;

(4) water right information for each petitioner to be included as part of the special irrigation district for the purposes of the act;

(5) land ownership information sufficient to verify each petitioner's eligibility for membership in the special irrigation district; and

(6) any other information that any petitioner can provide to assist the director in consideration of the petition.

(b) Upon the director's receipt of the petition to form the special irrigation district, the petition shall be reviewed. Within 15 business days of the director's receipt of the petition to form the special irrigation district, a determination that additional information is needed may be made. A letter outlining the additional information that the director needs to consider the petition shall be sent to the petitioner's designee. Additional information shall be provided within 15 business days of the date of the request.

(c) Notice of the organizational meeting shall be published in the Kansas register and shall be mailed to all petitioners.

(d) A copy of all petition documents shall be provided by the office to the chief engineer.

(e) The organizational meeting shall be presided over by the director until the governing board is selected. (Authorized by K.S.A. 2012 Supp. 82a-2324; implementing K.S.A. 2012 Supp. 82a-2317; effective Aug. 30, 2013.)

#### **98-7-4. Contract negotiation procedures.**

(a) The water supply access district's governing body may request, in writing, to negotiate with the director for water supply access storage contracts. The request shall be submitted on forms provided by the office and shall include any information requested on those forms. Each request shall include a copy of the water supply access district's certificate of incorporation filed with the secretary of state.

(b) The request to negotiate and the information provided by the water supply access district shall be reviewed by the director. A determination of whether the information provided is sufficient to begin negotiations for a water supply access storage contract shall be made by the director within 30 days of receipt of the request. The water supply access district shall be notified by the director, in writing, if there is a need for additional information or if the request submitted is sufficient to begin negotiations, within 40 days of receipt of the request.

(c) If the director finds that the information provided by the water supply access district is sufficient, and upon approval by the Kansas water authority, negotiations shall commence.

(d) Each person who has a water supply purchase contract or an application for a water supply purchase contract on file with the director shall be notified in writing that negotiations with a water supply access district have been approved. The notice shall be mailed to each person's last known address. Each person so notified, within 20 days following notification by the director, shall file in writing a request to begin negotiations for a written contract or shall forfeit that person's right to participate in the current negotiations for a written contract for a water supply contract or for a water access contract.

(e) Water supply access storage contract negotiations shall be conducted by the director and the board members of the water supply access district.

(f) If the water supply access district and the director cannot agree on terms of a contract, the negotiations may be terminated by either party.

(g) A water supply access contract shall be approved by the director if the director finds that all the following conditions are met:

(1) The approval of the water supply access contract is in the best interest of the people of the state of Kansas.

(2) The water supply access contract refers to and incorporates by reference an operations agreement that includes the following:

(A) The rules of operation for Kanopolis reservoir to provide access water supply to the district;

(B) the quantity of water supply access storage in Kanopolis reservoir;

(C) the quantities of water supply access storage used by members of the water access district;

(D) a provision that establishes procedures for allocating inflows in Kanopolis reservoir;

(E) target flows along designated rivers;

(F) a provision to release water from storage from Kanopolis reservoir in order to meet specified in-stream purposes; and

(G) any other related matters to which the parties agree.

(3) The state has filed or will file, if necessary, before initiation of the operations agreement, a water reservation right for storage of water in Kanopolis reservoir.

(4) The state has signed or will sign, if necessary, an agreement with an agency or department of the United States for water supply storage

space in the access reservoir named in the operations agreement.

(5) The water supply access contract includes a statement that the water access storage component of Kanopolis reservoir is designated for the sole use and benefit of the water supply access district in accordance with the operations agreement.

(6) The remaining water supply capacity satisfies the terms of any existing water purchase contracts.

(7) Before any member of the water supply access district receives benefits or water pursuant to a water supply access contract, that member has adopted a water conservation plan consistent with the guidelines for conservation plans and practices developed and maintained by the Kansas water office pursuant to K.S.A. 74-2608, and amendments thereto.

(h) Upon completion of negotiations, a proposed water supply access contract shall be sent by the director to the water supply access district.

(i) After receipt of the proposed water supply access contract, the water supply access district's governing body shall perform one of the following within 45 days:

(1) Indicate acceptance of the water supply access contract by signing and returning it to the director;

(2) return the unsigned water supply access contract to the director with written comments;

(3) request a meeting with the director to discuss the water supply access contract; or

(4) request an extension of time for consideration of the water supply access contract.

(j) Upon the final agreement and signing of a water supply access contract by the water supply access district's governing body, a copy of the water supply access contract shall be filed with the following persons:

(1) The director;

(2) the governing body of the water supply access district;

(3) the chief engineer, division of water resources in the Kansas department of agriculture;

(4) the Kansas secretary of state; and

(5) the district engineer of the United States army corps of engineers. (Authorized by K.S.A. 2012 Supp. 82a-2324; implementing K.S.A. 2012 Supp. 82a-2302; effective Aug. 30, 2013.)

**98-7-6. Calculation of charges by water supply access district.** The charges to be paid by the lower smoky hill water supply access dis-

trict shall be determined by the director pursuant to K.S.A. 2012 Supp. 82a-2310 and amendments thereto, which shall include the following:

(a) The amount necessary to cover the amortized capital costs to the state for acquisitions of access storage capacity from the federal government necessary to meet the requirements of the operations agreement. The amortized capital costs to the state shall be determined for Kanopolis reservoir as follows:

(1) One lump sum, up-front payment for principal and interest paid, or due to be paid, including any interest that has accumulated through the date of commencement of operations of storage space under the operations agreement;

(2) annual principal and interest payments on revenue bonds issued by the state pursuant to K.S.A. 2012 Supp. 82a-2314 and amendments thereto;

(3) annual principal and interest payments on revenue bonds issued under authority of the Kansas development finance authority; or

(4) equal annual installments for a period not to exceed 20 years for any equity that the state may already have in conservation water supply storage capacity with interest based on a five-year average of the published one-year investment rate for public funds of the pooled money investment board of the state of Kansas, pursuant to K.S.A. 12-1675a and amendments thereto, to be adjusted by the office on January 15 of each calendar year of the installment agreement;

(b) the amount necessary to cover 100 percent of the annual cost to the state for the actual operation, maintenance, and major replacement and rehabilitation costs allocated to the access storage capacity necessary to meet the requirements of the operations agreement;

(c) the amount necessary to cover the annual costs to the state for administration and enforcement of laws and agreements associated with assuring the continuous operations of the water access district; and

(d) any additional charges agreed upon by both parties. (Authorized by and implementing K.S.A. 2012 Supp. 82a-2324; effective Aug. 30, 2013.)

## Article 8.—EASEMENT AUTHORITY ON NAVIGABLE RIVERS

**98-8-1. Application for easement.** (a) Any cooperating landowner may submit an application for an easement on state property along a naviga-

ble river on forms provided by the director. The cooperating landowner shall acknowledge that the cooperating landowner will pay all applicable filing fees for any easement granted.

(b) The following shall be confirmed by the director:

(1)(A) The cooperating landowner owns the property adjacent to the state property upon which an easement is proposed; or

(B) the cooperating landowner otherwise has a legal right to complete a project on the adjacent land.

(2) The cooperating landowner is participating in a state, local, or federal program, if applicable.

(c) A notice of intent to issue easement shall be issued by the director for each project that meets the requirements of subsection (b). The notice of intent to issue easement shall include the following:

(1) The legal description of the cooperating landowner's property;

(2) information about the location on the river upon which the easement is proposed;

(3) a description of the type of projects proposed to be completed by and through the use of the easement; and

(4) a date and time by which any comments or responses to the director about the notice of intent to issue easement must be received by reviewing agencies and entities.

(d) A determination of whether any prior easement in the county or counties in which the project is proposed could conflict with the proposed easement shall be made by the director. The notice of the intent to issue easement shall be sent by the director to each person holding any prior easements that could conflict.

(e) The notice of intent to issue easement shall provide a comment period of at least 15 days and no more than 30 days. During that time, any person receiving notice may submit comments on the proposed easement to the director. The notice shall provide information on how to submit comments to the director.

(f) The notice of intent to issue easement may be sent by any means that the director specifies. (Authorized by and implementing K.S.A. 2011 Supp. 82a-220; effective Aug. 30, 2013.)

**98-8-2. Notice to county and other government agencies.** A copy of the notice of intent to grant easement shall be sent by the director to the following: (a) The register of deeds and the

county commission in each county in which the easement is proposed;

(b) the program agencies;

(c) the Kansas department of agriculture;

(d) the Kansas department of health and environment;

(e) the Kansas department of wildlife, parks, and tourism; and

(f) any municipality or other governmental entity holding a riparian interest in the applicable river that the director determines should receive notice. (Authorized by and implementing K.S.A. 2011 Supp. 82a-220, as amended by L. 2012, ch. 140, sec. 133; effective Aug. 30, 2013.)

**98-8-3. Review of notice of intent to grant easement.** (a) After the comment period specified in the notice of intent to grant easement has ended, the application, any comments or responses received, and the proposed project shall be reviewed by the director.

(b) No easement shall be granted until applicable program funding for the project has preliminary approval, if the project depends on a federal, state, or local program for funding.

(c) If, after review, the director determines that the application meets the statutory requirements for an easement in K.S.A. 82a-220 and amendments thereto, notice of the approval shall be sent to the cooperating landowner and the fees necessary for filing the easement shall be collected by the director.

(d) If, after review, the director determines that the application does not meet the statutory requirements for an easement or that the comments and responses received from those receiving the notice of intent to grant easement raise questions or issues that need to be resolved before an easement should be granted, a notice of cancellation of the intent to grant easement that provides the cooperating landowner with information about the concerns raised or problems to be addressed shall be issued by the director. The notice of cancellation shall indicate that the notice of intent to grant easement will be cancelled on a date certain, but not less than 15 business days after the date of the notice to cancel. The notice of cancellation shall be sent to all entities that received the notice of intent to grant easement.

(e) The cooperating landowner may, before the date indicated in the notice of cancellation, provide additional information or data or address concerns. If the director determines that the additional in-

formation provided adequately addresses concerns noted in the notice of cancellation, the easement may be granted after the director provides a summary of the information to all receiving notice under this regulation. An easement may be granted by the director if no person receiving notice files

an objection within 10 days. Each objection shall be reviewed by the director to determine if the objection would change the director's intent to grant the easement. (Authorized by and implementing K.S.A. 2011 Supp. 82a-220, as amended by L. 2012, ch. 140, sec. 133; effective Aug. 30, 2013.)

## Agency 99

# Kansas Department of Agriculture— Division of Weights and Measures

### Articles

- 99-25. TECHNICAL REQUIREMENTS FOR WEIGHING AND MEASURING DEVICES.
- 99-26. FEES.
- 99-40. PETROLEUM MEASUREMENT.

### Article 25.—TECHNICAL REQUIREMENTS FOR WEIGHING AND MEASURING DEVICES

**99-25-1. Adoption by reference, exceptions; availability of copies.** (a) The document titled “specifications, tolerances, and other technical requirements for weighing and measuring devices, as adopted by the 96th national conference on weights and measures 2011,” published by the national institute of standards and technology (NIST), Gaithersburg, MD, as the 2012 edition of NIST handbook 44, is hereby adopted by reference, with the following exceptions:

- (1) Section 3.31.UR.2.2;
- (2) sections 5.56.(a) and 5.56.(b);
- (3) in appendix A, sections 1 and 6; and
- (4) in appendix B, sections 1 and 2.

(b) The adopted portions of NIST handbook 44 shall apply to commercial, data-gathering, and weighing and measuring devices in the state.

(c) Each vehicle-mounted metering system manufactured on or after January 1, 1995 shall be equipped with a ticket printer. A copy of the ticket issued by the vehicle-mounted metering system shall be given to the customer at the time of delivery or as otherwise specified by the customer.

(d) Copies of the handbook adopted by this regulation or pertinent portions from it shall be available from the office of weights and measures, Kansas department of agriculture, Topeka, Kansas. (Authorized by K.S.A. 83-207; implementing K.S.A. 2012 Supp. 83-202; effective May 1, 1979; amended May 1, 1981; amended May 1, 1986; amended Aug. 14, 1989; amended Oct. 21, 1991; amended March 6, 1998; amended March 5, 1999; amended Jan. 18, 2002; amended Aug. 26, 2005; amended Feb. 8, 2008; amended Sept. 3, 2010; amended Aug. 23, 2013.)

**99-25-5. Technical representative license application and renewal.** (a) Each person applying for a technical representative license or renewal of a license shall submit an application on a form provided by the department of agriculture (“department”).

(b)(1) Each license shall be issued or renewed if the technical representative performs the following:

(A) Completes and submits the application form provided by the department;

(B) successfully completes the continuing education seminar conducted by the department for each category of weighing or measuring devices in which the technical representative is registered during the effective period of the technical representative’s license;

(C) pays the continuing education seminar fee as follows:

(i) \$82 for each continuing education seminar required for the licensure year beginning on July 1, 2018 and through June 30, 2019;

(ii) \$85 for each continuing education seminar required for the licensure year beginning on July 1, 2019 and through June 30, 2020; and

(iii) \$100 for each continuing education seminar required for each licensure year beginning on or after July 1, 2020; and

(D) obtains a score of at least 80 percent on the examination administered by the department.

(2) Each technical representative license shall expire on June 30.

(c) Each service company shall verify and maintain records documenting that each technical representative employed by the service company has satisfactorily completed the required training. (Authorized by K.S.A. 83-207; implementing K.S.A. 2016 Supp. 83-302 and K.S.A. 2016 Supp. 83-402; effective March 6, 1998; amended May 8, 2009; amended Dec. 29, 2017.)

**99-25-9. Adoption by reference.** Except as specified in subsection (c), the following uniform regulations published by the national institute of standards and technology (NIST), Gaithersburg, MD, in the 2012 edition of NIST handbook 130, titled “uniform laws and regulations in the areas of legal metrology and engine fuel quality, as adopted by the 96th national conference on weights and measures 2011,” are hereby adopted by reference and shall apply to weighing and measuring devices in the state: (a) “Uniform packaging and labeling regulation”;

(b) “uniform regulation for the method of sale of commodities”; and

(c) “uniform engine fuels and automotive lubricants regulation,” except for the following sections:

(1) 2.1.2, which caps ethanol at 10 percent;

(2) 2.15, which pertains to the testing standard for B100 biodiesel;

(3) 2.16, which pertains to the testing standard for biodiesel blends; and

(4) 3.2.6, which pertains to oxygenates.

Copies of the adopted material or the pertinent portions of it shall be available from the office of weights and measures, Kansas department of agriculture, Topeka, Kansas. (Authorized by K.S.A. 55-442 and K.S.A. 83-207; implementing K.S.A. 55-442 and K.S.A. 2012 Supp. 83-202; effective Jan. 18, 2002; amended Aug. 26, 2005; amended Feb. 8, 2008; amended Sept. 3, 2010; amended Aug. 23, 2013.)

**99-25-12. Adoption by reference.** The document titled “checking the net contents of packaged goods, as adopted by the 89th national conference on weights and measures 2004,” including the appendices, published by the national institute of standards and technology (NIST), Gaithersburg, MD in January 2005 as NIST handbook 133 is hereby adopted by reference. (Authorized by and implementing K.S.A. 83-207 and K.S.A. 2009 Supp. 83-202; effective Sept. 3, 2010.)

#### Article 26.—FEES

**99-26-1. Fees.** (a) The following fees and other necessary and incidental expenses incurred shall be charged for requested services rendered by the secretary or the secretary’s authorized representative in conjunction with the testing, proving, or evaluation of weights, measures, and devices, at the following rates:

(1) The testing and proving of any weights, measures, balances, and other measuring devices

conducted at the place of use shall be charged at the rate of \$50.00 per hour or fraction thereof.

(2) Conducting or assisting with an evaluation for a national conference on weights and measures certificate of conformance shall be charged at a rate not to exceed \$200.00 per hour or fraction thereof as necessary to cover the expenses incurred by the department in providing these services.

(b) In addition to the hourly rates specified in subsection (a), expenses incurred by personnel, including meals, lodging, transportation, and mileage to and from their duty station to the point of testing, equipment, and other necessary and incidental expenses, may be charged. (Authorized by K.S.A. 83-207 and K.S.A. 2016 Supp. 83-214; implementing K.S.A. 2016 Supp. 83-214; effective, T-83-25, Sept. 1, 1982; effective May 1, 1983; amended, T-99-11-14-90, Nov. 14, 1990; amended Jan. 14, 1990; amended June 9, 2000; amended Jan. 18, 2002; amended May 8, 2009; amended Dec. 29, 2017.)

#### Article 40.—PETROLEUM MEASUREMENT

**99-40-3. Invoice disclosure requirements for wholesalers and distributors of gasoline and diesel fuel.** (a) Each distributor or wholesaler of gasoline and diesel fuel shall provide the following information to the purchaser at the time of delivery:

(1) The minimum octane of the product as determined by the (R+M)/2 method;

(2) for diesel fuel, the grade, minimum flash point, and American petroleum institute gravity of the product;

(3) the terminal of origin of the product;

(4) the destination of the product;

(5) the name of the wholesaler, if different from the distributor or point of origin;

(6) the quantity of each type of product delivered;

(7) the percentage of ethanol if more than one percent; and

(8) the percentage of biodiesel fuel if more than one percent.

(b) The information required in subsection (a) shall be provided to the purchaser in writing.

(c) For the purposes of this regulation, the term “purchaser” shall mean a wholesaler, distributor, or retailer. (Authorized by K.S.A. 55-442 and K.S.A. 83-207; implementing K.S.A. 55-424, K.S.A. 55-442, and K.S.A. 83-206; effective Jan. 14, 1991; amended Jan. 18, 2002; amended Aug. 23, 2013.)

**Agency 100**  
**State Board of Healing Arts**

*Articles*

- 100-7. EXAMINATIONS.
- 100-11. FEES.
- 100-28a. PHYSICIAN ASSISTANTS.
- 100-28b. INDEPENDENT PRACTICE OF MIDWIFERY.
- 100-29. PHYSICAL THERAPY.
- 100-49. PODIATRY.
- 100-54. OCCUPATIONAL THERAPY.
- 100-55. RESPIRATORY THERAPY.
- 100-69. ATHLETIC TRAINING.
- 100-72. NATUROPATHY.
- 100-73. RADIOLOGIC TECHNOLOGISTS.
- 100-76. ACUPUNCTURISTS.
- 100-77. TELEMEDICINE.
- 100-78. BUSINESS ENTITIES.

**Article 7.—EXAMINATIONS**

**100-7-1. Designated examinations for medicine and surgery and osteopathic medicine and surgery; limitation on attempts.**

(a)(1) Each applicant for licensure by examination in medicine and surgery shall be required to successfully complete either of the following:

(A) Step 1, step 2, and step 3 of the United States medical licensing examination (USMLE); or

(B) the substantial equivalent of the examination specified in paragraph (a)(1)(A) in the year the examination was completed, as determined by the board.

(2) Each applicant who does not complete all steps of the USMLE within seven total attempts shall be deemed ineligible for licensure by examination until the applicant has submitted evidence acceptable to the board of further professional study of the subject matter tested in each USMLE step not completed by the applicant and the board determines that the further professional study is sufficient to substantially improve the applicant's likelihood of completing each USMLE step not completed by the applicant.

(b)(1) Each applicant for licensure by examination in osteopathic medicine and surgery shall be required to successfully complete either of the following:

(A)(i) Step 1, step 2, and step 3 of the USMLE; or

(ii) level 1, level 2, and level 3 of the comprehensive osteopathic medical licensing examination (COMLEX-USA); or

(B) the substantial equivalent of either examination specified in paragraphs (b)(1)(A)(i) and (ii) in the year the examination was completed, as determined by the board.

(2) Each applicant who does not complete all steps of the USMLE or all levels of the COMLEX-USA within seven total attempts shall be deemed ineligible for licensure by examination until the applicant has submitted evidence acceptable to the board of further professional study of the subject matter tested in each USMLE step or COMLEX-USA level not completed by the applicant and the board determines that the further professional study is sufficient to substantially improve the applicant's likelihood of completing each USMLE step or COMLEX-USA level not completed by the applicant. (Authorized by K.S.A. 65-2828 and K.S.A. 65-2865; implementing K.S.A. 65-2828, K.S.A. 65-2833, and K.S.A. 65-2873; effective Jan. 1, 1966; amended Feb. 15, 1977; amended July 7, 2000; amended Nov. 13, 2020.)

**Article 11.—FEES**

**100-11-1. Amount.** The following fees shall be collected by the board:

- (a) Application for license ..... \$ 300.00
- (b)(1) Annual renewal of active or federally active license:
  - (A) Paper renewal..... \$ 400.00
  - (B) On-line renewal..... \$ 330.00
- (2) Annual renewal of inactive license:
  - (A) Paper renewal..... \$ 150.00
  - (B) On-line renewal..... \$ 150.00
- (3) Annual renewal of exempt license:
  - (A) Paper renewal..... \$ 150.00
  - (B) On-line renewal..... \$ 150.00
- (c)(1) Conversion from inactive to active license ..... \$ 175.00
- (2) Conversion from exempt to active license ..... \$ 175.00
- (d)(1) Additional fee for late renewal of active or federally active license:
  - (A) Paper late renewal..... \$ 200.00
  - (B) On-line late renewal..... \$ 70.00
- (2) Additional fee for late renewal of inactive license:
  - (A) Paper late renewal..... \$ 50.00
  - (B) On-line late renewal..... \$ 25.00
- (3) Additional fee for late renewal of exempt license:
  - (A) Paper late renewal..... \$ 50.00
  - (B) On-line late renewal..... \$ 25.00
- (e) Institutional license ..... \$ 200.00
- (f) Biennial renewal of institutional license..... \$ 200.00
- (g) Visiting clinical professor license.... \$ 150.00
- (h) Annual renewal of visiting clinical professor license..... \$ 115.00
- (i) Limited permit..... \$ 30.00
- (j) Annual renewal of limited permit .... \$ 15.00
- (k) Reinstatement of limited permit ..... \$ 15.00
- (l) Visiting professor license ..... \$ 25.00
- (m) Postgraduate training permit..... \$ 50.00
- (n) Reinstatement of cancelled license..... \$ 400.00
- (o) Reinstatement of revoked license..... \$ 1000.00
- (p) Temporary permit..... \$ 50.00
- (q) Special permit ..... \$ 30.00
- (r) Certified statement of license ..... \$ 15.00
- (s) Copy of wall license..... \$ 15.00
- (t) Written verification of license or permit..... \$ 25.00

(Authorized by K.S.A. 65-2865; implementing K.S.A. 65-2809, K.S.A. 65-2852, and K.S.A. 65-28,125; effective Jan. 1, 1966; amended Jan. 1, 1970; amended Feb. 15, 1977; amended May 1,

1979; amended May 1, 1980; amended May 1, 1981; amended, T-83-33, Nov. 10, 1982; amended May 1, 1983; amended, T-85-50, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-42, Dec. 19, 1986; amended May 1, 1987; amended, T-88-11, May 18, 1987; amended May 1, 1988; amended, T-100-4-24-89, April 24, 1989; amended Aug. 21, 1989; amended June 24, 1991; amended, T-100-7-1-92, July 1, 1992; amended Aug. 10, 1992; amended Dec. 27, 1993; amended May 1, 1998; amended Aug. 4, 2000; amended, T-100-6-27-02, Aug. 1, 2002; amended Nov. 15, 2002; amended, T-100-4-27-04, April 27, 2004; amended July 23, 2004; amended Aug. 17, 2007; amended, T-100-10-16-08, Oct. 16, 2008; amended Feb. 13, 2009; amended May 21, 2010; amended April 19, 2019.)

**Article 28a.—PHYSICIAN ASSISTANTS**

**100-28a-1. Fees.** The following fees shall be collected by the board:

- (a) Application for license ..... \$200.00
- (b) Annual renewal of license:
  - (1) Paper renewal..... \$150.00
  - (2) On-line renewal..... \$150.00
- (c) Late renewal of license:
  - (1) Paper late renewal..... \$215.00
  - (2) On-line late renewal..... \$208.00
- (d) License reinstatement ..... \$250.00
- (e) Copy of license certificate..... \$15.00
- (f) Certified statement of licensure..... \$15.00
- (g) Temporary license ..... \$30.00

(Authorized by and implementing K.S.A. 2007 Supp. 65-28a03; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended Nov. 15, 2002; amended Nov. 19, 2004; amended Nov. 26, 2007; amended, T-100-10-16-08, Oct. 16, 2008; amended Feb. 13, 2009.)

**100-28a-1a. Definitions.** As used in this article, each of the following terms shall have the meaning specified in this regulation:

(a) “Active practice request form” means the board-provided form that each physician assistant is required to submit to the board pursuant to K.S.A. 65-28a03, and amendments thereto, as a condition of engaging in active practice and that is signed by the physician assistant, supervising physician, and each substitute supervising physician. Each active practice request form contains a section called the written agreement.

(b) “Different practice location” means a practice location at which a supervising physician is physically present less than 20 percent of the time that the practice location provides medical services to patients. This term shall not include a medical care facility, as defined in K.S.A. 65-425 and amendments thereto.

(c) “Direct supervision” means a type of supervision in which the supervising physician or substitute supervising physician is physically present at the site of patient care and capable of immediately providing direction or taking over care of the patient.

(d) “Emergency medical condition” means the sudden and, at the time, unexpected onset of a person’s health condition that requires immediate medical attention, for which the failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part or would place the person’s health in serious jeopardy.

(e) “Indirect supervision” means a type of supervision in which the supervising physician or substitute supervising physician can be physically present at the site of patient care within 15 minutes to provide direct supervision.

(f) “Off-site supervision” means a type of supervision in which the supervising physician or substitute supervising physician is not physically present at the site of patient care but is immediately available by means of telephonic or electronic communication.

(g) “Practice location” means any location at which a physician assistant is authorized to practice, including a medical care facility as defined in K.S.A. 65-425 and amendments thereto.

(h) “Substitute supervising physician” means each physician designated by prior arrangement pursuant to K.S.A. 65-28a09, and amendments thereto, to provide supervision to the physician assistant if the supervising physician is temporarily unavailable.

(i) “Supervision” means oversight by a supervising physician or a substitute supervising physician of delegated medical services that may be performed by a physician assistant. The types of supervision shall include direct supervision, indirect supervision, and off-site supervision.

(j) “Written agreement” means the section of the active practice request form that specifies the agreed scope of authorized medical services and procedures and prescription-only drug authority for each physician assistant. (Authorized by

K.S.A. 2015 Supp. 65-28a02 and 65-28a08; implementing K.S.A. 2015 Supp. 65-28a03, 65-28a08, and 65-28a09; effective, T-100-12-10-15, Jan. 11, 2016; effective May 6, 2016.)

**100-28a-2. Application.** (a) Each application for licensure as a physician assistant shall be submitted on a form provided by the board. The form shall contain the following information:

- (1) The applicant’s full name;
- (2) the applicant’s home address and, if different, the applicant’s mailing address;
- (3) the applicant’s date and place of birth;
- (4) the applicant’s social security number, individual tax identification number, or nondriver identification number, if the applicant is advised that providing a social security number is voluntary pursuant to K.S.A. 74-139 and 74-148, and amendments thereto, and that if the social security number is provided, the agency may provide this number to the Kansas department of social and rehabilitation services for child support enforcement purposes and to the Kansas department of revenue’s director of taxation;
- (5) the issue date; state, territory, the District of Columbia, or other country of issuance; and the identifying number on any license, registration, or certification issued to the applicant to practice any health care profession;
- (6) documentation of any prior acts constituting unprofessional conduct as defined in K.A.R. 100-28a-8;
- (7) the applicant’s daytime telephone number;
- (8) the names of all educational programs recognized under K.A.R. 100-28a-3 that the applicant attended, including the program from which the applicant graduated, the degree awarded to the applicant, and the date of graduation;
- (9) notarized certification that the applicant has completed a physician assistant program from a postsecondary school recognized under K.A.R. 100-28a-3;
- (10) a list of all attempts to gain board certification recognized under K.A.R. 100-28a-4 and an official copy of the applicant’s board certification; and
- (11) a notarized release authorizing the board to receive any relevant information, files, or records requested by the board in connection with the application.

(b) Each applicant shall submit the following with the application:

- (1) The fee required by K.A.R. 100-28a-1;

(2) an official transcript from an educational program approved by the board as provided in K.A.R. 100-28a-3 that specifies the degree awarded to the applicant;

(3) a verification from each state, country, territory, or the District of Columbia where the applicant has been issued any license, registration, or certification to practice any health care profession;

(4) a photograph of the applicant measuring two inches by three inches and showing the head and shoulder areas only. The photograph shall be taken within 90 days before the date of application; and

(5) evidence provided directly to the board from the national commission on certification of physician assistants that the applicant has passed the physician assistant national certifying examination.

(c) The applicant shall sign the application under oath and shall have the application notarized. (Authorized by and implementing K.S.A. 2008 Supp. 65-28a03; implementing K.S.A. 65-28a04; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended Jan. 4, 2010.)

**100-28a-5. Continuing education.** (a) Each physician assistant shall submit with the renewal application one of the following:

(1) Evidence of satisfactory completion of at least 50 continuing education credit hours during the preceding year. At least 20 continuing education credit hours shall be acquired from category I if 50 hours are submitted with the renewal application;

(2) evidence of satisfactory completion of at least 100 continuing education credit hours during the preceding two-year period. At least 40 continuing education credit hours shall be acquired from category I if 100 continuing education credit hours are submitted with the renewal application; or

(3) evidence verifying satisfactory completion of continuing education credit hours equivalent, in number and category, to those hours required by paragraph (a)(1) or (2), issued by a national, state, or local organization with continuing education standards that are at least as stringent as the board's standards.

(b) A continuing education credit hour shall be 50 minutes of instruction or its equivalent. Meals and exhibit breaks shall not be included in the calculation of continuing education credit hours.

(c) Any applicant that does not meet the requirements for license renewal in subsection (a)

may request an extension from the board. The request shall include a plan for completion of the continuing education requirements within the requested extension period. An extension of up to six months may be granted by the board if documented circumstances make it impossible or extremely difficult for the individual to reasonably obtain the required continuing education hours.

(d) Each physician assistant initially licensed within one year of a renewal registration date shall be exempt from the continuing education required by subsection (a) for that first renewal period.

(e) The categories of continuing education credit shall be the following:

(1) Category I: attendance at an educational presentation approved by the board. Courses accepted by the American academy of physician assistants shall be approved by the board; and

(2) category II: participating in or attending an educational activity that does not meet the criterion specified in paragraph (e)(1) but that is approved by the board. Category II continuing education may include self-study or group activities.

(f) Evidence of satisfactory completion of continuing education shall be submitted to the board as follows:

(1) Documented evidence of attendance at or participation in category I and II activities; and

(2) verification, on a form provided by the board, of self-study from reading professional literature or other self-study activities. (Authorized by K.S.A. 2010 Supp. 65-28a03; implementing K.S.A. 65-28a04; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended March 30, 2012.)

**100-28a-6. Scope of practice.** Any physician assistant may perform acts that constitute the practice of medicine and surgery as follows:

(a) When directly ordered, authorized, and coordinated by the supervising physician or substitute supervising physician through that individual's physical presence;

(b) when directly ordered, authorized, and coordinated by the supervising physician or substitute supervising physician through verbal or electronic communication;

(c) when authorized by the active practice request form submitted to the board by the physician assistant and the supervising physician as required by K.A.R. 100-28a-9; or

(d) if required to treat a patient with an emergency medical condition. (Authorized by K.S.A.

2015 Supp. 65-28a03; implementing K.S.A. 2015 Supp. 65-28a08; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended, T-100-12-10-15, Jan. 11, 2016; amended May 6, 2016.)

**100-28a-9. Active practice request form; content.** The active practice request form submitted by each physician assistant shall contain the following:

(a) The name and license number of the physician assistant;

(b) the name and license number of the supervising physician;

(c) the name and license number of each substitute supervising physician;

(d) information about each practice location, including hospitals and other facilities, which shall include the following:

(1) The street address and telephone number;

(2) a description of the type of medical services provided to patients;

(3) specification of whether the location is a different practice location and, if so, whether the physician assistant has spent at least 80 hours since being licensed under the direct supervision of a physician licensed in this state; and

(4) the name of each substitute supervising physician who shall provide supervision to the physician assistant at the practice location if the supervising physician is temporarily unavailable;

(e) the written agreement, which shall contain the following information:

(1) A description of the medical services and procedures that the physician assistant may perform at each practice location;

(2) a list of any medical services and procedures that the physician assistant is prohibited from performing;

(3) any types of supervision required for specified medical services and procedures;

(4) the prescription-only drugs, including controlled substances and professional samples, that the physician assistant is authorized to prescribe, administer, dispense, or distribute;

(5) any specific exceptions to the physician assistant's authority to prescribe, administer, dispense, or distribute prescription-only drugs, including controlled substances and professional samples;

(6) a description of the procedure for communication between the supervising physician and the physician assistant if the physician assistant is at a different practice location; and

(7) a description of the procedure for notifying a substitute supervising physician if the supervising physician is unavailable;

(f) an acknowledgment that the supervising physician or a substitute supervising physician shall be available for communication with the physician assistant at all times during which the physician assistant could reasonably be expected to provide professional services;

(g) an acknowledgment that a current copy of the active practice request form shall be maintained at each practice location and that any amendments to the active practice request form shall be provided to the board within 10 days of being made;

(h) confirmation that the supervising physician has established and implemented a method for the initial, periodic, and annual evaluation of the professional competency of the physician assistant required by K.A.R. 100-28a-10;

(i) confirmation that the medical services and procedures that the physician assistant is authorized to perform are within the clinical competence and customary practice of the supervising physician and all substitute supervising physicians; and

(j) the dated signatures of the physician assistant, supervising physician, and all substitute supervising physicians. (Authorized by and implementing K.S.A. 2015 Supp. 65-28a03 and 65-28a08; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended, T-100-12-10-15, Jan. 11, 2016; amended May 6, 2016.)

**100-28a-9a. Active practice request form; requirements.** (a) Each physician assistant who requests to engage in active practice on or after January 11, 2016 shall submit to the board an active practice request form that contains the information required by K.A.R. 100-28a-9.

(b) Each physician assistant actively practicing before January 11, 2016 shall submit to the board on or before July 1, 2016 an active practice request form that contains the information required by K.A.R. 100-28a-9.

(c) Each physician assistant shall submit to the board, on a board-provided form, any subsequent amendments to the information on that individual's active practice request form within 10 days of the amendment being made.

(d) Each physician assistant shall maintain a current copy of the active practice request form at each practice location. (Authorized by and implementing K.S.A. 2015 Supp. 65-28a03 and 65-

28a08; effective, T-100-12-10-15, Jan. 11, 2016; effective May 6, 2016.)

**100-28a-10. Supervising physician.** (a) Each supervising physician shall meet all of the following requirements:

(1) Engage in the practice of medicine and surgery in Kansas;

(2) verify that the physician assistant has a current license issued by the board;

(3) at least annually, review, evaluate, and determine whether the physician assistant has performed patient services constituting the practice of medicine and surgery with professional competence and with reasonable skill and safety;

(4) at least annually, review the active practice request form required by K.A.R. 100-28a-9 and determine if any amendments are necessary. Each amendment shall be conveyed to the physician assistant, specified in all copies of the active practice request form, and provided to the board within 10 days of being made;

(5) report to the board any knowledge of disciplinary hearings, formal hearings, public or private censure, or other disciplinary action taken against the physician assistant by any state's licensure or registration authority or any professional association. The supervising physician shall report this information to the board within 10 days of receiving notice of the information;

(6) report to the board the termination of responsibility by the supervising physician or any litigation alleging conduct by the physician assistant that would constitute grounds for disciplinary action under the physician assistant licensure act. The supervising physician shall report this information to the board within 10 days of receiving notice of the information;

(7) arrange for a substitute supervising physician to provide supervision on each occasion when the supervising physician is temporarily absent, is unable to be immediately contacted by telecommunication, or is otherwise unavailable at any time the physician assistant could reasonably be expected to provide professional services; and

(8) delegate to the physician assistant only those acts that constitute the practice of medicine and surgery and meet the following conditions:

(A) The supervising physician believes or has reason to believe that the acts can be competently performed by the physician assistant, based upon the physician assistant's background, training, capabilities, skill, and experience; and

(B) the acts are within the supervising physician's clinical competence and customary practice.

(b) The supervising physician shall develop and implement a written method for evaluating whether the physician assistant has performed patient services constituting the practice of medicine and surgery with professional competence and with reasonable skill and safety.

(1) During the first 30 days of the supervising physician-physician assistant supervisory relationship, the supervising physician shall review and authenticate all medical records of each patient evaluated or treated by the physician assistant within seven days of the date the physician assistant evaluated or treated the patient. The supervising physician shall authenticate each record by original signature or initials and shall record the date of the review. Electronically generated signatures shall be acceptable if reasonable measures have been taken to prevent unauthorized use of the electronically generated signature.

(2) After the first 30 days of the supervising physician-physician assistant supervisory relationship, the supervising physician shall document the periodic review and evaluation of the physician assistant's performance required by paragraph (a)(3), which may include the review of patient records. The supervising physician and the physician assistant shall sign the written review and evaluation and maintain a copy at each practice location, which shall be made available to the board upon request.

(c) Except as otherwise required by K.A.R. 100-28a-13, a supervising physician shall not be required to cosign orders or prescriptions written in a patient's medical record by a physician assistant to whom the supervising physician has delegated the performance of services constituting the practice of medicine and surgery. (Authorized by K.S.A. 2015 Supp. 65-28a03 and 65-28a08; implementing K.S.A. 2015 Supp. 65-28a02, 65-28a08, and 65-28a09; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended May 15, 2009; amended March 30, 2012; amended, T-100-12-10-15, Jan. 11, 2016; amended May 6, 2016.)

**100-28a-11. Duty to communicate; emergency medical conditions.** (a) Except as specified in subsection (b), each physician assistant shall communicate with the supervising physician or substitute supervising physician concerning a patient's condition if the physician assistant believes that the patient's condition may require either of the following:

(1) Any treatment that the physician assistant has not been authorized to perform; or

(2) any treatment that exceeds the physician assistant's competence.

(b) If a patient has an emergency medical condition requiring immediate treatment that the physician assistant has not been authorized to perform, the physician assistant shall communicate with the supervising physician or substitute supervising physician concerning the patient's emergency medical condition as soon as is clinically feasible. The physician assistant shall document that individual's communication with the supervising physician or substitute supervising physician in the patient's medical record. (Authorized by K.S.A. 2015 Supp. 65-28a03; implementing K.S.A. 2015 Supp. 65-28a08; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended, T-100-12-10-15, Jan. 11, 2016; amended May 6, 2016.)

**100-28a-12. Substitute supervising physician.** If a substitute supervising physician supervises a physician assistant, the substitute supervising physician shall meet the same requirements as those of the supervising physician. (Authorized by K.S.A. 2015 Supp. 65-28a02 and 65-28a03; implementing K.S.A. 2015 Supp. 65-28a02 and 65-28a09; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended, T-100-12-10-15, Jan. 11, 2016; amended May 6, 2016.)

**100-28a-13. Prescription-only drugs.** (a) Any physician assistant may administer, prescribe, distribute, or dispense a prescription-only drug pursuant to K.S.A. 65-28a08, and amendments thereto, as authorized by the written agreement required by K.A.R. 100-28a-9 and as authorized by this regulation.

(b) As used in this regulation, "emergency situation" shall have the meaning specified in K.A.R. 68-20-19.

(c) Any physician assistant may directly administer a prescription-only drug as follows:

(1) If directly ordered or authorized by the supervising physician or substitute supervising physician;

(2) if authorized by a written agreement between the supervising physician and the physician assistant; or

(3) if an emergency situation exists.

(d)(1) Any physician assistant may prescribe a schedule II controlled substance in the same manner as that in which the physician assistant

may perform acts that constitute the practice of medicine and surgery as specified in K.A.R. 100-28a-6. Except as specified in paragraph (d)(2), each prescription for a schedule II controlled substance shall be in writing.

(2) Any physician assistant may, by oral or telephonic communication, authorize a schedule II controlled substance in an emergency situation. Within seven days after authorizing an emergency prescription order, the physician assistant shall cause a written prescription, completed in accordance with appropriate federal and state laws, to be delivered to the dispenser of the drug.

(e) Any physician assistant may orally, telephonically, electronically, or in writing prescribe a controlled substance listed in schedule III, IV, or V, or a prescription-only drug not listed in any schedule as a controlled substance in the same manner as that in which the physician assistant may perform acts that constitute the practice of medicine and surgery as specified in K.A.R. 100-28a-6.

(f) Each written prescription order by a physician assistant shall meet the following requirements:

(1) Contain the name, address, and telephone number of the supervising physician;

(2) contain the name, address, and telephone number of the physician assistant;

(3) be signed by the physician assistant with the letters "P.A." following the signature; and

(4) contain any DEA registration number issued to the physician assistant if a controlled substance is prescribed.

(g) Any physician assistant may distribute a prescription-only drug to a patient only if all of the following conditions are met:

(1) The drug is distributed under the same conditions as those in which a physician assistant may directly administer a prescription-only drug, as described in subsection (b).

(2) The drug has been provided to the physician assistant or the physician assistant's supervising physician or employer at no cost.

(3) The drug is commercially labeled and is distributed to the patient in the original prepackaged unit-dose container.

(4) The drug is distributed to the patient at no cost.

(h) Any physician assistant may dispense a prescription-only drug to a patient under the limited circumstances specified in K.S.A. 65-28a08, and amendments thereto, in the same manner as that in which the physician assistant may perform acts that constitute the practice of medicine and surgery specified in K.A.R. 100-28a-6.

(i) A physician assistant shall not administer, prescribe, distribute, or dispense a prescription-only drug for any quantity or strength in excess of the normal and customary practice of the supervising physician. (Authorized by K.S.A. 2015 Supp. 65-28a03 and 65-28a08; implementing K.S.A. 2015 Supp. 65-28a08; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended, T-100-12-10-15, Jan. 11, 2016; amended May 6, 2016.)

**100-28a-14. Different practice location.**

Any physician assistant may perform acts that constitute the practice of medicine and surgery at a different practice location if all of the following requirements are met:

(a) Before providing any services at the different practice location, the physician assistant shall have spent at least 80 hours since being licensed under the direct supervision of a physician licensed in this state.

(b) The supervising physician or substitute supervising physician shall remain available to provide guidance, direction, and coordination of the activities of the physician assistant. This availability may be provided by electronic means.

(c) The different practice location shall be listed on the active practice request form required by K.A.R. 100-28a-9.

(d) Written notice that the different practice location is staffed primarily by a physician assistant shall be posted in a location where the notice is likely to be seen by patients. (Authorized by K.S.A. 65-28a03 and 65-28a08; implementing K.S.A. 65-28a08; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended July 22, 2005; amended, T-100-12-10-15, Jan. 11, 2016; amended May 6, 2016; amended March 8, 2019.)

**100-28a-15. Licensure; cancellation.** (a) Except as specified in subsection (b), each physician assistant license issued by the board shall be cancelled on December 31 of each year.

(b) Each license issued or reinstated from October 1 through December 31 shall be cancelled on December 31 of the following year. (Authorized by and implementing K.S.A. 2015 Supp. 65-28a03; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended, T-100-12-10-15, Jan. 11, 2016; amended May 6, 2016.)

**100-28a-17. Number of physician assistants supervised; limitation for different practice location.** (a) Except as otherwise spec-

ified in subsection (b), each supervising physician shall determine the number of physician assistants under the supervising physician's supervision. The supervising physician shall use professional judgment regarding that individual's ability to adequately supervise each physician assistant based upon the following factors:

(1) The supervising physician's ability to meet the requirements for supervision specified in K.A.R. 100-28a-10 for each physician assistant;

(2) the supervising physician's ability to provide the types of supervision that may be specified in the written agreement with each physician assistant;

(3) the specialty and setting of each practice location at which each physician assistant will provide services;

(4) the complexity of the patient population that each physician assistant will be treating; and

(5) the clinical experience and competency of each physician assistant.

(b)(1) A supervising physician shall not supervise more than a total of three physician assistants who provide services at a different practice location under K.A.R. 100-28a-14, regardless of the number of different practice locations, without the prior approval of the board. A supervising physician shall not under any circumstances supervise more than five physician assistants who provide services at a different practice location.

(2) The approval to supervise more than a total of three physician assistants who will provide services at a different practice location may be granted by the board if the supervising physician submits a signed request on a board-provided form that meets the following requirements:

(A) Verifies that the combined number of work hours of all the physician assistants who will provide services at a different practice location will not exceed 200 hours per week; and

(B) demonstrates that the supervising physician is able to adequately supervise each physician assistant under the supervising physician's supervision based on the factors specified in subsection (a). (Authorized by K.S.A. 2015 Supp. 65-28a03; implementing K.S.A. 2015 Supp. 65-28a08; effective July 22, 2005; amended, T-100-12-10-15, Jan. 11, 2016; amended May 6, 2016.)

**Article 28b.—INDEPENDENT PRACTICE OF MIDWIFERY**

**100-28b-1. Definitions.** As used in this article of the board's regulations, each of the follow-

ing terms shall have the meaning specified in this regulation:

(a) “Abortion” has the meaning specified in K.S.A. 65-6701, and amendments thereto.

(b) “Antepartum” means occurring in the period that commences when a pregnant woman presents herself to a licensee during pregnancy and ends at the onset of labor.

(c) “Approved national certification” means certification as a certified nurse-midwife by the American midwifery certification board.

(d) “Birthing center” means a facility that provides delivery services for normal, uncomplicated pregnancies. This term shall not include a medical care facility as defined by K.S.A. 65-425, and amendments thereto.

(e) “Family planning services” means the provision of contraceptive methods, preconception health services, and sexually transmitted infection screening and treatment to patients.

(f) “Formal consult” means the process whereby a licensee formally requests a physician’s written recommendations for the care and treatment of a patient’s identifiable risks.

(g) “Home birth” means an attended birth at a private residence or a location other than a birthing center or hospital.

(h) “Hospital” has the meaning specified in K.S.A. 65-425, and amendments thereto.

(i) “Identifiable risk” means medical history or clinical signs or symptoms that could require clinical services other than those associated with a normal, uncomplicated pregnancy and a normal, uncomplicated delivery.

(j) “Informal consult” means the process whereby a licensee who maintains management responsibility for the patient’s care informally requests the advice or opinion of a physician.

(k) “Initial care of a normal newborn” means the clinical services provided to a normal newborn during the first 28 days of life. This term shall include lactation services.

(l) “Intrapartum” means occurring in the period commencing with the onset of labor and ending after the delivery of the placenta.

(m) “Licensee” means an individual licensed by the board to engage in the independent practice of midwifery as defined in K.S.A. 65-28b02, and amendments thereto.

(n) “Minor vaginal laceration” means a tear that extends beyond the fourchette, perineal skin, and vaginal mucosa to perineal muscles and fascia, but not the anal sphincter.

(o) “Newborn” means an infant during the first 28 days of life after birth.

(p) “Normal newborn” means a newborn who has been clinically determined to have no complications or to be at low risk of developing complications.

(q) “Normal, uncomplicated delivery” means delivery of a singleton cephalic vaginal birth that has been clinically determined to be at low risk for complications.

(r) “Normal, uncomplicated pregnancy” means a pregnancy that is initially determined to be at a low risk for a poor pregnancy outcome and that remains at a low risk throughout the pregnancy.

(s) “Patient” means a woman to whom an independent certified nurse-midwife provides clinical services.

(t) “Physician” means an individual licensed to actively practice medicine and surgery or osteopathic medicine and surgery in Kansas.

(u) “Poor pregnancy outcome” means any outcome other than a live, healthy patient.

(v) “Postpartum” means occurring in the period commencing with the delivery of the placenta and ending six weeks after birth.

(w) “Referral” means the process whereby a licensee requests a physician to assume management responsibility for a patient’s care.

(x) “Transfer” means the process whereby a licensee or physician accepts management responsibility for a patient’s care.

(y) “Transport” means the process whereby a patient is moved from one location to another. (Authorized by K.S.A. 65-28b07(d); implementing K.S.A. 65-28b02 and 65-28b07(d); effective Jan. 10, 2020.)

**100-28b-5. License expiration and cancellation.** (a) Each license to engage in the independent practice of midwifery issued within the seven-month period beginning June 1 and ending December 31 shall expire on September 30 of the following year and shall be cancelled on October 30 of that year, unless renewed.

(b) Each license to engage in the independent practice of midwifery issued within the five-month period beginning January 1 and ending May 31 shall expire on September 30 and shall be cancelled on October 30 of the same year, unless renewed. (Authorized by K.S.A. 65-28b04 and 65-28b07(d); implementing K.S.A. 65-28b04; effective Jan. 10, 2020.)

**100-28b-15. Transport and transfer protocol requirements.** (a) Each licensee shall have a written protocol in place for each patient for the timely and safe transport to a hospital with an obstetrical unit and physician within a reasonable proximity of the planned location of labor and delivery. Each written protocol shall include the following:

(1) A plan for transporting the patient by emergency medical services;

(2) a plan for notification of the hospital and physician;

(3) a plan for communication of the patient's medical history and present condition; and

(4) at least one of the following:

(A) A plan for transferring the patient to the hospital and a physician;

(B) evidence of a transfer agreement with the hospital and physician; or

(C) evidence that the licensee has admitting privileges at the specified hospital.

(b) Each licensee shall ensure that all staff members attending the patient's labor and delivery have immediate access to a working telephone or another communication device and to all necessary information for transporting and transferring a patient in case of an emergency. (Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b02, 65-28b07; effective Jan. 10, 2020.)

**100-28b-16. Duty to consult, refer, transfer, and transport.** (a) A licensee shall immediately informally consult, formally consult, refer, or transfer care of a patient to a physician, or transport the patient to a hospital if the patient's medical history or condition presents identifiable risks to the course of pregnancy, labor, delivery, or health of the patient.

(b) Any licensee may continue or resume providing clinical services to the patient if a physician has determined that the patient's medical history or condition has been resolved, or that the identifiable risks presented by the patient's medical history or condition are not likely to affect the course of pregnancy, labor, delivery, or health of the patient or newborn.

(c) A licensee shall immediately informally consult, formally consult, refer, or transfer care of a newborn to a physician, or transport the newborn to a hospital if at any time the newborn's condition presents identifiable risks to the health of the newborn.

(d) Any licensee may continue or resume providing clinical services to the newborn if a physi-

cian has determined that the newborn's condition has been resolved or that the identifiable risks presented by the newborn's condition are not likely to affect the health of the newborn. (Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b02, 65-28b07; effective Jan. 10, 2020.)

**100-28b-17. Identifiable risks requiring immediate referral and transport of patient.** Identifiable risks requiring the immediate referral and transport of a patient shall include the following:

(a) Maternal fever of more than 100.4 degrees Fahrenheit during labor, in the absence of environmental factors;

(b) suggestion of fetal jeopardy, including clinically significant frank bleeding before delivery, abnormal bleeding with or without abdominal pain, evidence of placental abruption, or detection of abnormal fetal heart tones;

(c) current spontaneous preterm labor;

(d) current preterm premature rupture of membranes;

(e) current preeclampsia;

(f) current hypertensive disease of pregnancy;

(g) continuous uncontrolled bleeding;

(h) postpartum bleeding that does not subside with the administration of oxytocin or other anti-hemorrhagic agent;

(i) delivery injuries to the bladder or bowel;

(j) grand mal seizure;

(k) uncontrolled vomiting;

(l) coughing or vomiting blood;

(m) severe chest pain; and

(n) sudden onset of shortness of breath and labored breathing. (Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b02, 65-28b07; effective Jan. 10, 2020.)

**100-28b-18. Identifiable risks requiring immediate referral and transport of newborn.** Identifiable risks requiring the immediate referral and transport of a newborn shall include the following:

(a) Respiratory rate greater than 80 or grunting, flaring, or retracting following delivery with meconium-stained fluid;

(b) central cyanosis or pallor for more than 10 minutes;

(c) Apgar score of six or less at five minutes of age;

(d) abnormal bleeding;

(e) more than eight hours of continuous postpartum evaluation;

- (f) vesicular skin lesions;
- (g) seizure-like activity;
- (h) poor feeding effort due to lethargy or lack of interest for more than two hours immediately following birth;
- (i) temperature less than 96.8 degrees Fahrenheit or greater than 100.4 degrees Fahrenheit documented more than 15 minutes apart;
- (j) heart murmur lasting more than 24 hours immediately following birth;
- (k) cardiac arrhythmia;
- (l) congenital anomalies;
- (m) failed critical congenital heart disease screening;
- (n) birth injury;
- (o) clinical evidence of prematurity, including low birth weight of less than 2,500 grams, smooth soles of feet, or immature genitalia;
- (p) jaundice in the first 24 hours after birth or significant jaundice at any time;
- (q) no stool for more than 24 hours immediately following birth;
- (r) no urine output for more than 24 hours; and
- (s) development of persistent poor feeding effort at any time. (Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b02, 65-28b07; effective Jan. 10, 2020.)

## Article 29.—PHYSICAL THERAPY

**100-29-1. Applications.** (a) Each applicant for licensure as a physical therapist or certification as a physical therapist assistant shall submit a completed application on a form provided by the board. The application shall include the following information in legible writing:

- (1) The applicant's full name;
- (2) the applicant's social security number, driver's license number, nondriver identification number, or individual tax identification number if the applicant is advised that providing a social security number is voluntary pursuant to K.S.A. 74-139 and 74-148, and amendments thereto, and that if the social security number is provided, the agency may provide this number to the Kansas department of social and rehabilitation services for child support enforcement purposes and to the Kansas department of revenue's director of taxation;
- (3) the applicant's mailing address. If the applicant's mailing address is different from the applicant's residential address, the applicant shall also provide the residential address;
- (4) the applicant's daytime telephone number;

- (5) the applicant's date and place of birth;
- (6) the names of all educational programs recognized under K.A.R. 100-29-2 that the applicant attended, including the program from which the applicant graduated, the degree awarded to the applicant, and the date of graduation;
- (7) information regarding any licenses, registrations, or certifications issued to the applicant to practice any healthcare profession;
- (8) information regarding any prior acts specified in K.S.A. 65-2912, and amendments thereto, that could constitute grounds for denial of the application;
- (9) a notarized release authorizing the board to receive any relevant information, files, or records requested by the board in connection with the application; and
- (10) the number of times the applicant has taken the examination required by the board for licensure or certification and the date that the applicant passed the examination.

(b) Each applicant shall submit the following with the application:

- (1) The fee required by K.A.R. 100-29-7;
- (2) an official transcript that specifies the degree awarded from an educational program recognized by the board under K.A.R. 100-29-2;
- (3) a verification on a form provided by the board of each license, registration, or certification issued to the applicant by any state or the District of Columbia relating to any healthcare profession;
- (4) a current photograph, three by four inches in size, of the applicant's head and shoulders taken within 90 days before the date the application is received by the board; and
- (5) evidence provided directly to the board from the testing entity recognized and approved under K.A.R. 100-29-4 that the applicant has passed the examination.

(c) The applicant shall sign the application under oath and have the application notarized.

(d) The physical therapy advisory council shall consider the application from each person who has not been engaged in an educational program recognized by the board and has not engaged in the practice of physical therapy during the five years preceding the date of the application. The council shall then submit its written recommendation to the board. (Authorized by K.S.A. 2009 Supp. 65-2911; implementing K.S.A. 2009 Supp. 65-2903, 65-2906, and 65-2912; effective March 21, 1997; amended May 26, 2006; amended May 14, 2010.)

**100-29-3a. Examination of written and oral English communication.** (a) For each applicant who received training in a school at which English was not the language of instruction, the examinations required and approved by the board to demonstrate the ability to communicate in written and oral English shall be the test of English as a foreign language (TOEFL), the test of written English (TWE), and the test of spoken English (TSE), as developed and administered by the educational testing service (ETS).

(b) To successfully pass the test of English as a foreign language, each applicant who is required to take this examination shall attain a score of at least 24 in writing, 26 in speaking, 21 in reading, and 18 in listening.

(c) To successfully pass the test of spoken English, each applicant who is required to take this examination shall attain a score of at least 5.0.

(d) To successfully pass the test of written English, each applicant who is required to take this examination shall attain a score of at least 4.5. (Authorized by K.S.A. 2008 Supp. 65-2911; implementing K.S.A. 2008 Supp. 65-2906 and 65-2909; effective Sept. 11, 1998; amended Jan. 4, 2010.)

**100-29-4. Examination.** (a) The examination required and approved by the board for licensure as a physical therapist shall be the physical therapist examination developed by the federation of state boards of physical therapy (FSBPT).

(b) The examination required and approved by the board for certification as a physical therapist assistant shall be the physical therapist assistant examination developed by the FSBPT.

(c) Each applicant shall be required to successfully complete the applicable examination required by this regulation within six attempts. (Authorized by K.S.A. 65-2911; implementing K.S.A. 65-2906; effective March 21, 1997; amended July 14, 2006; amended Jan. 10, 2020.)

**100-29-9. License and certificate renewal; continuing education.** (a)(1)(A) As a condition of renewal for each odd-numbered year, each licensed physical therapist or certified physical therapist assistant shall submit, in addition to the annual application for renewal of licensure or certification, evidence of satisfactory completion within the preceding two-year period of at least 40 contact hours of continuing education for a licensed physical therapist and at least 20 contact hours of continuing education for a certified physical therapist assistant. As a component of the re-

quired contact hours, each licensed physical therapist shall be required to successfully complete the physical therapy jurisprudence assessment module specified in paragraph (f)(15) during each continuing education cycle.

(B) Evidence of satisfactory completion of a program of continuing education shall not be required to be submitted with the application for renewal of licensure or certification in even-numbered years.

(2) A contact hour shall consist of 60 minutes of activity pertaining to the practice of physical therapy.

(3) Meals and breaks shall not be included in the contact hour calculation.

(b) Any applicant for renewal who cannot meet the requirements of paragraph (a)(1)(A) may request an extension from the board to submit evidence of continuing education. The request shall include a plan for completion of the continuing education requirements within the requested extension period. An extension of up to six months may be granted by the board for a substantiated medical condition, natural disaster, death of a spouse or an immediate family member, or any other compelling reason that in the judgment of the board renders the licensee incapable of meeting the requirements of paragraph (a)(1)(A).

(c) A physical therapist initially licensed or physical therapist assistant initially certified within one year of a renewal date in an odd-numbered year shall not be required to submit evidence of satisfactory completion of a program of continuing education required by paragraph (a)(1)(A) for that first renewal period. Each physical therapist or physical therapist assistant initially licensed or certified or whose license or certificate has been reinstated for more than one year but less than two years from a renewal date in an odd-numbered year shall be required to submit evidence of satisfactory completion of at least half of the contact hours of continuing education required by paragraph (a)(1)(A).

(d) All continuing education activities shall be related to the practice of physical therapy.

(e) All continuing education activities shall pertain to any of the following:

- (1) Clinical skills;
- (2) administration and management techniques;
- (3) educational principles when providing service to patients, families, health professionals, health professional students, or the community;
- (4) research projects with peer-reviewed, published results;

- (5) legislative issues involving the profession;
- (6) health care and the health care delivery system;
- (7) documentation, reimbursement, cost-effectiveness, and regulatory compliance; or
- (8) problem solving, critical thinking, and ethics.

(f) The following shall qualify as continuing education activities:

(1) Lecture. "Lecture" shall mean a live discourse for the purpose of instruction given before an audience. One contact hour shall be awarded for each hour of instruction.

(2) Panel. "Panel" shall mean the presentation of multiple views by several professional individuals on a given subject, with none of the views considered a final solution.

(3) Workshop. "Workshop" shall mean a series of meetings designed for intensive study, work, or discussion in a specific field of interest.

(4) Seminar. "Seminar" shall mean directed advanced study or discussion in a specific field of interest.

(5) Symposium. "Symposium" shall mean a conference of more than a single session organized for the purpose of discussing a specific subject from various viewpoints and by various speakers.

(6) In-service training. "In-service training" shall mean an educational presentation given to employees during the course of employment that pertains solely to the enhancement of physical therapy skills in the evaluation, assessment, or treatment of patients.

(7) College or university courses. "College or university course" shall mean a course at the college or university level directly related to the practice of physical therapy. Ten contact hours shall be given for each semester credit hour for which the student received a grade of at least C or its equivalent or a "pass" in a pass/fail course that is documented in an official transcript.

(8) Administrative training. "Administrative training" shall mean a presentation that enhances the knowledge of a physical therapist or physical therapist assistant on the topic of quality assurance, risk management, reimbursement, hospital and statutory requirements, or claim procedures.

(9) Self-instruction. "Self-instruction" shall mean the following:

(A) Reading professional literature directly related to the practice of physical therapy. A maximum of two contact hours shall be awarded for reading professional literature;

(B) completion of a correspondence, audio, video, or internet course for which a printed verification of successful completion is provided by the person or organization offering the course. A maximum of 10 contact hours shall be awarded for each course; and

(C) passage of a specialty certification examination approved by the board. Forty contact hours shall be awarded for passage of a specialty certification examination.

(10) Professional publications. Contact hours for writing a professional publication shall be allotted as follows:

(A) Original paper	single author	20
	senior author	15
	coauthor	8
(B) Review paper or case report		
	single author	15
	coauthor	8
(C) Abstract or book review		8
(D) Publication of a book		20

(11) Physical therapy residency or fellowship program. "Physical therapy residency or fellowship program" shall mean a post-professional program that is directly related to the practice of physical therapy and requires at least 1,000 combined hours of instruction and clinical practice for completion. Forty contact hours shall be awarded for successful completion of a physical therapy residency or fellowship program.

(12) Elected delegate. "Elected delegate" shall mean an elected delegate in a national assembly of delegates with the objective to create policy related to the practice of physical therapy. Ten contact hours shall be awarded for serving one term as an elected delegate.

(13) Supervision of a student. "Supervision of a student" shall mean clinical instruction and evaluation of a physical therapist student or physical therapist assistant student in a clinical setting. One contact hour shall be awarded for each documented 40 hours of providing supervision of a student. A maximum of three contact hours shall be awarded in each two-year continuing education period.

(14) Continuing education program presentation. "Continuing education program presentation" shall mean the preparation and presentation of a continuing education program that meets the re-

quirements of subsection (e). Three contact hours shall be awarded for each hour spent presenting.

(15) Physical therapy jurisprudence assessment module. “Physical therapy jurisprudence assessment module” shall mean the Kansas jurisprudence examination developed by the board and the FSBPT and administered by the FSBPT. One contact hour shall be awarded for successful completion of the physical therapy jurisprudence assessment module.

(g) No contact hours shall be awarded for any continuing education activity that is repeated within the applicable continuing education period specified in subsection (a) or (b).

(h) To provide evidence of satisfactory completion of continuing education activities, each licensed physical therapist and each certified physical therapist assistant shall submit the following to the board:

(1) Documented evidence of any attendance at or successful completion of continuing education activities;

(2) personal verification of any self-instruction from reading professional literature; and

(3) one copy of any peer-reviewed professional publication. (Authorized by K.S.A. 65-2910 and 65-2911; implementing K.S.A. 65-2910; effective March 21, 1997; amended Nov. 14, 2003; amended May 26, 2006; amended May 13, 2016; amended Jan. 10, 2020.)

**100-29-16. Supervision of physical therapist assistants and support personnel.** (a) Each physical therapist shall be responsible for the following:

(1) The physical therapy services provided to a patient or client by any physical therapist assistant working under the direction of the physical therapist; and

(2) the tasks relating to the physical therapy services provided to a patient or client by any support personnel working under the personal supervision of the physical therapist or by the physical therapist assistant acting under the direction of the physical therapist.

(b) Each physical therapist and each physical therapist assistant acting under the direction of a physical therapist shall provide personal supervision of the support personnel during any session in which support personnel are utilized to carry out a task.

(1) “Personal supervision” shall mean oversight by a physical therapist or by a physical therapist

assistant acting under the direction of the physical therapist who is on-site and immediately available to the support personnel.

(2) “Support personnel” shall mean any person other than a physical therapist or physical therapist assistant. Support personnel may be designated as or describe themselves as physical therapy aides, physical therapy technicians, physical therapy paraprofessionals, rehabilitation aides, or rehabilitation technicians.

(3) “Task” shall mean an activity that does not require the formal education or training of a physical therapist or a physical therapist assistant.

(c) The determination by the physical therapist to utilize a physical therapist assistant for selected components of physical therapy interventions shall require the education, expertise, and professional judgment of the physical therapist. Before delegating an intervention by a physical therapist to a physical therapist assistant and before delegating a designated task to support personnel, the physical therapist shall consider the following:

(1) The education, training, experience, and skill level of the physical therapist assistant;

(2) the complexity and acuteness of the patient’s or client’s condition or health status;

(3) the predictability of the consequences;

(4) the setting in which the care is being delivered to the patient or client; and

(5) the frequency of reexamination of the patient or client.

(d) Pursuant to K.S.A. 65-2914 and amendments thereto, if patient care is initiated by a physical therapist assistant in a hospital setting because the physical therapist is not immediately available, “minimum weekly review” shall mean that the physical therapist shall evaluate the patient and determine a plan of treatment within seven days of the initiation of treatment by the physical therapist assistant.

(e) Only a physical therapist may perform any of the following:

(1) Interpretation of a referral;

(2) performance and documentation of an initial examination, testing, evaluation, diagnosis, and prognosis;

(3) development or modification of a plan of care that is based on a reexamination of the patient or client that includes the physical therapy goals for intervention;

(4) determination of the qualifications of support personnel performing an assigned task;

(5) delegation of and instruction about the service to be rendered by the physical therapist assistant;

(6) timely review of documentation, reexamination of the patient or client, and revision of the plan of care when indicated;

(7) establishment and documentation of the discharge plan and discharge summary; and

(8) oversight of all documentation for services, including documents for billing, rendered to each patient or client under the care of the physical therapist.

(f) In all practice settings, the performance of selected interventions by the physical therapist assistant and the delegation of designated tasks to support personnel shall be consistent with the safe and legal practice of physical therapy and shall be based on the following factors:

(1) The complexity and acuteness of the patient's or client's condition or health status;

(2) the physical therapist's proximity and accessibility to the patient or client;

(3) the supervision available for all emergencies or critical events;

(4) the type of setting in which the physical therapy intervention is provided;

(5) the ability of the physical therapist assistant to perform the selected interventions or the support personnel to perform designated tasks; and

(6) an assessment by the physical therapist of the ability of the support personnel to perform designated tasks.

(g) Except as specified in this subsection, a physical therapist shall not have more than four physical therapist assistants working concurrently under the direction of that physical therapist. A request by a physical therapist to supervise additional physical therapist assistants may be granted by the board if it finds that significant hardship to the health and welfare of the community will occur if the physical therapist's request to supervise more than four physical therapist assistants is not granted.

(h) Each physical therapist wishing to provide personal supervision to more than four physical therapist assistants in a clinic or hospital setting shall provide a written and signed request to the physical therapy advisory council with the following information:

(1) The name of each physical therapist assistant to whom the physical therapist proposes to provide personal supervision;

(2) the reason for the request; and

(3) a written statement from the clinic or hospital director documenting the hardship and the plan for alleviating future staffing shortages of physical therapists.

(i) The physical therapy advisory council shall review each request granted by the board pursuant to subsection (g) at least every six months to determine whether a significant hardship to the health and welfare of the community will exist if the request is no longer granted. The physical therapy advisory council shall prepare and submit a written recommendation of each review to the board. A determination of whether the exemption should be renewed for another six-month period shall be made by the board at the recommendation of the physical therapy advisory council.

(j) Failure to meet the requirements of this regulation shall constitute unprofessional conduct. (Authorized by K.S.A. 2015 Supp. 65-2905 and 65-2911; implementing K.S.A. 2015 Supp. 65-2912 and 65-2914; effective July 14, 2006; amended July 17, 2009; amended May 13, 2016.)

**100-29-18. Dry needling; education and practice requirements.** (a) Dry needling shall be performed only by a physical therapist who is competent by education and training to perform dry needling as specified in this regulation. Online study and self-study for dry needling instruction shall not be considered appropriate training.

(b) Each physical therapist who does not obtain dry needling education and training as part of that individual's graduate or postgraduate education shall be required to successfully complete a dry needling course approved by the board in order to perform dry needling. Each dry needling course shall include a practical examination and a written examination.

(c) Each dry needling course shall include the following components:

(1) Anatomical review for safety and effectiveness;

(2) indications and contraindications for dry needling;

(3) evidence-based instruction on the theory of dry needling practice;

(4) sterile needle procedures, which shall include the standards of one of the following:

(A) The U.S. centers for disease control and prevention; or

(B) the U.S. occupational safety and health administration;

(5) blood-borne pathogens;

(6) postintervention care, including an adverse response or emergency; and

(7) an assessment of the physical therapist's dry needling technique and psychomotor skills.

(d) Each dry needling course shall be taught by a licensed healthcare provider who meets the following requirements:

(1) Has a scope of practice that includes dry needling;

(2) meets the regulatory minimum educational standard in that individual's respective state or jurisdiction;

(3) has not been disciplined by any state or jurisdictional licensing agency for any act that would be a violation of the physical therapy practice act or the healing arts act; and

(4) has performed dry needling for at least two years.

(e) Each physical therapist taking a dry needling course shall be required to obtain a passing score on all written and practical examinations given in the dry needling course. Each physical therapist shall obtain a certificate or other documentation from the provider of the dry needling course specifying what anatomical regions were covered in the dry needling course and that the physical therapist passed all examinations.

(f) Each dry needling course shall provide sufficient instruction to ensure that each student is able to demonstrate minimum adequate competence in the following:

(1) Current dry needling techniques;

(2) management of dry needling equipment and supplies;

(3) accurate point selection;

(4) accurate positioning of the patient and the education of the patient regarding the amount of movement allowed while needles are inserted;

(5) supervision and monitoring of the patient during treatment;

(6) communication with the patient, including informed consent; and

(7) clinically appropriate patient selection, including consideration of the following:

(A) The patient's contraindications for dry needling;

(B) the patient's ability to understand the treatment and the expected outcome; and

(C) the patient's ability to comply with treatment requirements.

(g) After completion of a board-approved dry needling course, each physical therapist shall be required to complete 200 patient treatment ses-

sions of dry needling before taking each successive course in dry needling. Each physical therapist shall complete all foundation-level courses before proceeding to an advanced-level course.

(h) Dry needling shall be performed solely for conditions that fall under the physical therapy scope of practice pursuant to K.S.A. 65-2901, and amendments thereto. Each physical therapist performing dry needling shall perform dry needling only in the anatomical region of training completed by the physical therapist. Each physical therapist who performs dry needling shall do so in a manner consistent with generally acceptable standards of practice.

(i) A physical therapist shall not delegate dry needling. (Authorized by K.S.A. 2016 Supp. 65-2911 and 65-2923; implementing K.S.A. 2016 Supp. 65-2901; effective May 12, 2017.)

**100-29-19. Dry needling; informed consent.** (a) Each physical therapist who performs dry needling shall obtain written informed consent from each patient before performing dry needling on the patient. A separate informed consent shall be required for each anatomical region treated by the physical therapist.

(b) The informed consent shall include the following:

(1) The patient's signature;

(2) the risks and benefits of dry needling;

(3) the diagnosis for which the physical therapist is performing dry needling;

(4) each anatomical region of training completed by the physical therapist; and

(5) a statement that the procedure being performed is dry needling as defined by the physical therapy practice act, K.S.A. 65-2901 and amendments thereto.

(c) The informed consent shall be maintained in the patient's treatment record. (Authorized by K.S.A. 2016 Supp. 65-2911; implementing K.S.A. 2016 Supp. 65-2901; effective May 12, 2017.)

**100-29-20. Dry needling; recordkeeping.** Each physical therapist who performs dry needling shall maintain a specific procedure note in each patient's record for each dry needling session. The procedure note shall include the following for each session:

(a) The anatomical region treated;

(b) the manner in which the patient tolerated the treatment; and

(c) the clinical outcome of the treatment. (Au-

thorized by K.S.A. 2016 Supp. 65-2911; implementing K.S.A. 2016 Supp. 65-2901 and 65-2912; effective May 12, 2017.)

**100-29-21. Dry needling; board requests for documentation.** Each physical therapist who performs dry needling shall be required to produce documentation demonstrating that the individual meets the requirements of K.A.R. 100-29-18, upon request by the board or a designee of the board. Failure of any physical therapist to provide this documentation shall be deemed prima facie evidence that the physical therapist has engaged in unprofessional conduct. (Authorized by K.S.A. 2016 Supp. 65-2911; implementing K.S.A. 2016 Supp. 65-2901 and 65-2912; effective May 12, 2017.)

**Article 49.—PODIATRY**

**100-49-4. Fees.** The following fees shall be collected by the board:

- (a) Application for license ..... \$300.00
- (b) Examination ..... \$450.00
- (c) (1) Annual renewal of active or federally active license:
  - (A) Paper renewal..... \$330.00
  - (B) On-line renewal..... \$320.00
- (2) Annual renewal of inactive license:
  - (A) Paper renewal..... \$150.00
  - (B) On-line renewal..... \$150.00
- (3) Annual renewal of exempt license:
  - (A) Paper renewal..... \$150.00
  - (B) On-line renewal..... \$150.00
- (d) (1) Conversion from exempt to active license ..... \$175.00
- (2) Conversion from inactive to active license ..... \$175.00
- (e) (1) Late renewal of active or federally active license:
  - (A) Paper late renewal..... \$350.00
  - (B) On-line late renewal..... \$339.00
- (2) Late renewal of inactive license:
  - (A) Paper late renewal..... \$175.00
  - (B) On-line late renewal..... \$165.00
- (3) Late renewal of exempt license:
  - (A) Paper late renewal..... \$175.00
  - (B) On-line late renewal..... \$165.00
- (f) Temporary license..... \$50.00
- (g) Duplicate license..... \$15.00
- (h) Temporary permit..... \$50.00
- (i) Certified statement of license..... \$15.00
- (j) Postgraduate permit..... \$50.00

- (k) Reinstatement of revoked license..... \$1,000.00
- (l) Reinstatement of canceled license... \$300.00
- (m) Written verification of license or permit..... \$25.00

(Authorized by K.S.A. 2009 Supp. 65-2012 and K.S.A. 65-2013; implementing K.S.A. 2009 Supp. 65-2012; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1987; amended April 24, 1989; amended Aug. 21, 1989; amended, T-100-12-28-89, Dec. 28, 1989; amended April 9, 1990; amended Dec. 27, 1993; amended May 1, 1998; amended Aug. 4, 2000; amended, T-100-6-27-02, Aug. 1, 2002; amended Nov. 15, 2002; amended Aug. 13, 2004; amended Aug. 17, 2007; amended, T-100-6-2-09, June 2, 2009; amended Sept. 11, 2009; amended May 21, 2010.)

**Article 54.—OCCUPATIONAL THERAPY**

**100-54-1. Application.** (a) Each applicant for licensure as an occupational therapist or occupational therapy assistant shall submit the application on a form provided by the board. The form shall include the following information in legible writing:

- (1) The applicant’s full name;
- (2) the applicant’s social security number, non-driver identification number, or individual tax identification number if the applicant is advised that providing a social security number is voluntary pursuant to K.S.A. 74-139 and 74-148, and amendments thereto, and that if the social security number is provided, the agency may provide this number to the Kansas department of social and rehabilitation services for child support enforcement purposes and to the Kansas department of revenue’s director of taxation;
- (3) the applicant’s mailing address. If the applicant’s mailing address is different from the applicant’s residential address, the applicant shall also provide the residential address;
- (4) the applicant’s daytime telephone number;
- (5) the applicant’s date and place of birth;
- (6) the names of all educational programs recognized under K.A.R. 100-54-2 that the applicant attended, including the program from which the applicant graduated, the degree awarded to the applicant, and the date of graduation;
- (7) information regarding licenses, registrations, or certifications issued to the applicant to practice any healthcare profession;

(8) information regarding any prior acts that could constitute grounds for denial of the application, as specified in K.S.A. 65-5410 and amendments thereto;

(9) a notarized release authorizing the board to receive any relevant information, files, or records requested by the board in connection with the application; and

(10) certification that the applicant has completed an occupational therapy program or occupational therapy assistant program from a postsecondary school recognized under K.A.R. 100-54-2.

(b) Each applicant shall submit the following with the application:

(1) The fee required by K.A.R. 100-54-4;

(2) an official transcript from an educational program recognized by the board under K.A.R. 100-54-2 that specifies the degree awarded to the applicant;

(3) a verification on a form provided by the board of each license, registration, or certification issued to the applicant by any state or the District of Columbia relating to any healthcare profession;

(4) a current photograph of the applicant taken within 90 days of the date the application is received by the board; and

(5) the results of a written examination recognized and approved by the board under K.A.R. 100-54-3, which shall be provided directly to the board from the testing entity.

(c) The applicant shall sign the application under oath and have the application notarized.

(d) The occupational therapist council shall consider every application from persons who have been neither engaged in an educational program recognized by the board nor engaged in the practice of occupational therapy during the five years preceding the date of the application. The council shall then make its recommendation to the board. (Authorized by K.S.A. 65-5405; implementing K.S.A. 65-5404, K.S.A. 65-5406, and K.S.A. 2008 Supp. 65-5410; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999; amended Sept. 23, 2005; amended Nov. 20, 2009.)

**100-54-7. Continuing education; license renewal.** (a)(1) Each licensee shall submit evidence of completing at least 40 contact hours of continuing education during the preceding 24 months. Evidence of this attainment shall be submitted before or with the application for renewal in each odd-numbered year.

(2) No evidence of continuing education shall be required for license renewal in even-numbered years.

(b) A licensee initially licensed within one year of a renewal date when evidence of continuing education must be submitted shall not be required to submit evidence of satisfactory completion of a program of continuing education required by paragraph (a)(1) for that first renewal period. Each licensee who was initially licensed or whose license has been reinstated for more than one year but less than two years from a renewal date when continuing education required by paragraph (a)(1) must be submitted shall be required to submit evidence of satisfactory completion of at least 20 contact hours of continuing education.

(c) Any licensee who cannot meet the requirements of paragraph (a)(1) or subsection (b) may request an extension from the board. The request shall include a plan for completion of the continuing education requirements within the requested extension period. An extension of not more than six months may be granted by the board for good cause shown by a substantiated medical condition, natural disaster, death of a spouse or an immediate family member, or any other compelling reason that in the judgment of the board renders the licensee incapable of meeting the requirements of paragraph (a)(1) or subsection (b).

(d) A contact hour shall consist of 60 minutes of instruction, unless otherwise specified in this regulation.

(e) The content of the continuing education classes or literature shall be related to the field of occupational therapy or similar areas.

(f) Each licensee shall acquire continuing education from the classes of education experiences defined in subsection (g). The licensee shall acquire at least 30 contact hours from one or more of the following: class I, class IV, class V, and class VI.

(g) Continuing education experiences shall be classified as follows:

(1) Class I: attendance at or participation in an education presentation. Class I continuing education experiences shall include the following types of education offerings:

(A) Lectures. A "lecture" means a discourse given for instruction before an audience or through a teleconference.

(B) Panels. A "panel" means the presentation of a number of views by several professional individuals on a given subject, with none of the views considered a final solution.

(C) Workshops. A “workshop” means a series of meetings designed for intensive study, work, or discussion in a specific field of interest.

(D) Seminars. A “seminar” means directed advanced study or discussion in a specific field of interest.

(E) Symposiums. A “symposium” means a conference of more than a single session organized for the purpose of discussing a specific subject from various viewpoints and presented by various speakers.

(F) College or university courses. Ten contact hours shall be given for each college credit hour with a grade of at least C or a “pass” in a pass/fail course.

(G) Other courses. An “other course” means a home study, correspondence, or internet course for which the provider of the activity evaluates the licensee’s knowledge of the subject matter presented in the continuing education activity. A maximum of 20 contact hours may be acquired from other courses.

(2) Class II: in-service training. “In-service training” means training that is given to employees during the course of employment. A maximum of four contact hours may be given for attending an in-service training session. A maximum of four contact hours may be given for instructing an in-service training session, but no additional hours shall be acquired for attending that particular in-service training session or for any subsequent instruction on the same subject matter. A maximum of eight contact hours may be acquired from class II.

(3) Class III: professional reading. “Professional reading” means reading professional literature, whether printed or provided by audiotapes, videotapes, or electronic media. A maximum of two contact hours may be acquired from class III.

(4) Class IV: professional publication. The maximum number of contact hours that may be given for professional publication shall be as follows:

(A) 30 hours for publication of a book or original paper; and

(B) 15 hours for a review paper, case report, abstract, or book review.

(5) Class V: instructor preparation of class I programs. Any licensee who presents a class I continuing education program or its equivalent may receive three class V contact hours for each hour of presentation. No credit shall be granted for any subsequent presentations on the same subject matter. A maximum of 30 contact hours may be acquired from class V.

(6) Class VI: fieldwork supervision of level II students. One contact hour per week may be given for supervising a level II student’s full-time fieldwork. “Full-time fieldwork” shall mean at least 35 hours per week. A maximum of 24 contact hours may be acquired from class VI.

(h) Each licensee shall submit documented evidence of attendance at, participation in, or presentation to class I and class II continuing education activities. Each licensee shall submit personal verification for class III activities. Copies of publications shall be submitted for verification of class IV activities. Verification of class VI fieldwork supervision shall be submitted by the licensee’s employer.

(i) Instructional staff shall be competent in the subject matter and in the methodology of instruction and learning processes as evidenced by experience, education, or publication. (Authorized by K.S.A. 65-5405; implementing K.S.A. 2013 Supp. 65-5412; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Feb. 14, 1997; amended Nov. 21, 2003; amended July 6, 2007; amended May 13, 2016.)

**100-54-8. Continuing education; expired, canceled, and revoked licenses.** (a) If the license has expired but has not been canceled, no continuing education shall be required in addition to the continuing education that would have been necessary if the license had been renewed before its expiration.

(b) Each applicant who wishes to reinstate a license that has been canceled shall submit proof of continuing education as follows:

(1) If the applicant has continuously held an active license in another state or the District of Columbia since the date on which the Kansas license was canceled or the applicant currently holds a license that has been active for at least two years in any state that has licensing and continuing education requirements at least as strict as those of Kansas, the applicant shall submit proof of the applicant’s current license, registration, or certification from that jurisdiction.

(2) If the time since the license was canceled has been one year or less, no continuing education in addition to the continuing education that would have been necessary if the license had been renewed before cancellation shall be required.

(3) If the time since the license was canceled has been more than one year but less than two years, the applicant shall complete a minimum of 20 contact hours.

(4) If the time since the license was canceled has been at least two years but less than three years, the applicant shall complete 40 contact hours.

(5) If the time since the license was canceled has been at least three years or the applicant has not held an active license in another state that has licensing and continuing education requirements at least as strict as those of Kansas, the applicant shall complete an educational program related to continued competency based on a written recommendation by the occupational therapist council and approved by the board.

(c) An occupational therapist or an occupational therapy assistant whose license has been reinstated within one year of a renewal date when evidence of continuing education must be submitted shall not be required to submit evidence of satisfactory completion of a program of continuing education for that first renewal period. Each licensee whose license has been reinstated for more than one year but less than two years from a renewal date when continuing education must be submitted shall be required to submit evidence of satisfactory completion of at least 20 contact hours of continuing education.

(d) Each applicant seeking reinstatement of a revoked license shall be required to successfully complete a program approved by the board. (Authorized by K.S.A. 65-5405; implementing K.S.A. 2008 Supp. 65-5412; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 15, 1999; amended Nov. 21, 2003; amended Sept. 23, 2005; amended July 6, 2007; amended Nov. 20, 2009.)

**100-54-12. Supervision of occupational therapy assistants.** (a) For the purposes of this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) "Full-time" means employed for 30 or more hours per week.

(2) "Supervision" means oversight of an occupational therapy assistant by a licensed occupational therapist that includes initial direction and periodic review of service delivery and the provision of relevant instruction and training.

(b) Supervision shall be considered adequate if the occupational therapist and occupational therapy assistant have on-site contact at least monthly and interim contact occurring as needed by other means, including telephone, electronic mail, text messaging, and written communication.

(c) Each occupational therapist who supervises an occupational therapy assistant shall meet the following requirements:

(1) Be licensed in Kansas;

(2) be actively engaged in the practice of occupational therapy in Kansas;

(3) be responsible for the services and tasks performed by the occupational therapy assistant under the supervision of the occupational therapist;

(4) be responsible for any tasks that the supervised occupational therapy assistant delegates to an occupational therapy aide, occupational therapy technician, or occupational therapy paraprofessional;

(5) delegate only those services for which the occupational therapist has reasonable knowledge that the occupational therapy assistant has the knowledge, experience, training, and skill to perform;

(6) document in the patient's chart any direction or review of occupational therapy services provided under supervision by the occupational therapy assistant; and

(7) report to the board any knowledge that the occupational therapy assistant has committed any act specified in K.S.A. 65-5410, and amendments thereto. The occupational therapist shall report this information to the board within 10 days of receiving notice of the information.

(d) An occupational therapist shall not supervise more than the combined equivalent of four full-time occupational therapy assistants. This combination shall not exceed a total of eight occupational therapy assistants.

(e) Each occupational therapist's decision to delegate components of occupational therapy services under this regulation to an occupational therapy assistant shall be based on that occupational therapist's education, expertise, and professional judgment.

(f) An occupational therapy assistant shall not initiate therapy for any patient or client before the supervising occupational therapist's evaluation of the patient or client.

(g) An occupational therapy assistant shall not perform any of the following services for a patient or client:

(1) Performing and documenting an initial evaluation;

(2) developing or modifying the treatment plan; or

(3) developing a plan of discharge from treatment.

(h) Any occupational therapy assistant, under supervision, may perform the following services for a patient or client:

- (1) Collecting initial patient data through screening and interviewing;
- (2) assessing initial activities of daily living by administering standardized assessments;
- (3) performing a chart review;
- (4) implementing and coordinating occupational therapy interventions;
- (5) providing direct services that follow a documented routine and accepted protocol;
- (6) grading and adapting activities, media, or the environment according to the needs of the patient or client;
- (7) contributing to the reassessment process; and
- (8) contributing to the discontinuation of intervention, as directed by the occupational therapist, by implementing a discharge plan and providing necessary client discharge resources.

(i) Failure by any occupational therapist or occupational therapy assistant to meet the applicable requirements of this regulation shall constitute evidence of unprofessional conduct. (Authorized by K.S.A. 65-5405; implementing K.S.A. 2015 Supp. 65-5402 and 65-5410; effective May 13, 2016.)

## Article 55.—RESPIRATORY THERAPY

**100-55-1. Application.** (a) Each applicant for licensure as a respiratory therapist shall submit a completed application on a form provided by the board. The application shall contain the following information in legible writing:

- (1) The applicant's full name;
- (2) the applicant's mailing address. If the applicant's mailing address is different from the applicant's residential address, the applicant shall also provide the residential address;
- (3) the applicant's social security number, driver's license number, nondriver identification number, or individual tax identification number if the applicant is advised that providing a social security number is voluntary pursuant to K.S.A. 74-139 and 74-148, and amendments thereto, and that if the social security number is provided, the agency may provide this number to the Kansas department of social and rehabilitation services for child support enforcement purposes and to the Kansas department of revenue's director of taxation;

(4) information on any licenses, registrations, or certifications issued to the applicant to practice any health care profession;

(5) information on any prior acts constituting unprofessional conduct, as defined in K.A.R. 100-55-5, that could constitute grounds for denial of the application;

- (6) the applicant's daytime telephone number;
- (7) the applicant's date and place of birth;
- (8) the name of each educational program recognized under K.A.R. 100-55-2 that the applicant attended, including the program from which the applicant graduated, the degree awarded to the applicant, and the date of graduation;
- (9) the number of times the applicant has taken the examination required by the board for licensure and the date that the applicant passed the examination; and
- (10) a notarized release authorizing the board to receive any relevant information, files, or records requested by the board in connection with the application.

(b) Each applicant shall submit the following with the application:

- (1) The fee required by K.A.R. 100-55-4;
- (2) an official transcript that specifies the degree awarded from an educational program recognized by the board under K.A.R. 100-55-2;
- (3) a verification on a form provided by the board of each license, registration, or certification issued to the applicant by any state or the District of Columbia relating to any health care profession;
- (4) a current photograph, two by three inches in size, of the applicant's head and shoulders taken within 90 days before the date the application is received by the board; and
- (5) evidence provided directly to the board from the testing entity recognized and approved under K.A.R. 100-55-3 that the applicant has passed the examination.

(c) The applicant shall sign the application under oath and have the application notarized. (Authorized by K.S.A. 65-5505; implementing K.S.A. 65-5506; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 3, 1997; amended June 30, 2000; amended June 4, 2010.)

**100-55-7. Continuing education; license renewal.** (a) Each licensee shall submit documented evidence of completion of at least 12 contact hours of continuing education since April 1 of the previous year, before or with the request for renewal.

(b) Any licensee who suffered an illness or injury that made it impossible or extremely difficult to reasonably obtain the required contact

hours may be granted an extension of not more than six months.

(c) Each respiratory therapist initially licensed after September 30 and before the following March 31 shall be exempt from the continuing education required by subsection (a) for the first renewal period.

(d) A contact hour shall be 50 minutes of instruction or its equivalent.

(e) The purpose of continuing education shall be to provide evidence of continued competency in the advancing art and science of respiratory therapy. All program objectives, curricular content, presenter qualifications, and outcomes shall be subject to review. Contact hours shall be determined based on program content, outcomes, and participant involvement.

(f) Continuing education shall be acquired from the following:

(1) Offerings approved by the American association of respiratory care. Any licensee may obtain all contact hours from any continuing education offerings approved by the American association of respiratory care and its state affiliates, subject to the limitations specified in paragraphs (f)(2) through (f)(8).

(2) Seminars and symposiums. At least six contact hours shall be obtained each reporting year from seminars or symposiums that provide for direct interaction between the speakers and the participants. A seminar shall mean directed advanced study or discussion in a specific field of interest. A symposium shall mean a conference of more than a single session organized for the purpose of discussing a specific subject from various viewpoints and by various speakers.

(3) Nontraditional or alternative educational programs. A nontraditional or alternative educational program shall be defined as one that is not presented in the typical conference setting. Educational programs may be provided by any print medium or presented through the internet or other electronic medium. The licensee shall submit proof of successful completion of a test administered as part of the nontraditional or alternative educational program. A maximum of six contact hours each reporting year may be obtained from nontraditional or alternative educational programs.

(4) Clinical instruction. Clinical instruction shall mean the education and evaluation of a respiratory therapy student in the clinical setting. A maximum of three contact hours may be given for clinical instruction.

(5) Presentations of a seminar or a nontraditional or alternative program. Each licensee who presents a continuing education seminar or a nontraditional or alternative educational program shall receive two contact hours for each hour of presentation. No credit shall be granted for any subsequent presentations on the same subject content.

(6) Academic coursework. Successful completion of academic coursework shall mean obtaining a grade of at least C or the equivalent in any courses on respiratory care or other health-related field of study in a bachelor's degree program or higher educational degree program. One credit hour of academic coursework shall be equal to one contact hour of continuing education. A maximum of six contact hours may be obtained through academic coursework each reporting year.

(7) Advanced lifesaving courses. Contact hours shall be restricted to first-time attendees of advanced lifesaving courses and the associated instructor courses. Advanced lifesaving courses shall include neonatal resuscitation provider (NRP), pediatric advanced life support (PALS), neonatal advanced life support (NALS), and advanced cardiac life support (ACLS).

(8) Voluntary recredentialing. Each licensee who completes voluntary recredentialing shall receive the number of contact hours approved by the American association for respiratory care.

(g) The following shall not be eligible for continuing education credit:

(1) Learning activities in the work setting designed to assist the individual in fulfilling employer requirements, including in-service education and on-the-job training; and

(2) basic life support courses and cardiopulmonary resuscitation courses. (Authorized by K.S.A. 65-5505; implementing K.S.A. 2008 Supp. 65-5512; effective, T-88-17, July 1, 1987; effective May 1, 1988; amended Jan. 3, 1997; amended June 30, 2000; amended July 17, 2009; amended May 21, 2010.)

**100-55-9. Special permits.** (a) Each student who holds a special permit shall be identified as a student respiratory therapist or "student R.T." by a name tag that includes the student's job title.

(b) A special permit shall be valid for a period not to exceed 24 months and shall not be extended without additional proof that the student continues to be enrolled in an approved school of respiratory therapy.

(c) During February of each year, each student who holds a special permit shall provide the following to the board:

(1) Verification of current enrollment in an approved school of respiratory therapy; and

(2) a statement of the anticipated graduation date.

(d) Each special permit issued to a student who fails to meet the requirements under subsection (c) shall expire on March 31 of the year in which the verification and statement were to be provided.

(e) Each applicant for a special permit shall have a task proficiency list verified and submitted directly to the board by the school of respiratory therapy. The task proficiency list may be updated at the end of each session by the school of respiratory therapy. Each holder of a special permit shall perform only those tasks verified on the most recent task proficiency list that has been submitted directly to the board.

(f) Before engaging in any clinical assignments, each holder of a special permit shall present the current task proficiency list to the employer.

(g) Each licensed respiratory therapist responsible for the supervision of a student holding a special permit shall meet the requirements for supervision specified in K.A.R. 100-55-11(d). (Authorized by K.S.A. 65-5505; implementing K.S.A. 65-5508; effective Jan. 3, 1997; amended June 30, 2000; amended May 23, 2003; amended May 15, 2009.)

## Article 69.—ATHLETIC TRAINING

**100-69-7. Unprofessional conduct; definitions.** (a) “Unprofessional conduct” shall mean any of the following:

(1) Soliciting patients through the use of false advertisements or profiting by the acts of those representing themselves to be agents of the licensee;

(2) representing to a patient that a manifestly incurable disease, condition, or injury can be permanently cured;

(3) assisting in the care or treatment of a patient without the consent of the patient or the patient’s legal representative;

(4) using any letters, words, or terms as an affix on stationery or in advertisements or otherwise indicating that the person is entitled to practice any profession regulated by the board or any other state licensing board or agency for which the person is not licensed;

(5) willful betrayal of confidential information;

(6) advertising professional superiority or the performance of professional services in a superior manner;

(7) advertising to guarantee any professional service or to perform any professional service painlessly;

(8) engaging in conduct related to the practice of athletic training that is likely to deceive, defraud, or harm the public;

(9) making a false or misleading statement regarding the licensee’s skill or the efficacy or value of the treatment or remedy prescribed by the licensee or at the licensee’s direction;

(10) commission of any act of sexual abuse, misconduct, or other improper sexual contact that exploits the licensee-patient relationship, with a patient or a person responsible for health care decisions concerning the patient;

(11) using any false, fraudulent, or deceptive statement in any document connected with the practice of athletic training, including the intentional falsifying or fraudulent altering of a patient record;

(12) obtaining any fee by fraud, deceit, or misrepresentation;

(13) failing to transfer a patient’s records to another licensee when requested to do so by the patient or by the patient’s legally designated representative;

(14) performing any unnecessary tests, examinations, or services that have no legitimate purpose;

(15) charging an excessive fee for services rendered;

(16) repeated failure to engage in the practice of athletic training with that level of care, skill, and treatment that is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances;

(17) failure to keep written medical records that accurately describe the services rendered to each patient, including patient histories, pertinent findings, examination results, and test results;

(18) providing services as an athletic trainer without practice protocols or contrary to the practice protocols filed with the board;

(19) practicing athletic training while the licensee’s ability to practice with reasonable skill and safety to patients is impaired by reason of physical or mental illness or the use of alcohol, drugs, or controlled substances;

(20) committing fraud or misrepresentation in applying for or securing an original, renewal, or reinstated license;

(21) willfully or repeatedly violating the healing arts act, any implementing regulations, or any regulations of the board or the secretary of health and environment that govern the practice of athletic training;

(22) unlawfully practicing any profession regulated by the board in which the licensed athletic trainer is not licensed to practice;

(23) failing to report or reveal the knowledge required to be reported or revealed pursuant to K.S.A. 65-7621, and amendments thereto;

(24) failing to furnish the board, or its investigators or representatives, any information legally requested by the board;

(25) incurring any sanction or disciplinary action by a peer review committee, a governmental agency or department, or a professional association or society for conduct that could constitute grounds for disciplinary action under the act or this article of the board's regulations;

(26) knowingly submitting any misleading, deceptive, untrue, or fraudulent representation on a claim form, bill, or statement;

(27) giving a worthless check or stopping payment on a debit or credit card for fees or moneys legally due to the board;

(28) knowingly or negligently abandoning medical records;

(29) engaging in conduct that violates patient trust and exploits the licensee-patient relationship for personal gain; or

(30) obstructing a board investigation, including engaging in one or more of the following acts:

(A) Falsifying or concealing a material fact;

(B) knowingly making or causing to be made any false or misleading statement or writing; or

(C) committing any other acts or engaging in conduct likely to deceive or defraud the board.

(b) "Advertisement" shall mean all representations disseminated in any manner or by any means that are for the purpose of inducing or that are likely to induce, directly or indirectly, the purchase of professional services.

(c) "False advertisement" shall mean any advertisement that is false, misleading, or deceptive in a material respect. In determining whether any advertisement is misleading, the following shall be taken into account:

(1) Representations made or suggested by statement, word, design, device, or sound, or any combination of these; and

(2) the extent to which the advertisement fails to reveal facts material in the light of the repre-

sentations made. (Authorized by and implementing K.S.A. 65-6905 and K.S.A. 65-6911; effective July 19, 1996; amended Sept. 9, 2005; amended Jan. 10, 2020.)

**100-69-10. License renewal; continuing education.** (a) As a condition of renewal, each licensed athletic trainer shall submit, in addition to the annual application for renewal of licensure, evidence of satisfactory completion of at least 20 hours of continuing education within the preceding year and proof of continuous certification in emergency cardiac care procedures including administration of an automated external defibrillator (AED) through a nationally recognized provider approved by the board. Each course approved by the board of certification for the athletic trainer shall meet this requirement.

(1) Acceptable providers of certification in emergency cardiac care (ECC) procedures shall be those adhering to the most current international guidelines for cardiopulmonary resuscitation and emergency cardiac care.

(2) Online ECC courses shall not be accepted, unless the provider confirms in writing that the skills were demonstrated and tested in person by a qualified instructor.

(3) Instructor certifications shall not be accepted, unless the provider confirms in writing that the instructors are required to maintain and successfully demonstrate provider skills to renew instructor status.

(b) Any licensee who suffered an illness or injury during the 12-month period before the expiration date of the license that made it impossible or extremely difficult to reasonably obtain the required continuing education hours may be granted an extension of not more than six months.

(c) Each athletic trainer initially licensed within one year of the expiration date of the license shall be exempt from the continuing education required by subsection (a) for that first renewal period.

(d) All continuing education shall be related to the field of athletic training and shall be presented by providers approved by the board. In order to qualify as board-approved, the continuing education shall be delivered by an approved provider or shall be intended for an audience of credentialed health care providers. The content shall be at least entry-level and shall pertain to one of the current domains of athletic training practice identified by the board. The current domains of athletic train-

ing practice identified by the board of certification of athletic trainers shall meet this requirement.

(e) One hour shall be 60 minutes of instruction or the equivalent.

(f) All continuing education shall meet the requirements of subsection (h).

(g) Each licensee seeking continuing education credit shall participate in at least two of the categories listed in subsection (h).

(h) The categories of continuing education experiences shall be the following:

(1) Category A. The number of hours for all category A continuing education experiences shall be granted upon receipt of documented evidence of attendance or documented evidence of satisfactory completion issued by a national, state, or local organization with standards that are at least as stringent as the standards of the board. Category A continuing education experiences shall include the following:

(A) Symposium. "Symposium" shall mean a conference of more than a single session organized for the purpose of discussing a specific subject from various viewpoints and by various speakers.

(B) Seminar. "Seminar" shall mean directed advanced study or discussion in a specific field of interest.

(C) Workshop. "Workshop" shall mean a series of meetings designed for intensive study, work, or discussion in a specific field of interest.

(D) Conference. "Conference" shall mean a formal meeting of a number of people for a discussion in a specific field of interest.

(E) Home study course. "Home study course" shall mean an online webinar course designed for advanced study in a specific field of interest.

(2) Category B. Category B continuing education experiences shall include the following:

(A) Scholarly presentations. The number of hours granted for scholarly presentations shall be the following:

(i) 10 hours for a speaker at a clinical symposium where the primary audience is allied health care professionals; and

(ii) five hours for a speaker at a seminar, workshop, or conference where the primary audience is allied health care professionals.

(B) Publication activities. The number of hours granted for writing a professional publication shall be the following:

(i) Five hours to author an article in a non-refereed journal;

(ii) 15 hours to author an article in a refereed journal;

(iii) 10 hours to coauthor an article in a refereed journal;

(iv) 20 hours to author a published textbook;

(v) 10 hours to coauthor a published textbook;

(vi) five hours for being a contributing author of a published textbook;

(vii) 10 hours to author a refereed or peer-reviewed poster presentation; and

(viii) five hours to coauthor a poster presentation.

(3) Category C. Category C continuing education experiences shall consist of postcertification education. The number of hours assigned to category C continuing education experiences shall be 10 hours for each credit hour for postcertification education. The content shall be related to one of the domains of athletic training.

(4) Category D. Category D continuing education experiences shall consist of miscellaneous activities, which shall include evidence-based practice. The number of hours granted upon receipt of documented evidence of satisfactory completion for Category D continuing education experiences shall be the following:

(A) One hour shall be granted for each hour of attendance at continuing education program activities that are not approved by the board for category A or category B, but that are related to specific athletic training and sports medicine topics.

(B) One hour shall be granted for each hour of listening to unapproved continuing education programs or other multimedia products related to one of the domains of athletic training. No more than five hours per renewal period shall be allowed.

(i) No credit shall be granted for making any repeated presentations of the same subject matter.

(j) No credit shall be granted for reiteration of material or information obtained from attendance at a continuing education program.

(k) To provide evidence of satisfactory completion of continuing education, the following shall be submitted to the board:

(1) Documented evidence of attendance at category A and category D activities;

(2) proof of participation in category B activities, which shall include a copy of any professional publication or documentation of any presentation;

(3) receipt and verification of completion of approved self-instruction from home study courses;

(4) a copy of each transcript or grade report for category C activities; and

(5) personal verification of listening to or viewing continuing education program videotapes, audiotapes, or other multimedia products, as described in paragraph (h)(4)(B). (Authorized by K.S.A. 65-6905; implementing K.S.A. 65-6905 and 65-6909; effective Jan. 9, 1998; amended Nov. 15, 2002; amended Sept. 9, 2005; amended May 15, 2009; amended Jan. 10, 2020.)

**100-69-12. Application.** (a) Each applicant for licensure as an athletic trainer shall submit a completed application on a form provided by the board. The application shall include the following information in legible writing:

- (1) The applicant's full name;
- (2) the applicant's mailing address. If the applicant's mailing address is different from the applicant's residential address, the applicant shall also provide the residential address;
- (3) the applicant's social security number, driver's license number, nondriver identification number, or individual tax identification number if the applicant is advised that providing a social security number is voluntary pursuant to K.S.A. 74-139 and 74-148, and amendments thereto, and that if the social security number is provided, the agency may provide this number to the Kansas department of social and rehabilitation services for child support enforcement purposes and to the Kansas department of revenue's director of taxation;
- (4) information on any licenses, registrations, or certifications issued to the applicant to practice any health care profession;
- (5) information on any prior acts constituting unprofessional conduct, as defined in K.A.R. 100-69-7, that could constitute grounds for denial of the application;
- (6) the applicant's daytime telephone number;
- (7) the applicant's date and place of birth;
- (8) the name of each educational program recognized under K.A.R. 100-69-1 that the applicant attended, including the program from which the applicant graduated, the degree awarded to the applicant, and the date of graduation;
- (9) the number of times the applicant has taken the examination required by the board for licensure and the date that the applicant passed the examination; and
- (10) a notarized release authorizing the board to receive any relevant information, files, or records requested by the board in connection with the application.

(b) Each applicant shall submit the following with the application:

- (1) The fee required by K.A.R. 100-69-5;
  - (2) an official transcript that specifies the degree awarded from an educational program recognized by the board under K.A.R. 100-69-1;
  - (3) a verification on a form provided by the board of each license, registration, or certification issued to the applicant by any state or the District of Columbia relating to any health care profession;
  - (4) a current photograph, two by three inches in size, of the applicant's head and shoulders taken within 90 days before the date the application is received by the board; and
  - (5) evidence provided directly to the board from the testing entity recognized and approved under K.A.R. 100-69-3 that the applicant has passed the examination.
- (c) The applicant shall sign the application under oath and have the application notarized. (Authorized by K.S.A. 2008 Supp. 65-6905; implementing K.S.A. 2008 Supp. 65-6906; effective June 4, 2010.)

**Article 72.—NATUROPATHY**

**100-72-1. Fees.** The following fees shall be collected by the board:

(a) Application for registration .....	\$165.00
(b) registration renewal .....	\$125.00
(c) registration late renewal additional fee .....	\$20.00
(d) registration reinstatement .....	\$155.00
(e) certified copy of registration .....	\$15.00
(f) temporary registration .....	\$30.00
(g) acupuncture certification .....	\$20.00

(Authorized by K.S.A. 65-7203; implementing K.S.A. 65-7207 and K.S.A. 65-7213; effective, T-100-1-2-03, Jan. 2, 2003; effective May 23, 2003; amended, T-100-10-16-08, Oct. 16, 2008; amended Feb. 13, 2009.)

**100-72-2. Application.** (a) Each individual who desires to register as a naturopathic doctor shall submit an application on a form provided by the board. The form shall contain the following information:

- (1) The applicant's full name;
- (2) the applicant's social security number, individual tax identification number, driver's license number, or nondriver identification number, if the

applicant is advised that providing a social security number is voluntary pursuant to K.S.A. 74-139 and 74-148, and amendments thereto, and that if the social security number is provided, the agency may provide this number to the Kansas department of social and rehabilitation services for child support enforcement purposes and to the Kansas department of revenue's director of taxation;

(3) the applicant's mailing address. If the applicant's mailing address is different from the applicant's residential address, the applicant shall also provide the residential address;

(4) the applicant's date and place of birth;

(5) the applicant's daytime phone number;

(6) the names of all educational programs recognized under K.A.R. 100-72-4 that the applicant attended, including the program from which the applicant graduated, the degree awarded to the applicant, and the date of graduation;

(7) notarized certification that the applicant has completed a program in naturopathy from a postsecondary school recognized under K.A.R. 100-72-4;

(8) the issue date; state, territory, the District of Columbia, or other country of issuance; and the identifying number on any license, registration, or certification issued to the applicant to practice any health care profession;

(9) documentation of any prior acts constituting unprofessional conduct as defined in K.S.A. 65-7208, and amendments thereto, and K.A.R. 100-72-3;

(10) the number of times the applicant has taken the examination required by the board for licensure and the date the applicant passed the examination; and

(11) a notarized release authorizing the board to receive any relevant information, files, or records requested by the board in connection with the application.

(b) Each applicant shall submit the following with the application:

(1) The fee required by K.A.R. 100-72-1;

(2) an official transcript for the applicant from an educational program approved by the board, as provided in K.A.R. 100-72-4, that specifies the degree awarded to the applicant;

(3) a verification from each state, country, territory, or the District of Columbia where the applicant has been issued any license, registration, or certification to practice any health care profession;

(4) a photograph of the applicant measuring two inches by three inches and showing the head

and shoulder areas only. The photograph shall be taken within 90 days before the date of application; and

(5) evidence provided directly to the board from the testing entity recognized and approved under K.A.R. 100-72-5 that the applicant has passed the examination.

(c) The applicant shall sign the application under oath and shall have the application notarized. (Authorized by K.S.A. 65-7203; implementing K.S.A. 65-7203, 65-7204, and K.S.A. 2008 Supp. 65-7208; effective, T-100-1-2-03, Jan. 2, 2003; effective May 23, 2003; amended June 4, 2010.)

**100-72-7. Registration renewals; continuing education.** (a) Each registration initially issued or renewed by the board on or after January 1, 2009 and through December 31, 2009 shall expire on December 31, 2010.

(b) Each registration initially issued or renewed by the board on or after January 1, 2010 shall expire on December 31 of the year of issuance.

(c) Each registered naturopath who wishes to renew the registration shall meet the following requirements:

(1) Submit an application for renewal of registration and the registration renewal fee; and

(2) for the second and each subsequent renewal and for each renewal after reinstatement, submit evidence of satisfactory completion of at least 50 hours of continuing education since the registration was last renewed or was reinstated, whichever is more recent. At least 20 of these hours shall be taken in a professionally supervised setting, and not more than 30 of these hours may be taken in a non-supervised setting.

(d) Continuing education activities shall be designed to maintain, develop, or increase the knowledge, skills, and professional performance of persons registered to practice as a naturopathic doctor. All continuing education shall deal primarily with the practice of naturopathy. Each continuing education activity that occurs in a professionally supervised setting shall be presented by a provider.

(e) One hour shall mean 60 minutes of instruction or the equivalent.

(f) The content of each continuing education activity shall have a direct bearing on patient care.

(g) An activity occurring in a "professionally supervised setting" shall mean any of the following:

(1) Lecture, which means a discourse given before an audience for instruction;

(2) panel discussion, which means the presentation of a number of views by several professional individuals on a given subject;

(3) workshop, which means a series of meetings designed for intensive study, work, or discussion in a specific field of interest;

(4) seminar, which means directed, advanced study or discussion in a specific field of interest;

(5) symposium, which means a conference that consists of more than a single session and is organized for the purpose of discussing a specific subject from various viewpoints and by various speakers; or

(6) other structured, interactive, and formal learning methods approved by the board on a case-by-case basis.

(h) An activity occurring in a “non-supervised setting” shall mean any of the following:

(1) Teaching health-related courses to practicing naturopathic doctors or other health professionals;

(2) presenting a scientific paper to an audience of health professionals, or publishing a scientific paper in a medical or naturopathic journal;

(3) engaging in self-instruction, including journal reading and the use of television and other audiovisual materials;

(4) receiving instruction from a medical or naturopathic consultant;

(5) participating in programs concerned with review and evaluation of patient care;

(6) spending time in a self-assessment examination, not including examinations and quizzes published in journals; or

(7) engaging in meritorious learning experiences that provide a unique educational benefit to the registrant.

(i) To provide evidence of satisfactory completion of continuing education, each registrant shall submit the following to the board, as applicable:

(1) Documented evidence of attendance at each activity occurring in a professionally supervised setting; and

(2) proof of participation in each activity occurring in a non-supervised setting, which shall include a copy of any professional publication, the certification of a teaching activity, or the personal verification of any other activity occurring in a non-supervised setting. (Authorized by K.S.A. 65-7203; implementing K.S.A. 2007 Supp. 65-7209; effective, T-100-1-2-03, Jan. 2, 2003; effective Nov. 14, 2003; amended March 27, 2009.)

**Article 73.—RADIOLOGIC TECHNOLOGISTS**

**100-73-1. Fees.** The following fees shall be collected by the board:

- (a) Application for license ..... \$60.00
- (b) Annual renewal of license:
  - (1) Paper renewal..... \$50.00
  - (2) On-line renewal..... \$45.00
- (c) Late renewal of license:
  - (1) Paper late renewal..... \$55.00
  - (2) On-line late renewal..... \$50.00
- (d) Reinstatement of cancelled license... \$60.00
- (e) Certified copy of license ..... \$15.00
- (f) Temporary license..... \$25.00
- (g) Reinstatement of revoked license ... \$100.00

(Authorized by K.S.A. 2008 Supp. 65-7312; implementing K.S.A. 2008 Supp. 65-7308; effective, T-100-7-1-05, July 1, 2005; effective Sept. 23, 2005; amended Aug. 17, 2007; amended, T-100-6-2-09, June 2, 2009; amended Sept. 11, 2009.)

**100-73-2. Application.** (a) Each individual for licensure as a radiologic technologist shall submit an application on a form provided by the board. The form shall contain the following information in legible writing:

- (1) The applicant’s full name;
- (2) the applicant’s social security number, driver’s license number, nondriver identification number, or individual tax identification number if the applicant is advised that providing a social security number is voluntary pursuant to K.S.A. 74-139 and 74-148, and amendments thereto, and that if the social security number is provided, the agency may provide this number to the Kansas department of social and rehabilitation services for child support enforcement purposes and to the Kansas department of revenue’s director of taxation;
- (3) the applicant’s residence address and, if different from the residence address, the applicant’s current mailing address;
- (4) the applicant’s date and place of birth;
- (5) the names of all educational programs recognized under K.A.R. 100-73-2 that the applicant attended, including the program from which the applicant graduated, the degree received, and the date of graduation;
- (6) information on whether the applicant is currently certified or registered by any national organization; and

(7) for each license, registration, or certification issued to the applicant to practice any health care profession, the following information:

- (A) The date of issuance;
- (B) the identifying number on the license, registration, or certification; and
- (C) the place of issuance, specifying the state, country, or territory, or the District of Columbia; and

(8) documentation of any prior acts constituting unprofessional conduct as defined in K.S.A. 65-7313, and amendments thereto, and K.A.R. 100-73-6.

(b)(1) Each applicant shall submit the following with the application:

- (A) The fee required by K.A.R. 100-73-1;
- (B) an official transcript for the applicant from an educational program approved by the board, as specified in K.A.R. 100-73-3, that indicates the degree awarded to the applicant;

(C) a verification from each state or jurisdiction where the applicant has been issued any license, registration, or certification to practice any health care profession; and

(D) a photograph of the applicant measuring two inches by three inches and showing the head and shoulder areas only. The photograph shall be taken within 90 days of submission of the application for licensure.

(2) In addition to meeting the requirements specified in paragraph (1) of this subsection, each applicant shall have the testing entity specified in K.A.R. 100-73-4 provide evidence directly to the board that the applicant has passed the national certifying examination.

(c) Each applicant shall sign the application under oath and shall have the application notarized. (Authorized by K.S.A. 2009 Supp. 65-7312; implementing K.S.A. 2009 Supp. 65-7305; effective, T-100-7-1-05, July 1, 2005; effective Sept. 23, 2005; amended May 14, 2010.)

## Article 76.—ACUPUNCTURISTS

**100-76-1. Fees.** (a) The following fees shall be collected by the board:

- (1) Application for license ..... \$ 165.00
- (2) Annual renewal of active license:
  - (A) Paper renewal ..... \$ 150.00
  - (B) On-line renewal ..... \$ 125.00
- (3) Annual renewal of inactive license:
  - (A) Paper renewal ..... \$ 125.00
  - (B) On-line renewal ..... \$ 100.00
- (4) Annual renewal of exempt license:

- (A) Paper renewal ..... \$ 125.00
- (B) On-line renewal ..... \$ 100.00
- (5) Conversion from inactive to active license ..... \$ 75.00
- (6) Conversion from exempt to active license ..... \$ 75.00
- (7) Late renewal:
  - (A) Paper renewal ..... \$ 50.00
  - (B) On-line renewal ..... \$ 25.00
- (8) Application for reinstatement of canceled license ..... \$ 165.00
- (9) Application for reinstatement of revoked license ..... \$ 500.00
- (10) Certified copy of license ..... \$ 20.00
- (11) Written verification of license ..... \$ 20.00

(b) If a licensed acupuncturist's initial licensure period is six months or less before the first annual renewal period, the first annual renewal fee shall be prorated at \$10.00 per month for any full or partial month. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7611; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

### 100-76-2. Licensure by examination.

Each applicant for licensure by examination shall provide the following or the substantial equivalent of the following as determined by the board:

(a) Documentation of successful completion of the certification examination offered by the NCCAOM or an entity with standards equivalent to the standards of NCCAOM at the time the applicant completed the examination as determined by the board. The certification examination shall include the following components:

- (1) Foundations of oriental medicine;
- (2) acupuncture with point location; and
- (3) biomedicine, except that the biomedicine component of the examination shall not be required for any applicant who completed the NCCAOM certification, or its equivalent, before 2005; and

(b) a copy of a clean needle technique (CNT) certificate from the council of colleges of acupuncture and oriental medicine (CCAOM) or NCCAOM. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7606; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018; amended March 8, 2019.)

**100-76-3. Waiver of examination and education.** (a) Pursuant to K.S.A. 2017 Supp. 65-7608 and amendments thereto, certain license

prerequisites for education and examination shall be waived by the board for each applicant who submits an application on or before January 1, 2018 and provides the following:

(1) Proof that the applicant has completed at least 1,350 hours of curriculum-based study, an approved apprenticeship, or a tutorial program, or a combination of these, excluding on-line study, in the field of acupuncture. Proof of hours may be shown by successful completion of a curriculum-based program, an approved apprenticeship, or a tutorial program, or a combination of these, that meets the standards of the NCCAOM or any entity determined by the board to be the equivalent of the NCCAOM. To demonstrate successful completion of the requirements, the applicant shall submit the following:

(A)(i) Evidence that the apprenticeship preceptor either is licensed as an acupuncturist in the state in which the individual practices acupuncture or is a diplomate of acupuncture; and

(ii) a copy of the notes, records, or other documentation maintained by the preceptor conducting the apprenticeship or tutorial program providing evidence of the educational materials used in the apprenticeship and documenting the number of hours taught and the subjects covered; or

(B) an official school transcript;

(2) evidence of a current clean needle technique (CNT) certificate obtained from the CCAOM, NCCAOM, or any entity determined to be the equivalent by the board; and

(3) proof that the applicant has been engaged in the practice of acupuncture and has had at least 1,500 patient visits in three of the last five years. The applicant shall provide any of the following for the board's review:

(A) Affidavits from at least two people who have practiced acupuncture with the applicant, including office partners, clinic supervisors, and any other individuals approved by the board;

(B) a copy of each continuing education certificate obtained within the last three years;

(C) a copy of the applicant's patient appointment books; or

(D) a copy of the applicant's patient charts.

(b) Each applicant shall provide any additional documentation requested by the board. (Authorized by K.S.A. 2017 Supp. 65-7608 and 65-7615; implementing K.S.A. 2017 Supp. 65-7608; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

**100-76-4. Exempt license; description of professional activities.** (a) Each person applying for an exempt license shall specify on the application all professional activities related to the practice of acupuncture that the person will perform if issued an exempt license.

(b) The professional activities performed by each individual holding an exempt license shall be limited to the following:

(1) Performing administrative functions, including peer review, utilization review, and expert opinions; and

(2) providing direct patient care services gratuitously or providing supervision, direction, or consultation for no compensation. Nothing in this subsection shall prohibit an exempt license holder from receiving payment for subsistence allowances or actual and necessary expenses incurred in providing these services.

(c) Each person holding an exempt license shall, at the time of license renewal, specify on the renewal application all professional activities related to the practice of acupuncture that the person will perform during the renewal period.

(d) Each person who requests modification of the professional activities on that person's application or renewal application for an exempt license shall notify the board of the modification within 30 days. The request for modification shall be submitted on a form provided by the board.

(e) Each licensed acupuncturist who has held an exempt license for less than two years and requests an active license designation shall submit evidence of satisfactory completion of at least 15 contact hours of continuing education within the preceding one-year period, as specified in K.A.R. 100-76-6.

(f) Each violation of subsection (a), (c), or (d) shall constitute prima facie evidence of unprofessional conduct pursuant to K.S.A. 2017 Supp. 65-7616, and amendments thereto. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7609 and 65-7616; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

**100-76-5. Professional liability insurance; active license.** (a) Each person applying for an active license in acupuncture shall submit to the board, with the application, evidence that the person has obtained the professional liability insurance coverage required by K.S.A. 2017 Supp. 65-7609, and amendments thereto, for which the

limit of the insurer's liability is at least \$200,000 per claim, subject to an annual aggregate of at least \$600,000 for all claims made during the period of coverage.

(b) Each licensed acupuncturist with an active license designation shall submit to the board, with the annual application for license renewal, evidence that the licensee has continuously maintained and currently holds the professional liability insurance coverage specified in subsection (a).

(c) Each licensed acupuncturist who submits an application for change of designation to active license designation shall submit to the board, with the application, evidence that the licensee currently holds the professional liability insurance coverage specified in subsection (a). (Authorized by K.S.A. 2017 Supp. 65-7609 and 65-7615; implementing K.S.A. 2017 Supp. 65-7609; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

**100-76-6. Continuing education.** (a) Each licensee shall complete at least 30 contact hours of approved continuing education within the 24 months preceding each renewal date in an even-numbered year, except as specified in subsection (b).

(b) A licensee initially licensed less than 12 months before a renewal date when continuing education is required shall not be required to submit evidence of completion of the continuing education required by subsection (a) for the first renewal period. Each licensee initially licensed more than one year but less than two years before a renewal date when continuing education is required shall complete at least 15 contact hours of approved continuing education within the licensure period.

(c) Each licensee shall maintain evidence of successful completion of all continuing education activities for five years from the date of completion of the activity. Evidence of successful completion of the continuing education activities required by subsections (a) and (b) may be requested by the board.

(d) Upon request by a licensee, an extension of up to six months may be granted by the board if the licensee cannot meet the requirements of subsection (a) or (b) due to a substantiated medical condition, natural disaster, death of a spouse or an immediate family member, or any other similar circumstance that renders the licensee incapable of meeting the requirements of subsection (a) or (b). Each request shall include a plan for completing the required continuing education activities.

(e) A contact hour shall consist of 50 minutes of approved continuing education activities. Meals and breaks shall not be included in the calculation of contact hours.

(f) All continuing education activities shall be related to the practice of acupuncture and shall pertain to any of the following:

- (1) Clinical skills;
- (2) clinical techniques;
- (3) educational principles when providing service to patients, families, health professionals, health professional students, or the community;
- (4) health care and the health care delivery system;
- (5) problem solving, critical thinking, medical recordkeeping, and ethics;
- (6) policy;
- (7) biomedical science; or
- (8) research.

(g) Continuing education activities shall consist of the following:

(1) Offerings. "Offerings" shall mean any offerings approved by the NCCAOM, by NCCAOM state affiliates, or by an entity with standards substantially equivalent to the standards of the NCCAOM as determined by the board or any other offerings approved by the board, subject to the limitation specified in paragraph (g)(9)(A).

(2) Lecture. "Lecture" shall mean a live discourse for the purpose of instruction given before an audience.

(3) Panel. "Panel" shall mean the presentation of multiple views by several professional individuals on a given subject, with none of the views considered a final solution.

(4) Workshop. "Workshop" shall mean a series of meetings designed for intensive study, work, or discussion in a specific field of interest.

(5) Seminar. "Seminar" shall mean directed advanced study or discussion in a specific field of interest.

(6) Symposium. "Symposium" shall mean a conference of more than a single session organized for the purpose of discussing a specific subject from various viewpoints and by various speakers.

(7) In-service training. "In-service training" shall mean an educational presentation given to employees during the course of employment that pertains solely to the enhancement of acupuncture skills in the evaluation, assessment, or treatment of patients.

(8) Administrative training. "Administrative training" shall mean a presentation that enhances

the knowledge of an acupuncturist on the topic of quality assurance, risk management, reimbursement, statutory requirements, or claim procedures.

(9) Self-instruction. “Self-instruction” shall mean either of the following:

(A) Reading professional literature. A maximum of four contact hours for each continuing education cycle shall be awarded. Each licensee shall maintain a log of all professional literature read as a continuing education activity; or

(B) completion of a correspondence, audio, video, or internet course approved by the NCCAOM, by NCCAOM state affiliates, or by an entity with standards substantially equivalent to the standards of the NCCAOM as determined by the board or any other continuing education offerings approved by the board, for which a printed verification of successful completion is provided by the person or organization offering the course.

(10) Continuing education activity presentation. “Continuing education activity presentation” shall mean the preparation and presentation of a continuing education activity that meets the requirements of this subsection. Three contact hours shall be awarded for each hour spent presenting.

(h) No contact hours shall be awarded for any continuing education activity that is repeated within a 48-month period. (Authorized by K.S.A. 65-7615; implementing K.S.A. 65-7609; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018; amended Nov. 13, 2020.)

**100-76-7. Unprofessional conduct; definitions.** Each of the following terms, as used in K.S.A. 2017 Supp. 65-7616 and amendments thereto and this article of the board’s regulations, shall have the meaning specified in this regulation:

(a) “Unprofessional conduct” shall mean any of the following:

(1) Soliciting patients through the use of fraudulent or false advertisements or profiting by the acts of those representing themselves to be agents of the licensee;

(2) representing to a patient that a manifestly incurable disease, condition, or injury can be permanently cured;

(3) assisting in the care or treatment of a patient without the consent of the patient or the patient’s legal representative;

(4) using any letters, words, or terms as an affix on stationery or in advertisements or otherwise indicating that the person is entitled to practice any profession regulated by the board or any other

state licensing board or agency for which the person is not licensed;

(5) willful betrayal of confidential information;

(6) advertising professional superiority or the performance of professional services in a superior manner;

(7) advertising to guarantee any professional service or to perform any professional service painlessly;

(8) engaging in conduct related to the practice of acupuncture that is likely to deceive, defraud, or harm the public;

(9) making a false or misleading statement regarding the licensee’s skill or the efficacy or value of the treatment or remedy prescribed by the licensee or at the licensee’s direction, in the treatment of any disease or other condition of the body or mind;

(10) commission of any act of sexual abuse, misconduct, or other improper sexual contact that exploits the licensee-patient relationship, with a patient or a person responsible for health care decisions concerning the patient;

(11) using any false, fraudulent, or deceptive statement in any document connected with the practice of acupuncture, including the intentional falsifying or fraudulent altering of a patient record;

(12) obtaining any fee by fraud, deceit, or misrepresentation;

(13) failing to transfer a patient’s records to another licensee when requested to do so by the patient or by the patient’s legally designated representative;

(14) performing unnecessary tests, examinations, or services that have no legitimate purpose;

(15) charging an excessive fee for services rendered;

(16) repeated failure to engage in the practice of acupuncture with that level of care, skill, and treatment that is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances;

(17) failure to keep written medical records that accurately describe the services rendered to each patient, including patient histories, pertinent findings, examination results, and test results;

(18) delegating professional responsibilities to a person if the licensee knows or has reason to know that the person is not qualified by training, experience, or licensure to perform those professional responsibilities;

(19) failing to properly supervise, direct, or delegate acts that constitute the practice of acupunc-

ture to persons who perform professional services pursuant to the licensee's direction, supervision, order, referral, delegation, or practice protocols;

(20) committing fraud or misrepresentation in applying for or securing an original, renewal, or reinstated license;

(21) willfully or repeatedly violating the act, any implementing regulations, or any regulations of the secretary of health and environment that govern the practice of acupuncture;

(22) unlawfully practicing any profession regulated by the board in which the licensed acupuncturist is not licensed to practice;

(23) failing to report or reveal the knowledge required to be reported or revealed pursuant to K.S.A. 2017 Supp. 65-7621, and amendments thereto;

(24) failing to furnish the board, or its investigators or representatives, any information legally requested by the board;

(25) incurring any sanction or disciplinary action by a peer review committee, a governmental agency or department, or a professional association or society for conduct that could constitute grounds for disciplinary action under the act or this article of the board's regulations;

(26) failing to maintain a policy of professional liability insurance as required by K.S.A. 2017 Supp. 65-7609, and amendments thereto, and K.A.R. 100-76-5;

(27) knowingly submitting any misleading, deceptive, untrue, or fraudulent representation on a claim form, bill, or statement;

(28) giving a worthless check or stopping payment on a debit or credit card for fees or moneys legally due to the board;

(29) knowingly or negligently abandoning medical records;

(30) engaging in conduct that violates patient trust and exploits the licensee-patient relationship for personal gain; or

(31) obstructing a board investigation, including engaging in one or more of the following acts:

(A) Falsifying or concealing a material fact;

(B) knowingly making or causing to be made any false or misleading statement or writing; or

(C) committing any other acts or engaging in conduct likely to deceive or defraud the board.

(b) "Advertisement" shall mean all representations disseminated in any manner or by any means that are for the purpose of inducing or that are likely to induce, directly or indirectly, the purchase of professional services.

(c) "False advertisement" shall mean any advertisement that is false, misleading, or deceptive in a material respect. In determining whether any advertisement is misleading, the following shall be taken into account:

(1) Representations made or suggested by statement, word, design, device, or sound, or any combination of these; and

(2) the extent to which the advertisement fails to reveal facts material in the light of the representations made. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7616; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

**100-76-8. Professional incompetency; definition.** As used in K.S.A. 2017 Supp. 65-7616 and amendments thereto and this article of the board's regulations, professional incompetency shall mean any of the following:

(a) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;

(b) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or

(c) a pattern of practice or other evidence of incapacity or incompetence to engage in the practice of acupuncture. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7616; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

**100-76-9. Patient records; adequacy.** (a) Each licensed acupuncturist shall maintain an adequate record for each patient for whom the licensee performs a professional service.

(b) Each patient record shall meet the following requirements:

(1) Be legible;

(2) contain only those terms and abbreviations that are or should be comprehensible to similar licensees;

(3) contain adequate identification of the patient;

(4) indicate the date on which each professional service was provided;

(5) contain all clinically pertinent information concerning the patient's condition;

(6) document what examinations, vital signs, and tests were obtained, performed, or ordered and the findings and results of each;

(7) specify the patient's initial reason for seeking the licensee's services and the initial diagnosis;

(8) specify the treatment performed or recommended;

(9) document the patient's progress during the course of treatment provided by the licensee; and

(10) include all patient records received from other health care providers, if those records formed the basis for a treatment decision by the licensee.

(c) Each entry shall be authenticated by the person making the entry, unless the entire patient record is maintained in the licensee's own handwriting.

(d) Each patient record shall include any writing intended to be a final record, but shall not require the maintenance of rough drafts, notes, other writings, or recordings once this information is converted to final form. The final form shall accurately reflect the care and services rendered to the patient.

(e) For purposes of the act and this regulation, an electronic patient record shall be deemed to be a written patient record if both of the following conditions are met:

(1) Each entry in the electronic record is authenticated by the licensee.

(2) No entry in the electronic record can be altered after authentication. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7616; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

**100-76-10. Release of records.** (a) Each licensed acupuncturist shall, upon receipt of a signed release from a patient, furnish a copy of the patient record to the patient, to another licensee designated by the patient, or to the patient's legally designated representative, unless withholding records is permitted by law or furnishing records is prohibited by law.

(b) Any licensee may charge a person or entity for the reasonable costs to retrieve or reproduce a patient record. A licensee shall not condition the furnishing of a patient record to another licensee upon prepayment of these costs.

(c) Each violation of this regulation shall constitute prima facie evidence of unprofessional conduct pursuant to K.S.A. 2017 Supp. 65-7616, and amendments thereto. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7616; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

**100-76-11. Free offers.** Each licensed acupuncturist who offers to perform a free examination, service, or procedure for a patient shall perform only the examination, service, or procedure specified in the offer. Before any additional examination, service, or procedure is performed, the licensee shall explain the nature and purpose of the examination, service, or procedure and specifically disclose to the patient, to the greatest extent possible, the cost of the additional examination, service, or procedure. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7616; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

**100-76-12. Business transactions with patients; unprofessional conduct.** (a) Non-health-related goods or services. A licensed acupuncturist offering to sell a non-health-related product or service to a patient from a location at which the licensee regularly engages in the practice of acupuncture shall have engaged in unprofessional conduct, unless otherwise allowed by this subsection. A licensed acupuncturist shall not have engaged in unprofessional conduct by offering to sell a non-health-related product or service if all of the following conditions are met:

(1) The sale is for the benefit of a public service organization.

(2) The sale does not directly or indirectly result in financial gain to the licensee.

(3) No patient is unduly influenced to make a purchase.

(b) Business opportunity. A licensed acupuncturist shall have engaged in unprofessional conduct if all of the following conditions are met:

(1) The licensee recruits or solicits a patient either to participate in a business opportunity involving the sale of a product or service or to recruit or solicit others to participate in a business opportunity.

(2) The sale of the product or service directly or indirectly results in financial gain to the licensee.

(3) The licensee recruits or solicits the patient at any time that the patient is present in a location at which the licensee regularly engages in the practice of acupuncture. (Authorized by K.S.A. 2017 Supp. 65-7615; implementing K.S.A. 2017 Supp. 65-7616; effective, T-100-9-21-17, Sept. 21, 2017; effective Jan. 12, 2018.)

## Article 77.—TELEMEDICINE

**100-77-1. Definitions.** Each of the following terms, as used in this article of the board's regu-

lations, shall have the meaning specified in K.S.A. 2018 Supp. 40-2,211, and amendments thereto:

- (a) “Distant site”;
- (b) “healthcare provider”;
- (c) “originating site”;
- (d) “physician”; and
- (e) “telemedicine,” including “telehealth.” (Authorized by and implementing K.S.A. 2018 Supp. 40-2,214; effective, T-100-12-28-18, Dec. 28, 2018; effective May 10, 2019.)

**100-77-2. Telemedicine deemed rendered at location of patient.** For the purposes of this article of the board’s regulations, the delivery of healthcare services shall be deemed to occur at the originating site. (Authorized by and implementing K.S.A. 2018 Supp. 40-2,214; effective, T-100-12-28-18, Dec. 28, 2018; effective May 10, 2019.)

**100-77-3. Prescribing drugs by means of telemedicine.** The same laws and regulations that apply to a healthcare provider prescribing drugs, including controlled substances, by means of in-person contact with a patient shall apply to prescribing drugs, including controlled substanc-

es, by means of telemedicine. (Authorized by and implementing K.S.A. 2018 Supp. 40-2,214; effective, T-100-12-28-18, Dec. 28, 2018; effective May 10, 2019.)

**Article 78.—BUSINESS ENTITIES**

**100-78-1. Business entity certificate of authorization; expiration date.** Each business entity certificate of authorization issued by the board shall expire on June 30 of each year, beginning June 30, 2021. (Authorized by and implementing K.S.A. 2019 Supp. 65-28,134; effective, T-100-2-28-20, March 1, 2020; effective May 15, 2020.)

**100-78-2. Fees.** The following fees shall be collected by the board:

- (a) Application for business entity certificate of authorization ..... \$1,000.00
- (b) Annual renewal of business entity certificate of authorization ..... \$1,000.00

(Authorized by and implementing K.S.A. 2019 Supp. 65-28,134; effective, T-100-2-28-20, March 1, 2020; effective May 15, 2020.)



## Agency 102

# Behavioral Sciences Regulatory Board

### Articles

- 102-1. CERTIFICATION OF PSYCHOLOGISTS.
- 102-2. LICENSING OF SOCIAL WORKERS.
- 102-3. PROFESSIONAL COUNSELORS; FEES.
- 102-4. MASTER'S LEVEL PSYCHOLOGISTS.
- 102-5. LICENSING OF MARRIAGE AND FAMILY THERAPISTS.
- 102-6. REGISTERED ALCOHOL AND OTHER DRUG ABUSE COUNSELORS.
- 102-7. LICENSING OF ADDICTION COUNSELORS.
- 102-8. APPLIED BEHAVIOR ANALYSIS.

### Article 1.—CERTIFICATION OF PSYCHOLOGISTS

**102-1-8a. Renewal audit.** (a) A random audit of the continuing education documentation for 10 percent of the psychologist licenses expiring during each license renewal period shall be conducted by the board.

(b) Each licensee selected for the random audit shall be notified in writing after the board has received the psychologist's renewal application form required by K.A.R. 102-1-8.

(c) Upon board notification, each renewal applicant for a psychologist license shall submit the following to the board within 30 days after the license expiration date:

- (1) The completed renewal audit forms; and
- (2) the original continuing education documents that validate all continuing education units claimed for credit during the current renewal period.

(d) Continuing education units that a renewal applicant for a psychologist license earns after board receipt of the renewal application form shall not be approved for continuing education credit for the current renewal period.

(e) Failure to comply with this regulation shall be considered unprofessional conduct. (Authorized by and implementing K.S.A. 74-5318 and K.S.A. 2007 Supp. 74-7507; effective Feb. 13, 2009.)

**102-1-13. Fees.** (a) Each applicant for licensure as a psychologist shall pay the appropriate fee as follows:

- (1) Application for a license, \$175;
- (2) original license, \$50;
- (3) renewal, \$150;

- (4) duplicate license, \$20;
- (5) temporary license, \$100;
- (6) temporary license renewal fee, \$100;
- (7) temporary, 15-day permit for an out-of-state licensed independent psychologist, \$200; or
- (8) temporary, 15-day permit for an out-of-state licensed independent psychologist extension, \$200.

(b) Each applicant for a license renewal after its expiration date shall pay an additional fee of \$150, as well as the renewal fee of \$150.

(c) Each applicant for reinstatement of a license that has been revoked by the board shall pay a fee of \$200.

(d) Fees paid to the board shall not be refundable. (Authorized by K.S.A. 74-5316, K.S.A. 74-5316a, K.S.A. 74-5318, K.S.A. 74-5339, and K.S.A. 74-7507; implementing K.S.A. 74-5310, K.S.A. 74-5310a, K.S.A. 74-5315, K.S.A. 74-5316, K.S.A. 74-5316a, K.S.A. 74-5318, and K.S.A. 74-5339; effective May 1, 1984; amended, T-85-35, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1987; amended, T-102-5-1-90, May 1, 1990; amended June 11, 1990; amended, T-102-11-29-90, Nov. 29, 1990; amended Jan. 21, 1991; amended Aug. 23, 1993; amended Aug. 4, 1995; amended Oct. 24, 1997; amended July 1, 2005; amended, T-102-7-2-07, July 2, 2007; amended Nov. 30, 2007; amended, T-102-6-26-09, June 26, 2009; amended Oct. 9, 2009; amended March 8, 2019.)

**102-1-18. Designation of referral source for use in the diagnosis and treatment of mental disorders.** The "diagnostic and statistical manual of mental disorders," fifth edition, published by the American psychiatric association, shall be designated as the manual to diagnose and treat mental disorders. (Authorized by K.S.A. 74-

5302 and K.S.A. 74-7507; implementing K.S.A. 74-5302; effective Oct. 27, 2000; amended April 22, 2005; amended March 15, 2019.)

**Article 2.—LICENSING OF SOCIAL WORKERS**

**102-2-3. Fees.** (a) Each applicant for a new social work license shall pay the appropriate application fee as follows:

- (1) Licensed baccalaureate social worker (LBSW): \$50;
- (2) licensed master social worker (LMSW): \$50;
- (3) licensed specialist clinical social worker (LSCSW): \$50;
- (4) temporary license fee: \$50;
- (5) temporary, 15-day permit for an out-of-state licensed independent clinical social worker: \$200; and
- (6) temporary, 15-day permit for an out-of-state licensed independent clinical social worker extension: \$200.

(b) Each applicant for a new social work license shall pay the appropriate original license fee as follows:

- (1) Licensed baccalaureate social worker (LBSW): \$100;
- (2) licensed master social worker (LMSW): \$150; and
- (3) licensed specialist clinical social worker (LSCSW): \$150.

(c) Each applicant for license renewal shall pay the applicable fee as follows:

- (1) Licensed associate social worker (LASW): \$50;
- (2) licensed baccalaureate social worker (LBSW): \$50;
- (3) licensed master social worker (LMSW): \$75; and
- (4) licensed specialist clinical social worker (LSCSW): \$100.

(d) Each applicant for license reinstatement after the date of its expiration shall pay, in addition to the renewal fee, the applicable penalty fee as follows:

- (1) Licensed associate social worker (LASW): \$50;
- (2) licensed baccalaureate social worker (LBSW): \$50;
- (3) licensed master social worker (LMSW): \$75; and
- (4) licensed specialist clinical social worker (LSCSW): \$100.

(e) The fee for a replacement license shall be \$20, and the fee for a replacement wallet card license shall be \$2.

(f) Each provider of continuing education programs shall pay the applicable fee as follows:

- (1) One-year, provisional approved provider application fee: \$100;
- (2) three-year approved provider renewal fee: \$250; and
- (3) single-program provider fee: \$50.

(g) Fees paid to the board shall not be refundable. (Authorized by K.S.A. 65-6309a, 65-6314, and 74-7507; implementing K.S.A. 65-6309a, 65-6313, and 65-6314; effective May 1, 1982; amended, T-86-20, July 1, 1985; amended May 1, 1986; amended, T-87-10, July 1, 1986; amended May 1, 1987; amended, T-102-10-17-89, Oct. 17, 1989; amended, T-102-11-29-90, Nov. 29, 1990; amended Jan. 21, 1991; amended June 12, 1995; amended Aug. 4, 1995; amended Aug. 4, 2000; amended March 8, 2002; amended July 1, 2005; amended, T-102-7-2-07, July 2, 2007; amended Nov. 30, 2007; amended April 2, 2010; amended March 8, 2019.)

**102-2-8. Supervision.** (a) Supervision of nonlicensed social work service providers who participate in the delivery of social work services.

(1) Social work consultation shall not meet the supervision requirements for any nonlicensed social work service provider.

(2) Each licensee supervising one or more nonlicensed individuals who participate in the delivery of social work services shall specifically delineate the duties of each non-licensed individual and provide a level of supervision that is consistent with the training and ability of the nonlicensed social work service provider.

(3) Each licensee supervising one or more nonlicensed persons who participate in the delivery of social work services shall develop a written agreement. The agreement shall consist of specific goals and objectives, the means to attain the goals, and the manner in which the goals relate to the overall objective for supervision of the nonlicensed social work service provider. The licensee shall maintain the following documentation associated with the written agreement:

- (A) A copy of the written agreement signed by both the licensee and the nonlicensed person;
- (B) a summary of the types of clients and situations dealt with at each supervisory session;
- (C) a written explanation of the relationship of

the goals and objectives of supervision to each supervisory session; and

(D) the length of time spent in each supervisory session.

(4) The supervisor shall provide no fewer than four hours of supervision per month for each supervisee.

(5) The supervisor shall not have a dual relationship with the supervisee.

(b) Supervision of nonlicensed student social work service providers.

(1) Social work consultation shall not meet the supervision requirements for any nonlicensed student social work service provider.

(2) Each licensee supervising one or more nonlicensed students in the delivery of social work services shall specifically delineate each student's duties and provide a level of supervision consistent with the training and ability of each student.

(3) Each licensee supervising one or more nonlicensed students who participate in the delivery of social work services shall develop a written agreement for each student that is consistent with the requirements of the student's academic social work program.

(4) The supervisor shall not have a dual relationship with the supervisee.

(c) Supervision of holders of temporary social work licenses.

(1) Social work consultation shall not meet the supervision requirements for any holder of a temporary social work license.

(2) Each licensee supervising one or more individuals who hold a temporary social work licensure permit shall specifically delineate the duties of each temporary license holder and provide a level of supervision consistent with the training and ability of each individual.

(3) Each licensee supervising a temporary social work license holder and that individual shall develop a written agreement. This agreement shall consist of specific goals and objectives, the means to attain the goals, and the manner in which the goals relate to the overall objective for supervision of that person. The licensee shall maintain the following documentation associated with the written agreement:

(A) A copy of the written agreement signed by both the licensee and the temporary social work license holder;

(B) a summary of the types of clients and situations dealt with at each supervisory session;

(C) a written explanation of the relationship of

the goals and objectives of supervision to each supervisory session; and

(D) the length of time spent in each supervisory session.

(4) A minimum of one hour of supervision shall be provided for each 40 hours of service delivery.

(5) The supervisor shall not have a dual relationship with the supervisee.

(d) Supervision of persons engaged in private practice or persons seeking licensure as a specialist clinical social worker.

(1) A licensed specialist clinical social worker shall supervise the practice or delivery of social work services by the following persons:

(A) Any licensee who is attaining the two years of supervised experience required for licensure as a specialist clinical social worker; and

(B) any licensee who is not a licensed specialist clinical social worker and who is engaged in private practice.

(2) Any person attaining the supervised experience required for licensure as a specialist clinical social worker may be supervised by a social worker who is licensed as a clinical social worker authorized to engage in the private, independent practice of social work in another state and who is otherwise qualified.

(3) Supervisor qualifications. To qualify as a supervisor, a licensed specialist clinical social worker shall fulfill these requirements:

(A) Have practiced as a specialist clinical social worker, in a position that included assessment, diagnoses, and psychotherapy, for two years beyond the date of clinical licensure. This requirement shall apply to each individual commencing a new supervisory relationship on or after April 15, 2009;

(B) have, in full or in part, professional responsibility for the supervisee's practice of social work or delivery of social work services;

(C) not have a dual relationship with the supervisee;

(D) not be under sanction from a disciplinary proceeding, unless this prohibition is waived by the board for good cause shown by the proposed supervisor;

(E) have knowledge of and experience with the supervisee's client population;

(F) have knowledge of and experience with the methods of practice that the supervisee employs;

(G) have an understanding of the organization and administrative policies and procedures of the supervisee's practice setting; and

(H) be a member of the staff for that practice setting or meet the requirements of paragraph (d)(4).

(4) If a qualified supervisor is not available from among staff in the supervisee's practice setting, the supervisee may secure an otherwise qualified supervisor outside of the practice setting if all of the following conditions are met:

(A) The supervisor has a complete understanding of the practice setting's mission, policy, and procedures.

(B) The extent of the supervisor's responsibility for the supervisee is clearly defined with respect to client cases to be supervised, the supervisor's role in personnel evaluation within the practice setting, and other aspects of the clinical supervision training plan.

(C) The responsibility for payment for supervision is clearly defined.

(D) If the supervisee pays the supervisor directly for the supervision, the supervisor maintains responsibility to the client and to the practice setting.

(E) The parameters of client confidentiality are clearly defined and agreed to by the client.

(5) Supervisory duties. Each social work practice supervisor shall perform these duties:

(A) Meet in person or by videoconferencing according to K.A.R. 102-2-12(c)(4) with the supervisee for clinical supervision throughout the postgraduate supervised professional experience at a ratio of a minimum of one hour of clinical supervision for every 20 hours of direct, face-to-face client contact, with a maximum of two hours of supervision allowed for each 20 hours of clinical social work practice to be counted toward licensure requirements;

(B) meet with not more than four supervisees at a time in the supervisory meetings;

(C) provide oversight, guidance, and direction of the supervisee's practice of social work or delivery of social work services by assessing and evaluating the supervisee's performance;

(D) conduct supervision as a process distinct from personal therapy, didactic instruction, or social work consultation;

(E) ensure that the scope of the supervisor's own responsibility and authority in the practice setting has been clearly and expressly defined;

(F) provide documentation of supervisory qualifications to the supervisee;

(G) periodically evaluate the supervisee's role, use of a theoretical base, and use of social work principles;

(H) provide supervision in accordance with the written clinical supervision training plan;

(I) maintain documentation of supervision;

(J) provide the documentation required by the board upon a supervisee's application for licensure in sufficient detail to enable the board to evaluate the extent and quality of the supervisee's supervised experience;

(K) provide a level of supervision that is consistent with the education, training, experience, and ability of the supervisee; and

(L) ensure that each client knows that the supervisee is practicing social work or participating in the delivery of social work services under supervision.

(6) Clinical supervision training plan. Each supervisor and supervisee shall develop and co-sign a written clinical supervision training plan at the beginning of the supervisory relationship. The supervisee shall submit an official position description and the training plan to the board and shall receive board approval of the plan before any supervised professional experience hours for clinical licensure can begin to accrue. This plan shall clearly define and delineate the following items:

(A) The supervisory context, which shall include the purpose of supervision;

(B) a summary of the types of clients with whom and the situations in which the supervisee will typically work, as evidenced by the supervisee's official position description;

(C) a plan that describes the supervision goals and objectives, the means to attain and evaluate progress towards the goals, and the manner in which the goals relate to the overall objective of supervision;

(D) the format and schedule for supervision;

(E) the supervisor's responsibilities;

(F) the supervisee's responsibilities;

(G) the plans for both the supervisee's and supervisor's documentation of the date, length, method, content, and format of each supervisory meeting and the supervisee's progress toward the learning goals;

(H) the plans for documenting the 4,000 hours of postgraduate supervised clinical social work experience, which shall include specifically documenting the 1,500 hours of direct client contact providing psychotherapy and assessment;

(I) the plan for notifying clients of the following information:

(i) The fact that the supervisee is practicing social work or participating in the delivery of social work services under supervision;

(ii) the limits of client confidentiality within the supervisory process; and

(iii) the name, address, and telephone number of the supervisor or other person with administrative authority over the supervisee;

(J) a plan to address and remedy circumstances in which there is a conflict between the supervisor and the supervisee;

(K) the date on which the supervisor and supervisee entered into the clinical supervision training plan, the time frame that the plan is intended to encompass, and the process for termination of the supervisory relationship by either party;

(L) the steps for amending or renegotiating the clinical supervision training plan, if warranted, including written notification of these changes to the board office as provided in paragraph (d)(7); and

(M) a statement identifying the person who is responsible for payment, the terms of payment, and the mutual obligations and rights of each party with respect to compensation, if there is any compensation for supervisory services.

(7) Revision of the clinical supervision training plan. All changes to the clinical supervision training plan shall be submitted by the supervisee to the board for its approval. The changes shall be submitted no more than 45 days after the date on which the changes took effect. If the supervisee fails to submit the changes to the board within that 45-day period, no supervised hours of practice shall be accrued or credited for any practice, beginning on the date the changes took effect through the date on which the changes to the plan are approved by the board. (Authorized by K.S.A. 2007 Supp. 74-7507; implementing K.S.A. 65-6303, 65-6306, 65-6308, K.S.A. 2007 Supp. 65-6309 and 74-7507; effective, T-85-36, Dec. 19, 1984; effective May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended Feb. 25, 1991; amended Oct. 24, 1997; amended Aug. 4, 2000; amended Aug. 13, 2004; amended April 22, 2005; amended Feb. 13, 2009.)

**102-2-11a. Renewal audit.** (a) A random audit of the continuing education documentation for 10 percent of the social worker licenses expiring each month shall be conducted by the board.

(b) Each licensee selected for the random audit shall be notified in writing after the board has received the social worker's renewal application form required by K.A.R. 102-2-11.

(c) Upon board notification, each renewal applicant for a social worker license shall submit the

following to the board within 30 days after the license expiration date:

(1) The completed renewal audit forms; and

(2) the original continuing education documents that validate all continuing education units claimed for credit during the current renewal period.

(d) Continuing education units that a renewal applicant for a social worker license earns after board receipt of the renewal application form shall not be approved for continuing education credit for the current renewal period.

(e) Failure to comply with this regulation shall be considered unprofessional conduct. (Authorized by K.S.A. 2007 Supp. 74-7507; implementing K.S.A. 2007 Supp. 65-6313, K.S.A. 65-6317, and K.S.A. 2007 Supp. 74-7507; effective Feb. 13, 2009.)

**102-2-12. Licensed specialist clinical social work licensure requirements.** (a) Educational requirements. In order for an applicant who earns a degree before July 1, 2003 to qualify for licensure as a licensed specialist clinical social worker, the applicant shall meet, as a part of or in addition to the educational requirements provided in K.S.A. 65-6306, and amendments thereto, the following educational requirements:

(1) Satisfactory completion of at least three graduate academic hours in a discrete academic course whose primary and explicit focus is upon psychopathology and the diagnosis and treatment of mental disorders classified in the diagnostic manuals commonly used as a part of accepted social work practice;

(2) satisfactory completion of a graduate-level, clinically oriented social work practicum that fulfills these requirements:

(A) Is taken after completion of the graduate-level, clinically focused academic courses that are prerequisite to entering the clinical practicum;

(B) is an integrated, conceptually organized academic experience and is not an after-the-fact tabulation of clinical experience;

(C) occurs in a practice setting that, by its nature and function, clearly supports clinical social work practice and consistently provides opportunities for the supervised application of clinical social work practice knowledge, skills, values, and ethics; and

(D) provides training and close supervision in a wide range of clinical social work practice activities with a population of clients presenting a diverse set of problems and backgrounds.

(b) Each applicant for licensure as a specialist clinical social worker who earns a degree on or after July 1, 2003 shall meet the following requirements:

(1) Satisfactory completion of 15 graduate-level credit hours supporting diagnosis or treatment of mental disorders using the diagnostic and statistical manual of mental disorders as specified in K.A.R. 102-2-14. Three of the 15 credit hours shall consist of a discrete academic course whose primary and explicit focus is upon psychopathology and the diagnosis and treatment of mental disorders as classified in the diagnostic and statistical manual of mental disorders. The 15 graduate-level credit hours shall be from a social work program accredited by the council on social work education or a social work program in substantial compliance as prescribed in K.A.R. 102-2-6 and approved by the board; and

(2) completion of one of the following experience requirements:

(A) A graduate-level, supervised clinical practicum of professional experience that includes psychotherapy and assessment. The practicum shall integrate diagnosis and treatment of mental disorders with use of the diagnostic and statistical manual of mental disorders as identified in K.A.R. 102-2-14 and shall include not less than 350 hours of direct client contact; or

(B) postgraduate supervised experience including psychotherapy and assessment. The experience shall integrate diagnosis and treatment of mental disorders with use of the diagnostic and statistical manual of mental disorders, as specified in K.A.R. 102-2-14. The experience shall consist of not less than 700 hours of supervised experience, including not less than 350 hours of direct client contact. This experience shall be in addition to the 4,000 hours of postgraduate, supervised experience required for each licensed specialist clinical social worker, as specified in subsection (c). The applicant shall provide documentation of this postgraduate experience on board-approved forms. The supervision shall comply with K.A.R. 102-2-8 and K.A.R. 102-2-12(c) and shall be in addition to the supervision requirements in K.A.R. 102-2-12(c)(4).

(c) Each applicant for licensure as a specialist clinical social worker shall fulfill the following requirements:

(1) Develop and co-sign with the supervisor a clinical supervision training plan for the postgraduate supervised clinical experience required un-

der K.S.A. 65-6306 and amendments thereto, on forms provided by the board. The applicant shall submit this plan to the board for consideration for approval before beginning clinical supervision. The clinical supervision training plan shall comply with K.A.R. 102-2-8. If changes or amendments to the plan occur after initial board approval, these changes or amendments shall be submitted to the board for consideration for approval;

(2) complete, in not less than two years and not more than six years, a minimum of 4,000 hours of satisfactorily evaluated postgraduate, supervised clinical social work practice experience under the supervision of a qualified licensed specialist clinical social worker. A minimum of 2,000 hours of the applicant's total postgraduate, supervised clinical experience shall consist of a combination of the following types of social work services:

(A) At least 1,500 hours of direct client contact conducting psychotherapy and assessments with individuals, couples, families, or groups; and

(B) up to 500 hours of providing clinical social work practice services;

(3) complete all required practice under supervision in accordance with K.A.R. 102-2-8; and

(4) participate in a minimum of 100 supervisory meetings consisting of not less than 150 hours of clinical supervision. A minimum of 75 hours of the 150 required hours of supervision shall be individual supervision, of which at least 50 hours shall be obtained in person. The remainder of the 150 required hours may be obtained in person or, if confidentiality is technologically protected, by videoconferencing. Each applicant using videoconferencing shall provide written verification of the technological security measure implemented. The supervision shall integrate the diagnosis and treatment of mental disorders with the use of the diagnostic and statistical manual of mental disorders specified in K.A.R. 102-2-14. A maximum of two hours of supervision shall be counted for each 20 hours of clinical social work practice.

(d) At the time of the individual's application for licensure as a specialist clinical social worker, the applicant's supervisor shall submit documentation that is satisfactory to the board and that enables the board to evaluate the nature, quality, and quantity of the applicant's supervised clinical social work experience. This documentation shall include the following information:

(1) A written summary of the types of clients and situations dealt with during the supervisory sessions;

(2) a written summary that addresses the degree to which the goals and objectives of supervision have been met;

(3) a written statement and supportive documentation that describes the applicant's practice setting and provides a summary of the applicant's practice activities and responsibilities that occurred while under supervision;

(4) a statement indicating whether or not the applicant merits the public trust; and

(5) an evaluation of the applicant's supervised clinical social work experience. (Authorized by K.S.A. 65-6306, K.S.A. 65-6308, and K.S.A. 2007 Supp. 74-7507; implementing K.S.A. 65-6306 and K.S.A. 65-6308; effective, T-85-36, Dec. 19, 1984; effective May 1, 1985; amended May 1, 1987; amended Feb. 25, 1991; amended Oct. 24, 1997; amended Aug. 4, 2000; amended July 7, 2003; amended April 22, 2005; amended Feb. 13, 2009.)

**102-2-14. Designation of referral source for use in the diagnosis and treatment of mental disorders.** The "diagnostic and statistical manual of mental disorders," fifth edition, published by the American psychiatric association, shall be designated as the manual to diagnose and treat mental disorders. (Authorized by K.S.A. 65-6306, K.S.A. 65-6319, and K.S.A. 74-7507; implementing K.S.A. 65-6306 and 65-6319; effective Aug. 4, 2000; amended April 22, 2005; amended March 15, 2019.)

### Article 3.—PROFESSIONAL COUNSELORS; FEES

**102-3-2. Fees.** (a) Each applicant for licensure as a professional counselor or clinical professional counselor shall pay the appropriate fee or fees as follows:

(1) Application for a professional counselor license, \$50;

(2) application for a clinical professional counselor license, \$50;

(3) original professional counselor license, \$150;

(4) original license fee for a clinical professional counselor, \$150;

(5) renewal of a professional counselor license, \$100;

(6) renewal of a clinical professional counselor license, \$125;

(7) replacement of a professional counselor or a clinical professional counselor wall certificate, \$20;

(8) reinstatement of a professional counselor license that has been suspended or revoked, \$100;

(9) reinstatement of a clinical professional counselor license that has been suspended or revoked, \$125;

(10) temporary professional counselor license, \$50;

(11) temporary, 15-day permit for an out-of-state licensed independent clinical professional counselor, \$200; or

(12) temporary, 15-day permit for an out-of-state licensed independent clinical professional counselor extension, \$200.

(b) Each applicant for renewal of a professional counselor license after its expiration date shall pay the reinstatement fee in addition to the late renewal penalty fee of \$100.

(c) Each applicant for renewal of a clinical professional counselor license after its expiration date shall pay the reinstatement fee in addition to the late renewal penalty fee of \$125.

(d) Fees paid to the board shall not be refundable. (Authorized by K.S.A. 65-5807a, 65-5808, and 74-7507; implementing K.S.A. 65-5804a, 65-5807a, and 65-5808; effective, T-88-45, Nov. 10, 1987; amended, T-102-11-29-90, Nov. 29, 1990; amended Jan. 21, 1991; amended Aug. 4, 1995; amended Oct. 24, 1997; amended Aug. 4, 2000; amended July 1, 2005; amended, T-102-7-2-07, July 2, 2007; amended Nov. 30, 2007; amended March 8, 2019.)

**102-3-3a. Education requirements.** To qualify for licensure as a professional counselor or a clinical professional counselor, the applicant's education shall meet the applicable requirements provided in the following subsections.

(a) (1) "Core faculty member" means an individual who is part of the program's teaching staff and who meets the following conditions:

(A) Is an individual whose education, training, and experience are consistent with the individual's role within the program and are consistent with the published description of the goals, philosophy, and educational purpose of the program;

(B) is an individual whose primary professional employment is at the institution in which the program is housed; and

(C) is an individual who is identified with the program and is centrally involved in program development, decision making, and student training as demonstrated by consistent inclusion of the individual's name in public and departmental documents.

(2) "In residence," when used to describe a student, means that the student is present at the physical location of the institution for the purpose of completing coursework during which the student and one or more core faculty members are in face-to-face contact.

(3) "Primary professional employment" means at least 20 hours per week of instruction, research, any other service to the institution in the course of employment, and the related administrative work.

(b) At the time of application, each applicant shall have fulfilled the following requirements:

(1) Received either a master's or doctoral degree in counseling from a program that meets one of the following requirements:

(A) Is not below the accreditation standards of the council for the accreditation of counseling and related educational programs; or

(B) meets the requirements in subsections (f) and (g); and

(2) as a part of or in addition to the coursework completed for the counseling graduate degree, completed at least 60 graduate semester hours, or the academic equivalent, of which at least 45 graduate semester hours, or the academic equivalent, shall clearly satisfy the coursework requirements in subsection (c).

(c) Each applicant shall have satisfactorily completed formal academic coursework that contributes to the development of a broad conceptual framework for counseling theory and practice as a basis for more advanced academic studies. This formal academic coursework shall consist of at least 45 graduate semester hours, or the academic equivalent, that are distributed across the substantive content areas provided in this subsection. None of these credit hours shall be earned through independent study courses. There shall be at least two discrete and unduplicated semester hours, or the academic equivalent, in each of the following substantive content areas:

(1) Counseling theory and practice, which shall include studies in the basic theories, principles, and techniques of counseling and their applications to professional settings;

(2) the helping relationship, which shall include studies in the philosophical bases of helping relationships and the application of the helping relationship to counseling practice, as well as an emphasis on the development of practitioner and client self-awareness;

(3) group dynamics, processes, and counseling approaches and techniques, which shall include

studies in theories and types of groups, as well as descriptions of group practices, methods, dynamics, and facilitative skills;

(4) human growth and development, which shall include studies that provide a broad understanding of the nature and needs of individuals at all developmental levels and in multicultural contexts;

(5) career development and lifestyle foundations, which shall include studies in vocational theory, the relationship between career choice and lifestyle, sources of occupational and educational information, approaches to career decision-making processes, and career development exploration techniques;

(6) appraisal of individuals and studies and training in the development of a framework for understanding the individual, including methods of data gathering and interpretation, individual and group testing, and the study of individual differences;

(7) social and cultural foundations, which shall include studies in change processes, ethnicity, subcultures, families, gender issues, the changing roles of women, sexism, racism, urban and rural societies, population patterns, cultural mores, use of leisure time, and differing life patterns. These studies may come from the behavioral sciences, economics, political science, and similar disciplines;

(8) research and evaluation, which shall include studies in the areas of statistics, research design, development of research, development of program goals and objectives, and evaluation of program goals and objectives;

(9) professional orientation, which shall include studies in the goals and objectives of professional organizations, codes of ethics, legal considerations, standards of preparation and practice, certification, licensing, and the role identities of counselors and others in the helping professions; and

(10) supervised practical experience, which shall include studies in the application and practice of the theories and concepts presented in formal study. This experiential practice shall be performed under the close supervision of the instructor and on-site supervisor with the use of direct observation and the preparation and review of written case notes. Direct observation may include the use of one-way mirrors in a counseling laboratory, the use of videotaped or audiotaped sessions, or the use of real-time video conferencing or similar synchronous communication devices.

(d) Each applicant for licensure as a clinical professional counselor whose master's or doctoral degree is earned before July 1, 2003 shall have earned the graduate degree in accordance with subsections (b) and (c).

(e) Each applicant for licensure as a clinical professional counselor whose master's or doctoral degree is earned on or after July 1, 2003 shall meet the following education requirements:

(1) Have earned a graduate degree in accordance with subsections (b) and (c);

(2) in addition to or as a part of the academic requirements for the graduate degree, have completed 15 graduate semester credit hours, or the academic equivalent, supporting diagnosis and treatment of mental disorders using the "diagnostic and statistical manual of mental disorders" as specified in K.A.R. 102-3-15. The 15 graduate semester credit hours, or the academic equivalent, shall include both of the following:

(A) The applicant shall have satisfactorily completed two graduate semester hours, or the academic equivalent, of discrete coursework in ethics and two graduate semester hours, or the academic equivalent, of discrete coursework in psychopathology and diagnostic assessment, including the study of the latest edition of the "diagnostic and statistical manual of mental disorders" and assessment instruments that support diagnosis.

(B) The applicant shall have satisfactorily completed coursework addressing treatment approaches and interdisciplinary referral and collaboration; and

(3) completion of a graduate-level, supervised clinical practicum pursuant to K.S.A. 65-5804a(c)(1)(C), and amendments thereto.

(f) In order to be approved by the board, each educational program in professional counseling shall meet the following requirements:

(1) Have established program admission requirements that are based, in part or in full, on objective measures or standardized achievement tests and measures;

(2) require an established curriculum that encompasses at least two academic years of graduate study;

(3) have clear administrative authority and primary responsibility within the program for the core and specialty areas of training in professional counseling;

(4) have an established, organized, and comprehensive sequence of study that is planned by administrators who are responsible for providing an

integrated educational experience in professional counseling;

(5) engage in continuous systematic program evaluation indicating how the mission objectives and student learning outcomes are measured and met;

(6) be chaired or directed by an identifiable person who holds a doctoral degree in counseling that was earned from a regionally accredited college or university upon that person's actual completion of a formal academic training program;

(7) have an identifiable, full-time, professional faculty whose members hold earned graduate degrees in professional counseling or a related field;

(8) have an established, identifiable body of students who are formally enrolled in the program with the goal of obtaining a degree;

(9) require an appropriate practicum, internship, or field or laboratory training in professional counseling that integrates didactic learning with supervised clinical experience;

(10) conduct an ongoing, objective review and evaluation of each student's learning and progress, and report this evaluation in the official student transcripts;

(11) require that at least 30 graduate semester credit hours, or the academic equivalent, of coursework be completed "in residence" at one institution and require that the practicum or internship be completed at the same institution; and

(12) require that the number of graduate semester hours, or the academic equivalent, delivered by adjunct faculty does not exceed the number of graduate semester hours, or the academic equivalent, delivered by core faculty members.

(g) In order for an applicant to qualify for licensure, the college or university at which the applicant completed the counseling degree requirements shall meet these requirements:

(1) Be regionally accredited, with accreditation standards equivalent to those met by Kansas colleges and universities;

(2) document in official publications, including course catalogs and announcements, the program description and standards and the admission requirements of the professional counseling education and training program;

(3) identify and clearly describe in pertinent institutional catalogs the coursework, experiential, and other academic program requirements that must be satisfied before conferral of the graduate degree in counseling;

(4) clearly identify and specify in pertinent institutional catalogs its intent to educate and train professional counselors;

(5) have clearly established the professional counselor education program as a coherent entity within the college or university that, when the applicant's graduate degree was conferred, met the program standards in subsection (f); and

(6) have conferred the graduate degree in counseling upon the applicant's successful completion of an established and required formal program of studies.

(h) The following types of study shall not be substituted for or counted toward the coursework requirements of subsections (b), (c), (d), and (e):

(1) Academic coursework that the applicant completed as a part of or in conjunction with the undergraduate degree requirements;

(2) academic coursework that has been audited rather than graded;

(3) academic coursework for which the applicant received an incomplete or failing grade;

(4) coursework that the board determines is not closely related to the field or practice of counseling;

(5) graduate or postgraduate coursework or training provided by any college, university, institute, or training program that does not meet the requirements of subsections (f) and (g); and

(6) any continuing education, in-service activity, or on-the-job training.

(i) The following types of study may be counted toward the 60 graduate semester hours required under paragraph (b)(2):

(1) No more than six graduate semester hours of independent study that is related to the field or practice of counseling, except that independent study shall not be used to meet any of the substantive content area requirements specified in subsection (c); and

(2) no more than four graduate semester hours for thesis research and writing. (Authorized by K.S.A. 2014 Supp. 65-5804a and 74-7507; implementing K.S.A. 2014 Supp. 65-5804a; effective Dec. 19, 1997; amended July 19, 2002; amended Aug. 8, 2003; amended Oct. 27, 2006; amended Dec. 12, 2014.)

**102-3-7b. Requirements for board-approved clinical supervisor; application.**

(a) Each licensee providing postgraduate clinical supervision shall be a board-approved clinical supervisor. This requirement shall apply to each in-

dividual commencing a new supervisory relationship on or after July 1, 2017.

(b) In addition to meeting the requirements in K.S.A. 2016 Supp. 65-5818 and amendments thereto and K.A.R. 102-3-7a, the licensee shall successfully complete clinical supervision training, which shall be approved by the board and be specific to providing supervision or becoming a supervisor. This training shall include either 15 hours of continuing education in supervision taken within the last six years or one semester credit hour of a graduate-level course on supervision or the academic equivalent at an accredited college or university approved by the board, each of which shall cover the following material:

(1) Roles in and functions of clinical supervision;

(2) models of clinical supervision;

(3) mental health-related professional development;

(4) methods and techniques in clinical supervision;

(5) supervisory relationship issues;

(6) cultural issues in clinical supervision;

(7) group supervision;

(8) legal and ethical issues in clinical supervision; and

(9) evaluation of supervisee competence and the supervision process.

(c) Each licensee applying for approval as a clinical supervisor shall obtain the appropriate application forms from the board and submit the completed application materials to the board.

(d) To maintain approval as a clinical supervisor, each approved clinical supervisor shall successfully complete the required continuing education specified in K.S.A. 2016 Supp. 65-5818, and amendments thereto. (Authorized by K.S.A. 2016 Supp. 74-7507; implementing K.S.A. 2016 Supp. 65-5818; effective, T-102-5-24-17, May 24, 2017; effective Oct. 6, 2017.)

**102-3-9b. Renewal audit.** (a) A random audit of the continuing education documentation for 10 percent of the professional counselor licenses and the clinical professional counselor licenses expiring each month shall be conducted by the board.

(b) Each licensee selected for the random audit shall be notified in writing after the board has received the licensee's renewal application form required by K.A.R. 102-3-9a.

(c) Upon board notification, each renewal applicant shall submit the following to the board within 30 days after the license expiration date:

- (1) The completed renewal audit forms; and
- (2) the original continuing education documents that validate all continuing education units claimed for credit during the current renewal period.

(d) Continuing education units that a renewal applicant earns after board receipt of the renewal application form shall not be approved for continuing education credit for the current renewal period.

(e) Failure to comply with this regulation shall be considered unprofessional conduct. (Authorized by and implementing K.S.A. 65-5806 and K.S.A. 2007 Supp. 74-7507; effective Feb. 13, 2009.)

**102-3-15. Designation of referral source for use in the diagnosis and treatment of mental disorders.** The “diagnostic and statistical manual of mental disorders,” fifth edition, published by the American psychiatric association, shall be designated as the manual to diagnose and treat mental disorders. (Authorized by K.S.A. 65-5802, K.S.A. 65-5804a, and K.S.A. 74-7507; implementing K.S.A. 65-5804a; effective Aug. 4, 2000; amended April 22, 2005; amended March 15, 2019.)

#### Article 4.—MASTER'S LEVEL PSYCHOLOGISTS

**102-4-2. Fees.** (a) Each applicant or licensee shall pay the appropriate fee or fees as follows:

- (1) Application for a master's level psychologist license, \$50;
- (2) application for clinical psychotherapist license, \$50;
- (3) original master's level psychologist license, \$150;
- (4) original clinical psychotherapy license, \$150;
- (5) renewal of a master's level psychologist license, \$100;
- (6) renewal of a clinical psychotherapist license, \$125;
- (7) replacement of a master's level psychologist or a clinical psychotherapist license, \$20;
- (8) replacement of a master's level psychologist or a clinical psychotherapist wallet card license, \$2;
- (9) reinstatement of a master's level psychologist license after suspension or revocation, \$100;
- (10) reinstatement of a clinical psychotherapist license after suspension or revocation, \$125;

(11) temporary master's level psychologist license, \$100;

(12) temporary, 15-day permit for an out-of-state licensed independent clinical master's level psychologist, \$200; or

(13) temporary, 15-day permit for an out-of-state licensed independent clinical master's level psychologist extension, \$200.

(b) Each applicant for reinstatement of a master's level psychologist license after its expiration date shall pay the renewal fee in addition to the penalty fee of \$100.

(c) Each applicant for reinstatement of a clinical psychotherapist license after its expiration date shall pay the renewal fee in addition to the penalty fee of \$125.

(d) Fees paid to the board shall not be refundable. (Authorized by K.S.A. 74-5365, 74-5367, 74-5367a, and 74-7507; implementing K.S.A. 74-5363, 74-5365, 74-5366, 74-5367, and 74-5367a; effective, T-102-2-23-89, Feb. 23, 1989; effective April 3, 1989; amended, T-102-11-29-90, Nov. 29, 1990; amended Jan. 21, 1991; amended Aug. 4, 1995; amended Oct. 24, 1997; amended Aug. 4, 2000; amended July 1, 2005; amended, T-102-7-2-07, July 2, 2007; amended Nov. 30, 2007; amended March 8, 2019.)

**102-4-9b. Renewal audit.** (a) A random audit of the continuing education documentation for 10 percent of the master's level psychologist licenses and the clinical psychotherapist licenses expiring each month shall be conducted by the board.

(b) Each licensee selected for the random audit shall be notified in writing after the board has received the licensee's renewal application form required by K.A.R. 102-4-9a.

(c) Upon board notification, each renewal applicant shall submit the following to the board within 30 days after the license expiration date:

- (1) The completed renewal audit forms; and
- (2) the original continuing education documents that validate all continuing education units claimed for credit during the current renewal period.

(d) Continuing education units that a renewal applicant earns after board receipt of the renewal application form shall not be approved for continuing education credit for the current renewal period.

(e) Failure to comply with this regulation shall be considered unprofessional conduct. (Authorized by

and implementing K.S.A. 74-5365 and K.S.A. 2007 Supp. 74-7507; effective Feb. 13, 2009.)

**102-4-15. Designation of referral source for use in the diagnosis and treatment of mental disorders.** The “diagnostic and statistical manual of mental disorders,” fifth edition, published by the American psychiatric association, shall be designated as the manual to diagnose and treat mental disorders. (Authorized by K.S.A. 74-5361, 74-5363, and 74-7507; implementing K.S.A. 74-5363; effective Aug. 4, 2000; amended April 22, 2005; amended March 15, 2019.)

#### **Article 5.—LICENSING OF MARRIAGE AND FAMILY THERAPISTS**

**102-5-2. Fees.** (a) Each applicant or licensee shall pay the appropriate fee or fees as follows:

- (1) Application for a marriage and family therapist license, \$50;
- (2) application for a clinical marriage and family therapist license, \$50;
- (3) original marriage and family therapist license, \$150;
- (4) original clinical marriage and family therapist license, \$150;
- (5) renewal of a marriage and family therapist license, \$100;
- (6) renewal of a clinical marriage and family therapist license, \$125;
- (7) replacement of a marriage and family therapist or a clinical marriage and family therapist license, \$20;
- (8) replacement of a marriage and family therapist or a clinical marriage and family therapist wallet card license, \$2;
- (9) reinstatement of a marriage and family therapist license, \$100;
- (10) reinstatement of a clinical marriage and family therapist license, \$125;
- (11) temporary marriage and family therapist license, \$150;
- (12) temporary, 15-day permit for an out-of-state licensed independent clinical marriage and family therapist, \$200; or
- (13) temporary, 15-day permit for an out-of-state licensed independent clinical marriage and family therapist extension, \$200.

(b)(1) Each applicant for renewal of a marriage and family therapist license after its expiration date shall pay the renewal fee in addition to the late renewal penalty of \$100.

(2) Each applicant for renewal of a clinical marriage and family therapist license after its expiration date shall pay the renewal fee in addition to the late renewal penalty of \$125.

(c) Fees paid to the board shall not be refundable. (Authorized by K.S.A. 65-6405a, 65-6411, and 74-7507; implementing K.S.A. 65-6405, 65-6405a and 65-6411; effective March 29, 1993; amended Aug. 23, 1993; amended Aug. 4, 1995; amended Oct. 24, 1997; amended Aug. 4, 2000; amended July 1, 2005; amended, T-102-7-2-07, July 2, 2007; amended Nov. 30, 2007; amended March 8, 2019.)

**102-5-3. Education requirements.** (a) Definitions. For purposes of this regulation, the following terms shall be defined as follows:

(1) “Core faculty member” means an individual who is part of the program’s teaching staff and who meets the following conditions:

(A) Is an individual whose education, training, and experience are consistent with the individual’s role within the program and are consistent with the published description of the goals, philosophy, and educational purpose of the program;

(B) is an individual whose primary professional employment is at the institution in which the program is housed; and

(C) is an individual who is identified with the program and is centrally involved in program development, decision making, and student training as demonstrated by consistent inclusion of the individual’s name in public and departmental documents.

(2) “In residence,” when used to describe a student, means that the student is present at the physical location of the institution for the purpose of completing coursework during which the student and one or more core faculty members are in face-to-face contact.

(3) “Primary professional employment” means a minimum of 20 hours per week of instruction, research, any other service to the institution in the course of employment, and the related administrative work.

(b) Each applicant for licensure shall meet both of the following education requirements:

(1) Each applicant shall have been awarded a master’s or doctoral degree that meets the standards in subsection (c), (e), or (f).

(2) The applicant shall have completed no less than 50% of the coursework for the degree “in residence” at one institution, and the required practicum shall be completed at the same institution.

(c) To qualify for licensure with a master's or doctoral degree from a marriage and family therapy program, both of the following requirements shall be met:

(1) The college or university at which the applicant completed a master's or doctoral degree in marriage and family therapy shall be regionally accredited, with accreditation standards equivalent to those in Kansas.

(2) The marriage and family therapy program through which the applicant completed a master's or doctoral degree either shall be accredited by the commission on accreditation for marriage and family therapy education or shall meet the standards set out in subsection (d).

(d) Each marriage and family therapy program that is not accredited by the commission on accreditation for marriage and family therapy education shall meet all of these conditions:

(1) The program requires satisfactory completion by the applicant of a marriage and family therapy practicum, or its equivalent, that is provided by the program and that fulfills these conditions:

(A) Is a part-time clinical experience that integrates didactic learning with clinical experience and that is completed concurrently with didactic coursework at a typical rate of five to 10 hours of direct client contact per week;

(B) consists of at least 300 total hours of client contact; and

(C) includes at least 60 total hours of supervision that is provided by the program's core faculty and off-site supervisors. The practicum shall provide a minimum of 30 supervised hours in an individual format and no more than 30 supervised hours in a group format. Supervision shall occur at least once a week.

(2) The program requires that each marriage and family therapy student successfully complete a minimum of nine graduate semester credit hours, or the academic equivalent, in each of the following substantive content areas:

(A) Human development and family study courses in which the interplay between interpersonal and intrapersonal development is stressed and issues of gender, ethnicity, and ecosystems are addressed as they relate to human development. These courses may include studies in sexuality, sexual functioning, sexual identity, sexism, stereotyping, and racism;

(B) theoretical foundations of marital and family functioning courses, including an overview of the historical development of systems theory and

cybernetics, a study of the life cycle of the family, and a study of family processes and the modification of family structures over time. These courses may include studies in the birth of the first child, adolescent sexual development, death of a family member, and issues of context, including gender and ethnicity; and

(C) marital and family assessment and therapy courses that underscore the interdependence between diagnosis or assessment and treatment by ensuring that students can use appropriate assessment instruments and methods within a systemic context. These courses shall provide a thorough understanding of the major theoretical models of systemic change, including structural, strategic, intergenerational, contextual, experiential, systemic, and behavioral theories. These courses also shall teach the principles and techniques evolving from each theory. In addition, the courses shall identify the indications and contraindications for use of each theory or technique and shall address the rationale for intervention, the role of the therapist, and the importance of considering gender and ethnicity in selecting and using assessment and treatment methods.

(3) The program requires that each marriage and family therapy student successfully complete a minimum of three graduate semester credit hours, or the academic equivalent, in each of the following substantive content areas:

(A) A professional study course that contributes to the development of a professional attitude and identity by examining the role of professional socialization, professional organizations, licensure and certification, the code of ethics, the legal responsibilities and liabilities of clinical practice and research, and interprofessional cooperation, as these topics relate to the profession and practice of marriage and family therapy. A generic course in ethics shall not be considered appropriate for this area of study; and

(B) a research course in which students gain an understanding of research methodology, data analysis, computer research skills, and evaluation and critical examination of professional research reports. The emphasis of the course shall be placed on the quantitative and qualitative research that is relevant to marriage and family therapy.

(e) To qualify for licensure with a master's or doctoral degree in a related field, both of the following requirements shall be met:

(1) The college or university at which the applicant completed a master's or doctoral degree

in a related field shall be regionally accredited, with accreditation standards equivalent to those in Kansas.

(2) To be considered equivalent to a marriage and family therapy program, the related-field degree program shall have provided and the applicant shall have completed the requirements of subsection (d).

(f) To qualify for licensure with a master's or doctoral degree in a related field with additional coursework in marriage and family therapy, both of the following requirements shall be met:

(1) The college or university at which the applicant completed a master's or doctoral degree in a related field shall be regionally accredited, with accreditation standards equivalent to those in Kansas.

(2) The marriage and family therapy program through which the applicant obtained additional coursework in marriage and family therapy either shall be accredited by the commission on accreditation for marriage and family therapy education or shall meet the standards approved by the board as set out in subsection (d).

(g) Each applicant for licensure as a clinical marriage and family therapist whose master's or doctoral degree is earned on or after July 1, 2003 shall meet the following education requirements:

(1) A graduate degree as required by the board for licensure as a licensed marriage and family therapist in accordance with subsection (c), (e), or (f); and

(2) in addition to or as a part of the academic requirements for the graduate degree, completion of 15 graduate semester credit hours, or the academic equivalent, supporting diagnosis and treatment of mental disorders using the "diagnostic and statistical manual of mental disorders" as specified in K.A.R. 102-5-14. Three of the 15 semester credit hours, or the academic equivalent, shall consist of a discrete academic course with the primary and explicit focus of psychopathology and the diagnosis and treatment of mental disorders as classified in the "diagnostic and statistical manual of mental disorders." The remaining 12 graduate semester credit hours, or their academic equivalent, shall consist of academic courses with the primary and explicit focus of diagnostic assessment, interdisciplinary referral and collaboration, treatment approaches, and professional ethics or other coursework that specifically contains identifiable, equivalent instruction. The 15 graduate semester credit hours shall be from an educational

institution and graduate degree program meeting the requirements described in subsection (c), (e), or (f).

(h) The following activities shall not be substituted for or counted toward any of the education or supervised experience requirements set out in subsections (b) through (g):

(1) Academic courses that the applicant completed as a part of or in conjunction with undergraduate degree requirements;

(2) independent studies;

(3) thesis or independent research courses;

(4) academic coursework that has been audited rather than graded;

(5) academic coursework for which the applicant received an incomplete or a failing grade;

(6) graduate or postgraduate coursework or experiential training provided by colleges, universities, institutes, or training programs that do not qualify under subsection (c), (e), or (f); and

(7) continuing education, an in-service activity, or on-the-job training. (Authorized by K.S.A. 2010 Supp. 65-6404 and K.S.A. 2010 Supp. 74-7507; implementing K.S.A. 2010 Supp. 65-6404; effective March 29, 1993; amended Dec. 19, 1997; amended July 7, 2003; amended Oct. 27, 2006; amended April 15, 2011.)

**102-5-7b. Requirements for board-approved clinical supervisor; application.**

(a) Each licensee providing postgraduate clinical supervision shall be a board-approved clinical supervisor. This requirement shall apply to each individual commencing a new supervisory relationship on or after July 1, 2017.

(b) In addition to meeting the requirements in K.S.A. 2016 Supp. 65-6414 and amendments thereto and K.A.R. 102-5-7a, the licensee shall successfully complete clinical supervision training, which shall be approved by the board and be specific to providing supervision or becoming a supervisor. This training shall include either 15 hours of continuing education in supervision or one semester credit hour of a graduate-level course on supervision or the academic equivalent at an accredited college or university approved by the board, each of which shall cover the following material:

(1) Hands-on practice in supervision, consisting of at least eight hours;

(2) best practices of supervision;

(3) classic and postmodern systemic supervision models;

(4) ethical and legal issues, including risk management;

(5) culture and context in supervision;

(6) structuring supervision;

(7) the importance of a positive working relationship between the supervisor and supervisee; and

(8) Kansas marriage and family therapist statutes and regulations.

(c) Each licensee applying for approval as a clinical supervisor shall obtain the appropriate application forms from the board and submit the completed application materials to the board.

(d) To maintain approval as a clinical supervisor, each approved clinical supervisor shall successfully complete the required continuing education specified in K.A.R. 2016 Supp. 65-6414, and amendments thereto. (Authorized by K.S.A. 2016 Supp. 74-7507; implementing K.S.A. 2016 Supp. 65-6414; effective, T- 102-5-24-17, May 24, 2017; effective Oct. 6, 2017.)

**102-5-9a. Renewal audit.** (a) A random audit of the continuing education documentation for 10 percent of the marriage and family therapist licenses and the clinical marriage and family therapist licenses expiring each month shall be conducted by the board.

(b) Each licensee selected for the random audit shall be notified in writing after the board has received the licensee's renewal application form required by K.A.R. 102-5-9.

(c) Upon board notification, each renewal applicant shall submit the following to the board within 30 days after the license expiration date:

(1) The completed renewal audit forms; and

(2) the original continuing education documents that validate all continuing education units claimed for credit during the current renewal period.

(d) Continuing education units that a renewal applicant earns after board receipt of the renewal application form shall not be approved for continuing education credit for the current renewal period.

(e) Failure to comply with this regulation shall be considered unprofessional conduct. (Authorized by and implementing K.S.A. 65-6407 and K.S.A. 2007 Supp. 74-7507; effective Feb. 13, 2009.)

**102-5-14. Designation of referral source for use in the diagnosis and treatment of mental disorders.** The "diagnostic and statis-

tical manual of mental disorders," fifth edition, published by the American psychiatric association, shall be designated as the manual to diagnose and treat mental disorders. (Authorized by K.S.A. 65-6402, K.S.A. 65-6404, and K.S.A. 74-7507; implementing K.S.A. 65-6404; effective Aug. 4, 2000; amended April 22, 2005; amended March 15, 2019.)

## **Article 6.—REGISTERED ALCOHOL AND OTHER DRUG ABUSE COUNSELORS**

**102-6-1.** (Authorized by and implementing K.S.A. 74-7507(j); effective July 17, 1995; revoked Feb. 10, 2012.)

**102-6-2.** (Authorized by and implementing K.S.A. 65-6602(c) and 65-6603; effective July 17, 1995; revoked Feb. 10, 2012.)

**102-6-4.** (Authorized by K.S.A. 65-6602(b) and 74-7507(j) and implementing K.S.A. 65-6602; effective July 17, 1995; revoked Feb. 10, 2012.)

**102-6-5.** (Authorized by K.S.A. 74-7507(i) and implementing K.S.A. 65-6602(c); effective July 17, 1995; revoked Feb. 10, 2012.)

**102-6-8.** (Authorized by and implementing K.S.A. 2006 Supp. 74-7507; effective July 17, 1995; amended June 8, 2007; revoked Feb. 10, 2012.)

**102-6-9.** (Authorized by K.S.A. 74-7507; implementing K.S.A. 65-6603 and 74-7507; effective July 17, 1995; amended July 11, 2003; revoked Feb. 10, 2012.)

**102-6-9a.** (Authorized by and implementing K.S.A. 65-6603 and K.S.A. 2007 Supp. 74-7507; effective Feb. 13, 2009; revoked Feb. 10, 2012.)

**102-6-10.** (Authorized by and implementing K.S.A. 74-7507 and K.S.A. 65-6603; effective July 17, 1995; amended July 11, 2003; revoked Feb. 10, 2012.)

**102-6-11.** (Authorized by and implementing K.S.A. 74-7507(g) and K.S.A. 65-6603; effective July 17, 1995; revoked Feb. 10, 2012.)

**102-6-12.** (Authorized by and implementing K.S.A. 2007 Supp. 74-7507; effective July 17, 1995; amended Aug. 8, 2008; revoked Feb. 10, 2012.)

## Article 7.—LICENSING OF ADDICTION COUNSELORS

**102-7-1. Definitions.** (a) “Academic equivalent of a semester credit hour,” when used in K.A.R. 102-7-3, means the prorated proportionate credit for formal academic coursework if that coursework is completed on the basis of trimester or quarter hours rather than semester hours.

(b) “Addiction counseling supervision” means a formal professional relationship between the supervisor and supervisee that promotes the development of responsibility, skills, knowledge, values, and ethical standards in the practice of addiction counseling.

(c) “Board” means the Kansas behavioral sciences regulatory board.

(d) “Client” means a person who is a direct recipient of addiction counseling services.

(e) “Client contact,” for purposes of K.A.R. 102-7-6, means a service to a client or clients that utilizes individual, family, or group interventions through face-to-face interaction or the use of electronic mediums of face-to-face interaction in which confidentiality is protected.

(f) “Clinical supervision training plan” means a formal, written agreement that establishes the supervisory framework for postgraduate clinical experience and describes the expectations and responsibilities of the supervisor and the supervisee.

(g) “Continuing education” means formally organized programs or activities that are designed for and have content intended to enhance the addiction counselor’s or clinical addiction counselor’s knowledge, skill, values, ethics, and ability to practice as an addiction counselor or as a clinical addiction counselor.

(h) “Fraudulent representation” shall include the following:

- (1) Deceit;
- (2) misrepresentation; and
- (3) concealing a material fact.

(i) “Harmful dual relationship” means a professional relationship between a licensee and a client, student, supervisee, or any person who has had a significant relationship with either a current client or a person who has been a client within the past 24 months if that relationship is known to the licensee, in which the objectivity or competency of the licensee is impaired or compromised because of any of the following types of present or previous relationships:

- (1) Familial;

- (2) social;

- (3) emotional;

- (4) financial;

- (5) supervisory; or

- (6) administrative.

(j) “LAC” means licensed addiction counselor.

(k) “LCAC” means licensed clinical addiction counselor.

(l) “Malfeasance” means the performance of an act by a licensee that is prohibited or that constitutes wrongdoing or misconduct.

(m) “Merits the public trust” means that an applicant or licensee possesses the high standard of good moral character and fitness that is required to practice addiction counseling as demonstrated by the following personal qualities:

- (1) Good judgment;

- (2) integrity;

- (3) honesty;

- (4) fairness;

- (5) credibility;

- (6) reliability;

- (7) respect for others;

- (8) respect for the laws of the state and nation;

- (9) self-discipline;

- (10) self-evaluation;

- (11) initiative; and

(12) commitment to the addiction counseling profession and its values and ethics.

(n) “Misfeasance” means the improper performance of a lawful act by a licensee.

(o) “Nonfeasance” means the omission of an act that a licensee should do.

(p) “Practice setting” means the public or private addiction counseling agency or delivery system within which addiction counseling is practiced or addiction counseling services are delivered.

(q) “Practicum or its equivalent” means a formal component of the academic curriculum in the addiction counseling or in the related field educational program that engages the student in supervised addiction counseling practice and provides opportunities to apply classroom learning to actual practice situations in a field setting.

(r) “Quarter credit hour” means two-thirds of a semester hour. Quarter credit hours shall be rounded as follows:

- (1) One quarter credit hour equals .7 semester hours.

- (2) Two quarter credit hours equal 1.3 semester hours.

- (3) Three quarter credit hours equal 2.0 semester hours.

(4) Four quarter credit hours equal 2.7 semester hours.

(5) Five quarter credit hours equal 3.3 semester hours.

(s) "Related field" means a degree program in a helping profession and may include any of the following:

- (1) Criminal justice;
- (2) counseling;
- (3) healing arts;
- (4) human development and family studies;
- (5) human services;
- (6) marriage and family therapy;
- (7) nursing;
- (8) psychology;
- (9) social work; or
- (10) theology.

(t) "Semester credit hour," when used in K.A.R. 102-7-3, means at least 13 clock-hours of formal, didactic classroom instruction that occurred over the course of an academic semester and for which the applicant received formal academic credit.

(u) "Undue influence" means misusing one's professional position of confidence, trust, or authority over a client or supervisee, or taking advantage of a client's vulnerability, weakness, infirmity, or distress for any of the following purposes:

(1) To improperly influence or change a client's or supervisee's actions or decisions;

(2) to exploit a client or supervisee for the counselor's or a third party's financial gain, personal gratification, or advantage; or

(3) to impose one's personal values, spiritual beliefs, or lifestyle on a client, student, or supervisee. (Authorized by and implementing K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

**102-7-2. Fees.** (a) Each applicant or licensee shall pay the appropriate fee or fees as follows:

(1) Application for an addiction counselor license: \$50;

(2) application for a master's addiction counselor license: \$50;

(3) application for a clinical addiction counselor license: \$50;

(4) original addiction counselor license: \$100;

(5) original master's addiction counselor license: \$150;

(6) original clinical addiction counselor license: \$150;

(7) renewal of an addiction counselor license: \$50;

(8) renewal of a master's addiction counselor license: \$75;

(9) renewal of a clinical addiction counselor license: \$100;

(10) replacement of an addiction counselor, a master's addiction counselor, or a clinical addiction counselor license: \$20;

(11) replacement of an addiction counselor, a master's addiction counselor, or a clinical addiction counselor wallet license: \$2;

(12) reinstatement of an addiction counselor license: \$50;

(13) reinstatement of a master's addiction counselor license: \$75;

(14) reinstatement of a clinical addiction counselor license: \$100;

(15) temporary addiction counselor license: \$75;

(16) temporary master's addiction counselor license: \$75;

(17) temporary, 15-day permit for an out-of-state licensed clinical addiction counselor: \$200; or

(18) temporary, 15-day permit for an out-of-state licensed clinical addiction counselor extension: \$200.

(b) Each applicant for license renewal after its expiration date shall pay, in addition to the renewal fee, the applicable late renewal penalty fee as follows:

(1) Licensed addiction counselor: \$50;

(2) licensed master's addiction counselor: \$75; or

(3) licensed clinical addiction counselor: \$100.

(c) Fees paid to the board shall not be refundable. (Authorized by K.S.A. 65-6618 and 74-7507; implementing K.S.A. 65-6618; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012; amended March 8, 2019.)

**102-7-3. Educational requirements.** (a)(1) "Core faculty member" means an individual who is part of the teaching staff of a program covered by this regulation and who meets the following conditions:

(A) Has education, training, and experience consistent with the individual's role within the program and consistent with the published description of the goals, philosophy, and educational purpose of the program;

(B) has primary professional employment at the institution in which the program is housed; and

(C) is identified with the program and is centrally involved in program development, decision making, and student training as demonstrated by consistent inclusion of the individual's name in public and departmental documents.

(2) "In residence," when used to describe a student, means that the student is present at the physical location of the institution or at any other location approved by the board for the purpose of completing coursework, during which the student and one or more core faculty members, adjunct faculty members, or agency internship supervisors are in face-to-face contact.

(3) "Primary professional employment" means at least 20 hours each week of instruction, research, or any other service to the institution in the course of employment, and related administrative work.

(4) "Skill-based coursework" means those courses that allow students to work on basic helping skills including open-ended questions, clarification, interpretation, response to feelings, and summarization.

(b) To qualify for licensure as an addiction counselor with a baccalaureate degree in addiction counseling or a baccalaureate degree in a related field that included all coursework requirements, the applicant shall hold one of the following:

(1) A baccalaureate degree in addiction counseling or a related field. When the degree was granted, the program met the standards approved by the board;

(2) a baccalaureate degree in addiction counseling or a related field, if the applicant began the program on or before May 1, 2011 and the baccalaureate degree is conferred on or before June 1, 2012, from a program that was approved by the Kansas department of social and rehabilitation services, division of addiction and prevention services; or

(3) a baccalaureate degree in addiction counseling or a related field, if the applicant began the program on or before June 30, 2012, from a program that included at least 30 semester hours, or the academic equivalent, in coursework on substance use disorders and that meets the coursework requirements in subsection (c).

(c) Each applicant for licensure as an addiction counselor shall have satisfactorily completed formal academic coursework that contributes to the development of a broad conceptual framework for addiction counseling theory and practice. This formal academic coursework shall be distributed

across the substantive content areas specified in this subsection. For applicants who graduate on or after July 1, 2013, two of the following courses shall be completed while the student is in residence: methods of individual counseling, methods of group counseling, practicum one, or practicum two. A maximum of three semester hours, or the academic equivalent, may be completed in independent study. Except for the required courses in a practicum or its equivalent, there shall be at least three discrete and unduplicated semester hours, or the academic equivalent, in each of the following content areas:

(1) Introduction to addiction, which shall include the study of the nature of addiction and other substance use-related problems; models, theories, philosophies, principles, implications for medical and mental health conditions that coexist with addiction, and evidence-based strategies of addiction prevention, treatment, relapse prevention, continuing care, and recovery; and the impact of addiction on the individual, family, and society;

(2) methods of individual counseling, which shall include the study of culturally informed, ethical, evidence-based models and approaches to individual counseling; methods for establishing effective therapeutic relationships, developing realistic and achievable treatment goals, and assessing client substance use, functioning, motivation, and progress; and strategies for crisis prevention and intervention;

(3) methods of group counseling, which shall include the study of culturally informed, ethical, evidence-based models and approaches to group counseling; group facilitation and counseling skills; and methods for establishing group goals and treatment outcomes;

(4) addiction pharmacology, which shall include the study of the nature of psychoactive chemicals; the behavioral, psychological, physiological, and social effects of psychoactive substance use; symptoms of intoxication, withdrawal, and toxicity; toxicity screen options, limitations, and legal implications; and the use of pharmacotherapy for treatment of addiction;

(5) co-occurring disorders, which shall include the study of the symptoms of mental health and other disorders prevalent in individuals with substance use disorders, screening and assessment tools used to detect and evaluate the presence and severity of co-occurring disorders, and evidence-based strategies for managing risks

associated with treating individuals who have co-occurring disorders;

(6) addiction services coordination, which shall include the study of administrative, clinical, evaluative, and referral activities used to connect clients with treatment services and other community resources; navigation and coordination across multiple systems; and case management and advocacy skills used to assist clients in achieving their treatment and recovery goals;

(7) legal and ethical issues, which shall include the study of established codes of ethical conduct, standards of professional behavior and scope of practice; client rights, responsibilities, and informed consent; and confidentiality and other legal considerations in counseling;

(8) family and community studies, which shall include the study of family, social, and community systems; the impact of addiction on the family and society; and the development of culturally informed skills utilized in the treatment and recovery process;

(9) at least six semester credit hours, or the academic equivalent, of practicum or its equivalent, which shall include the following:

(A) An experience that integrates didactic learning that is related to substance use disorders with face-to-face, direct counseling experience that includes intake and assessment, counseling, treatment planning, discharge planning, documentation, and case management activities;

(B) at least 400 clock-hours of practice; and

(C) at least one hour of supervision for every 10 hours of practice. Supervision shall be provided by the educational program's faculty and agency staff, at least one of whom shall be licensed in the behavioral sciences; and

(10) for applicants who graduate on and after July 1, 2012, at least three discrete and unduplicated semester hours, or the academic equivalent, in the study of research, which shall include the study of basic research design and methodology; critical evaluation and interpretation of professional research reports; introduction to data collection, performance measurement, and outcome evaluation; and the application of research results in a treatment setting.

(d) To qualify for licensure as an addiction counselor with a baccalaureate degree in a related field with additional coursework in addiction counseling, the following requirements shall be met:

(1) The college or university at which the applicant completed a baccalaureate degree in a

related field shall be regionally accredited with accreditation standards equivalent to those met by Kansas colleges and universities.

(2) The applicant shall meet the coursework requirements in subsection (c).

(3) The program through which the applicant obtained additional coursework in addiction counseling shall meet the standards approved by the board as specified in subsections (i) and (j).

(e) To qualify for licensure as an addiction counselor while holding a baccalaureate social work license in Kansas, the applicant shall complete the coursework specified in paragraphs (c) (1), (4), and (9).

(f) To qualify for licensure as a clinical addiction counselor with a master's degree in addiction counseling or a master's degree in a related field that included all coursework requirements, the applicant shall hold one of the following:

(1) A master's degree in addiction counseling or a related field. When the degree was granted, the program met the standards approved by the board;

(2) a master's degree in addiction counseling or a related field, if the applicant began the program on or before May 1, 2011 and the master's degree is conferred on or before June 1, 2012 from a program that was approved by the Kansas department of social and rehabilitation services, division of addiction and prevention services; or

(3) a master's degree in addiction counseling or a related field. Part of the coursework completed for the master's degree shall be at least 30 graduate semester credit hours, or the academic equivalent, supporting the diagnosis and treatment of substance use disorders and shall meet the coursework requirements in subsection (g).

(g) Each applicant for licensure as a clinical addiction counselor shall have satisfactorily completed formal academic coursework that contributes to the development of a broad conceptual framework for addiction counseling theory and practice. This formal academic coursework shall be distributed across the substantive content areas specified in this subsection. For applicants who graduate on or after July 1, 2013, half of all skill-based coursework shall be completed while the student is in residence, as defined in this regulation. A maximum of three graduate semester hours, or the academic equivalent, may be completed in independent study. There shall be at least three discrete and unduplicated graduate semester hours, or the academic equivalent, in each of the following content areas:

(1) Addiction and recovery services, which shall include the study and critical analysis of philosophies and theories of addiction and scientifically supported models of prevention, intervention, treatment, and recovery for addiction and other substance-related problems;

(2) advanced methods of individual and group counseling, which shall include the study of practical skills related to evidence-based, culturally informed individual and group counseling techniques and strategies designed to facilitate therapeutic relationships and the educational and psychosocial development of clients as specifically related to their addiction;

(3) advanced pharmacology and substance use disorders, which shall include the study of the pharmacological properties and effects of psychoactive substances; physiological, behavioral, psychological, and social effects of psychoactive substances; drug interactions; medication-assisted addiction treatment; and pharmacological issues related to co-occurring disorders treated with prescription psychotropic medications;

(4) integrative treatment of co-occurring disorders, which shall include the study of the relationship between addiction and co-occurring mental or physical disorders or other conditions and evidenced-based models for the screening, assessment, and collaborative treatment of co-occurring disorders;

(5) assessment and diagnosis, which shall include the study of a comprehensive clinical assessment process that addresses age, gender, disability, and cultural issues; the signs, symptoms, and diagnostic criteria used to establish substance use-disorder diagnoses; and the relationship between diagnosis, treatment, and recovery;

(6) professional ethics and practice, which shall include the study of professional codes of ethics and ethical decision making; client privacy rights and confidentiality; legal responsibilities and liabilities of clinical supervision; and professional identity and development issues;

(7) applied research, which shall include the study of the purposes and techniques of behavioral sciences research, including qualitative and quantitative approaches, research methodology, data collection and analysis, electronic research skills, outcome evaluation, critical evaluation and interpretation of professional research reports, and practical applications of research. A maximum of three semester hours, or the academic

equivalent, may be completed in thesis or independent research courses;

(8) practicum or its equivalent, which shall meet the following requirements:

(A) Be a clinical experience that integrates didactic learning supporting the diagnosis and treatment of substance use disorders;

(B) include at least 300 hours of client contact; and

(C) provide at least one hour of supervision for every 10 hours of client contact. Supervision shall be provided by the program's faculty and agency supervisors, at least one of whom shall be licensed at the clinical level by the board; and

(9) six additional graduate semester hours of academic coursework that contributes to the development of advanced knowledge or skills in addiction counseling, supervision, or research.

(h) To qualify for licensure as a clinical addiction counselor with a master's degree in a related field with additional coursework in addiction counseling, the following requirements shall be met:

(1) The college or university at which the applicant completed a master's degree in a related field shall be regionally accredited with accreditation standards equivalent to those met by Kansas colleges and universities.

(2) The applicant shall meet the coursework requirements in subsection (g).

(3) The program through which the applicant obtained additional coursework in addiction counseling shall meet the standards approved by the board as specified in subsections (i) and (j).

(i) In order to be approved by the board, each addiction counseling program or related-field program, except the related-field degree listed in paragraphs (d)(1) and (h)(1), shall meet the following conditions:

(1) Have established program admission requirements that are based, in part or in full, on objective measures or standardized achievement tests and measures;

(2) offer education and training in addiction counseling, one goal of which is to prepare students for the practice of addiction counseling;

(3) require an established curriculum that encompasses at least one academic year of study for a baccalaureate degree or two academic years of study for a master's degree;

(4) have clear administrative authority and primary responsibility within the program for the core and specialty areas of training in addiction counseling;

(5) have an established, organized, and comprehensive sequence of study that is planned by administrators who are responsible for providing an integrated educational experience in addiction counseling;

(6) for a master's degree program, be coordinated or directed by an identifiable person who holds a graduate degree that was earned from a regionally accredited college or university upon that person's actual completion of a formal academic training program;

(7) have an identifiable, full-time core faculty member who holds an earned graduate degree in addiction counseling or a related field;

(8) have an established, identifiable body of students who are formally enrolled in the program with the goal of obtaining coursework for the concentration in the study of addiction counseling;

(9) require the student's major advisor to be a member of the program faculty;

(10) require each student to complete the institution's requirements for the number of credit hours that must be completed at that institution and to satisfactorily complete an addiction counseling practicum or its equivalent that is provided by the program from which the student completes the concentration in the study of addiction counseling. The required practicum shall meet the following requirements:

(A) Accept as practicum students only applicants enrolled in the addiction counseling or related-field program;

(B) provide the majority of supervision by an individual who is licensed at the clinical level by the board;

(C) exist as a distinct and organized program that is clearly recognizable within an institution or agency, as well as in pertinent public, official documents issued by the institution or agency, and that is clearly recognizable as a training program for addiction counselors;

(D) identify students as being in training and not as staff members; and

(E) be an integrated and formally organized training experience, not an after-the-fact tabulation of experience; and

(11) conduct an ongoing, objective review and evaluation of each student's learning and progress and report this evaluation in the official student transcripts.

(j) In order to be approved by the board, each addiction counseling program or related-field program, except the related-field degree listed in

paragraphs (d)(1) and (h)(1), shall meet the following requirements:

(1) Be regionally accredited, with accreditation standards equivalent to those met by Kansas colleges and universities;

(2) document in official publications, including course catalogs and announcements, the program description and standards and the admission requirements for the addiction counseling or related-field education and training program;

(3) identify and clearly describe in pertinent institutional catalogs the coursework, experiential, and other academic program requirements that must be satisfied before conferral of the degree;

(4) clearly identify and specify in pertinent institutional catalogs the intent to educate and train addiction counselors;

(5) have clearly established the addiction counselor or related-field education program as a coherent entity within the college or university that, when the applicant's degree was conferred, met the program standards in subsection (i);

(6) have conferred the degree upon the applicant's successful completion of an established and required formal program of studies; and

(7) have a library and equipment and resources available that are adequate for the size of the student body and the scope of the program offered.

(k) The following types of study shall not be substituted for or counted toward the coursework requirements of this regulation:

(1) Academic coursework that has been audited rather than graded;

(2) academic coursework for which the applicant received an incomplete or failing grade;

(3) coursework that the board determines is not closely related to the field or practice of addiction counseling;

(4) coursework or training provided by any college, university, institute, or training program that does not meet the requirements of subsections (i) and (j); and

(5) any continuing education, in-service activity, or on-the-job training. (Authorized by K.S.A. 2013 Supp. 74-7507; implementing K.S.A. 2013 Supp. 65-6610; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012; amended, T-102-7-16-13, July 16, 2013; amended Dec. 2, 2013.)

**102-7-4. Application for licensure.** (a) Each applicant for licensure as an addiction counselor or a clinical addiction counselor shall request

the appropriate licensure application forms from the executive director of the board.

(b) Each applicant for licensure as an addiction counselor shall submit the completed application materials to the board and perform the following:

(1) Submit the full payment of the licensure application fee as specified in K.A.R. 102-7-2;

(2) submit, on board-approved forms, two professional references. Each individual submitting a reference shall meet all of the following conditions:

(A) Not be related to the applicant;

(B) be authorized by law to practice addiction counseling or to practice in a related field; and

(C) be able to address the applicant's professional conduct, competence, and merit of the public trust;

(3) if not previously provided to the board, submit, on a board-approved form, a third professional reference from an individual who shall meet the following conditions:

(A) Not be related to the applicant;

(B) if the individual is the applicant's practicum supervisor, be authorized by law to practice addiction counseling; and

(C) have served as the applicant's on-site practicum supervisor or, if that supervisor is unavailable, the program director or any person who has knowledge of the applicant's practicum experience on the basis of the applicant's practicum records; and

(4) meet either of the following requirements:

(A) Currently hold a license issued by the board at the master's level or above; or

(B)(i) Demonstrate completion of the educational requirements specified in K.A.R. 102-7-3; and

(ii) arrange for the applicant's transcripts covering all applicable college or university coursework to be sent directly from each academic institution to the board office. Each applicant who graduated from a college or university outside the United States also shall arrange for the applicant's transcript to be translated and evaluated for degree equivalency by a source and in a manner that are acceptable to the board.

(c) Each applicant for licensure as a clinical addiction counselor shall submit the completed application materials to the board and perform the following:

(1) Submit the full payment of the licensure application fee as specified in K.A.R. 102-7-2;

(2) demonstrate that the applicant is licensed by the board as an addiction counselor or meets all

requirements for licensure as a licensed addiction counselor;

(3) if not previously provided to the board, submit, on board-approved forms, two professional references. Each individual submitting a reference shall meet all of the following conditions:

(A) Not be related to the applicant;

(B) be authorized by law to practice addiction counseling or to practice in a related field; and

(C) be able to address the applicant's professional conduct, competence, and merit of the public trust;

(4) if not previously provided to the board, submit, on a board-approved form, a third professional reference from an individual who shall meet the following conditions:

(A) Not be related to the applicant;

(B) if the individual is the applicant's practicum supervisor, be authorized by law to practice addiction counseling; and

(C) have served as the applicant's on-site practicum supervisor or, if that supervisor is unavailable, the program director or any person who has knowledge of the applicant's practicum experience on the basis of the applicant's practicum records;

(5) meet either of the following requirements:

(A) Demonstrate compliance with requirements pursuant to L. 2011, ch. 114, sec. 12(b)(1)(A)(iv), and amendments thereto; or

(B)(i) Demonstrate satisfactory completion of the graduate education requirements specified in K.A.R. 102-7-3; and

(ii) if not previously provided to the board, arrange for the applicant's transcripts covering all applicable college or university coursework to be sent directly from each academic institution to the board office. Each applicant who graduated from a college or university outside the United States also shall arrange for the applicant's transcript to be translated and evaluated for degree equivalency by a source and in a manner that are acceptable to the board; and

(6) submit each supervisor's attestation that the applicant has satisfactorily completed the postgraduate supervised professional experience requirements in accordance with a clinical supervision training plan approved by the board as specified in K.A.R. 102-7-6.

(d) The following provisions shall apply to each applicant for licensure as an addiction counselor and each applicant for licensure as a clinical addiction counselor:

(1) Upon the board's determination that the applicant has met the applicable educational requirements, each applicant shall pass an appropriate, nationally administered, standardized written examination approved by the board in accordance with K.A.R. 102-7-5.

(2) An applicant shall not be given a judgment on the applicant's eligibility for licensure until the board receives all application materials and the applicant completes all application procedures.

(3) Upon notification from the board that all eligibility requirements have been satisfied, the applicant shall submit the fee for the original two-year licensure period as specified in K.A.R. 102-7-2.

(4)(A) If any of the following conditions applies to the applicant, the applicant's application shall expire one year from the date on which it was submitted to the board or on the date the applicant's temporary license expires, whichever date is later, except as provided by paragraph (d)(4)(B):

(i) The applicant has not met the qualifications for licensure.

(ii) The applicant has not submitted a complete application.

(iii) The applicant has not submitted the original license fee.

(B) Any applicant whose application will expire under paragraph (d)(4)(A) may request that the application be kept open for an additional period of time, not to exceed six months, on the basis of extenuating circumstances. The applicant shall submit a written request to the board with a detailed explanation of the extenuating circumstances that are the basis of the applicant's request. The written request shall be submitted no later than 30 days before the application expires. If the request is approved by the board, the application shall remain open for the period of time stipulated by the board in its approval, which shall not exceed six months.

(C) Upon expiration of the application, the applicant may submit a new application, the required fee, and all supporting documents if the applicant wishes to reapply.

(e)(1) Any applicant who is determined by the board to meet the requirements of L. 2011, ch. 114, sec. 12 (a)(1), (2), and (4), and amendments thereto, may be granted a temporary license if the applicant submits a written request for a temporary license on a form approved by the board and the temporary license fee as specified in K.A.R. 102-7-2. Except as provided in para-

graph (e)(2), the temporary license shall remain in effect for 12 months.

(2) Any applicant whose 12-month temporary license is due to expire may request that the temporary license remain in effect for a period of time not to exceed six months on the basis of extenuating circumstances. The applicant shall submit a written request to the board with a detailed explanation of the extenuating circumstances that are the basis of the applicant's request. The written request shall be submitted no later than 30 days before the application expires. If the request is approved by the board, the temporary license shall remain in effect for the period of time stipulated by the board in its approval, which shall not exceed six months.

(f) For purposes of this regulation, the term "extenuating circumstances" shall mean any condition caused by events beyond a person's control that is sufficiently extreme in nature to result in either of the following:

(1) The person's inability to comply with the requirements of this regulation within the time frames established by this regulation or L. 2010, ch. 45, sec. 5, and amendments thereto; or

(2) the inadvisability of requiring the applicant to comply with the requirements of this regulation within the time frames established by this regulation and L. 2010, ch. 45, sec. 5, and amendments thereto. (Authorized by K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; implementing L. 2010, ch. 45, §4, as amended by 2011 HB 2182, §12, and K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

**102-7-4a. Licensure without examination.** (a) Each applicant for licensure as an addiction counselor or clinical addiction counselor shall request the appropriate licensure application forms from the executive director of the board.

(b) Each applicant for licensure as an addiction counselor without examination shall submit the completed application materials to the board and meet the following requirements:

(1) Submit a certificate or written statement issued by the credentialing organization verifying that the applicant was registered or credentialed as an alcohol or other drug counselor pursuant to L. 2011, ch. 114, sec. 12, and amendments thereto, at any time from July 1, 2008 through June 30, 2011;

(2) submit an attestation, on a board-approved form, by the applicant that the applicant's last Kansas alcohol or other drug registration or credential was not suspended or revoked;

(3) submit documentation verifying that the applicant has completed two hours each of continuing education in ethics, confidentiality, and infectious disease during the three years immediately preceding application;

(4) submit, on board-approved forms, references from two professionals. Each individual submitting a reference shall meet all of the following conditions:

(A) Not be related to the applicant;

(B) be authorized to engage in the practice of addiction counseling or to practice in a related field; and

(C) be able to address the applicant's competence to perform the duties of an addiction counselor; and

(5) pay the application fee specified in K.A.R. 102-7-2.

(c) Each applicant for licensure as a clinical addiction counselor without examination shall submit to the board all application materials prescribed in paragraphs (b)(1) through (4), in addition to the following items:

(1) Documentation verifying that the applicant has completed six hours of continuing education in the diagnosis and treatment of substance use disorders during the three years immediately preceding the application date;

(2) (A) Documentation verifying that the applicant is authorized to practice independently as a licensed specialist clinical social worker, licensed clinical professional counselor, licensed clinical marriage and family therapist, licensed clinical psychotherapist, licensed psychologist, mental health advanced registered nurse practitioner, or advanced practice registered nurse or is a physician licensed to practice medicine and surgery; or

(B) (i) An official transcript verifying that the applicant holds a master's degree in a related field; and

(ii) an attestation, on a board-approved form, that the applicant has engaged in the practice, supervision, or administration of addiction counseling for at least four years with an average of at least eight hours each week for at least nine months of each of the four years; and

(3) payment of the application fee specified in K.A.R. 102-7-2.

(d) The following provisions shall apply to each applicant for licensure as an addiction counselor and each applicant for licensure as a clinical addiction counselor:

(1) An applicant shall not be given a judgment on the applicant's eligibility for licensure until the board receives all application materials and the applicant completes all application procedures.

(2) Upon notification from the board that all eligibility requirements for licensure without examination have been satisfied, the applicant shall submit the fee for the original two-year licensure period as specified in K.A.R. 102-7-2.

(3)(A) If any of the following conditions applies to the applicant, the applicant's application shall expire one year from the date on which it was submitted to the board:

(i) The applicant has not met the qualifications for licensure.

(ii) The applicant has not submitted a complete application.

(iii) The applicant has not submitted the original license fee.

(B) Upon expiration of the application, the applicant may submit a new application, the required fee, and all supporting documents if the applicant wishes to reapply. (Authorized by K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; implementing L. 2010, ch. 45, §4, as amended by L. 2011, ch. 114, §12, and K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

**102-7-4b. Application for licensure based on reciprocity.**

(a) Each individual who wishes to be licensed as an addiction counselor or a clinical addiction counselor based on reciprocity, pursuant to L. 2011, ch. 114, sec. 13 and amendments thereto, shall submit an application for licensure in accordance with this regulation.

(b) Each applicant for licensure as an addiction counselor shall request the application forms for licensure by reciprocity from the board. Each applicant shall ensure that the application materials are submitted to the board as follows:

(1) The applicant shall submit the completed application form and payment in full of the application for a license fee, as specified in K.A.R. 102-7-2.

(2) The applicant shall forward to the licensing agency for the jurisdiction in which the applicant

is currently licensed, certified, or registered as an addiction counselor a form provided by the board on which the licensing agency is to provide the following information directly to the board:

(A) Verification that the applicant currently holds a valid license, registration, or certification to practice addiction counseling issued by the licensing agency;

(B) the date on which the applicant was initially licensed, registered, or certified as an addiction counselor by the licensing agency and a complete history of each subsequent renewal, reinstatement, and lapse in licensure, registration, or certification. If an applicant is seeking licensure based on reciprocity pursuant to L. 2011, ch. 114, sec. 13 (a)(2) and amendments thereto, the applicant shall ensure that documentation covering the five years of continuous licensure, registration, or certification as an addiction counselor that immediately precede the date of the application is submitted to the board by the licensing agency for each jurisdiction in which the applicant was licensed, registered, or certified during that five-year period; and

(C) a complete history of any disciplinary action of a serious nature brought by the licensing agency against the applicant. For purposes of this regulation, "disciplinary action of a serious nature" shall mean the revocation or suspension of a license, registration, or certification issued by the licensing board or the voluntary surrender of a license, registration, or certification in lieu of the completion of an investigation or final disciplinary action.

(3) The applicant either shall provide verification that the standards for licensure, certification, or registration as an addiction counselor in that jurisdiction are substantially equivalent to the standards in Kansas or shall meet the following requirements:

(A)(i) Demonstrate completion of a baccalaureate or master's degree in addiction counseling as specified in K.A.R. 102-7-3; or

(ii) demonstrate completion of a baccalaureate or master's degree in a related field that included all required addiction counseling coursework requirements as specified in K.A.R. 102-7-3; and

(B) arrange for the applicant's transcripts covering all applicable college or university coursework to be sent directly from each academic institution to the board office. Each applicant who graduated from a college or university outside the United States also shall arrange for the applicant's transcript to be translated and evaluated for degree

equivalency by a source and in a manner that are acceptable to the board.

(4) The applicant shall submit an attestation that the applicant engaged in the professional practice of addiction counseling an average of at least 15 hours each week for nine months during each of the five years immediately preceding the date of application for licensure based on reciprocity.

(c) In addition to meeting the requirements of subsection (b), each applicant for licensure as a clinical addiction counselor shall demonstrate competence to diagnose and treat substance use disorders by submitting at least two of the following forms of documentation:

(1)(A) A transcript sent directly from a regionally accredited university or college documenting satisfactory completion of 15 graduate credit hours supporting diagnosis or treatment of substance use disorders, including the following coursework:

(i) Three graduate semester hours of discrete coursework in ethics;

(ii) three graduate semester hours of discrete coursework in the diagnosis of substance use disorders that includes studies of the established diagnostic criteria for substance use disorders; and

(iii) coursework that addresses interdisciplinary referrals, interdisciplinary collaborations, and treatment approaches; or

(B) verification from either the licensing agency or the testing service that the applicant passed a national clinical examination approved by the board, including the applicant's score on the exam and the passing score established for the exam;

(2) one or both of the following types of documentation, which shall cover periods of time totaling at least three years:

(A) An attestation by a supervisor or other designated representative of the applicant's employer that the applicant has at least three years of clinical practice, including at least eight hours of client contact each week during nine months or more of each year, in a treatment facility, community mental health center or its affiliate, state mental hospital, or another employment setting in which the applicant engaged in clinical practice that included diagnosis or treatment of substance use disorders; or

(B) an attestation by the applicant that the applicant engaged in at least three years of independent clinical practice that included diagnosis or treatment of substance use disorders, as well as supporting documentation in the form of a published job description, a description of the applicant's practice

in a public information brochure, a description of services in an informed consent document, or other similar published statements demonstrating that the applicant has engaged in independent clinical practice for at least three years; or

(3) an attestation that the applicant has demonstrated competence in diagnosis or treatment of substance use disorders, which shall be signed by either a professional licensed to practice medicine and surgery or a professional licensed psychologist, a licensed clinical social worker, or another professional licensed to diagnose and treat mental disorders or substance use disorders, or both, in independent practice. (Authorized by K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; implementing L. 2010, ch. 45, §7, as amended by 2011 HB 2182, §13; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

**102-7-5. Examination for addiction counselor or clinical addiction counselor.** (a)

(1) Each applicant for licensure as an addiction counselor who does not meet the requirements of K.A.R. 102-7-4a or 102-7-4b shall be required to pass a nationally administered, standardized written examination approved by the board.

(2) An applicant shall not be authorized to register for an examination until the applicant is within at least four months of anticipated completion of the applicable academic degree requirements and has satisfied the board that the applicant merits the public trust. Each applicant who has not completed the applicable academic degree requirements on the date that the application is submitted shall arrange for the required transcripts to be sent to the board when the academic degree is awarded to the applicant.

(3) The applicant's required written examination may be waived by the board if the applicant obtained a passing score as determined by the examination company on a nationally administered, standardized written examination deemed by the board to be substantially equivalent to the examination used in this state.

(b)(1) Each applicant for licensure as a clinical addiction counselor who does not meet the requirements of K.A.R. 102-7-4a or 102-7-4b shall be required to pass a nationally administered, standardized written clinical examination approved by the board.

(2) An applicant shall not be authorized to register for the clinical examination or to qualify for

a waiver of the examination until the applicant has fulfilled all educational requirements and has satisfied the board that the applicant merits the public trust.

(3) The applicant's required written clinical examination may be waived by the board if the applicant obtained a passing score as determined by the examination company on a standardized written examination deemed by the board to be substantially equivalent to the examination used in this state. (Authorized by K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; implementing L. 2010, ch. 45, §4, as amended by 2011 HB 2182, §12; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

**102-7-6. Professional postgraduate supervised experience requirement for a clinical addiction counselor.**

For each applicant for licensure as a clinical addiction counselor, the postgraduate supervised professional experience of addiction counseling shall meet all of the following requirements:

(a) The postgraduate supervised professional experience of addiction counseling shall consist of 4,000 hours of professional experience, including 1,500 hours of direct client contact conducting substance abuse assessments and treatment.

(b) Except as provided in subsection (c), clinical supervision shall be provided throughout the entirety of the postgraduate supervised professional experience at a ratio of one hour of clinical supervision for each 20 hours of direct client contact, specified as follows:

(1) At least 50 hours of one-on-one, individual clinical supervision occurring with the supervisor and supervisee in the same physical space;

(2) at least 100 hours of clinical supervision with one supervisor and no more than six supervisees, which may be obtained in person or, if confidentiality is technologically protected, person-to-person contact by interactive video or other telephonic means; and

(3) at least two separate clinical supervision sessions per month, at least one of which shall be one-on-one individual supervision.

(c) Each applicant with a doctor's degree in addiction counseling or a related field as defined in K.A.R. 102-7-1(s) shall be required to complete, after the doctoral degree is granted, at least one-half of the postgraduate supervised professional experience requirements as follows:

(1) At least 25 hours of one-on-one, individual clinical supervision occurring with the supervisor and supervisee in the same physical space;

(2) at least 50 hours of clinical supervision with one supervisor and no more than six supervisees, which may be obtained in person or, if confidentiality is technologically protected, person-to-person contact by interactive video or other telephonic means; and

(3) at least two separate clinical supervision sessions per month, at least one of which shall be one-on-one individual supervision.

(d) The clinical supervisor of each person attaining the 4,000 hours of postgraduate supervised professional experience required for licensure as a clinical addiction counselor shall meet one of the following requirements while the individual is providing supervision:

(1) The clinical supervisor shall be a clinical addiction counselor who is licensed in Kansas or is certified or licensed in another jurisdiction and, on and after January 1, 2014, who has engaged in the independent practice of clinical addiction counseling, including the diagnosis and treatment of substance use disorders, for at least two years beyond the supervisor's certification or licensure date as a clinical addiction counselor.

(2) If a licensed clinical addiction counselor is not available, the clinical supervisor may be a person who is certified or licensed at the graduate level to practice in one of the behavioral sciences and whose authorized scope of practice permits the diagnosis and treatment of mental disorders independently. The qualifying individual shall have had at least two years of clinical professional experience beyond the date of the supervisor's certification or licensure.

(e) In addition to the requirements of subsection (d), each clinical supervisor shall meet the following requirements:

(1) Have professional authority over and responsibility for the supervisee's clinical functioning in the practice of addiction counseling;

(2) not have a harmful dual relationship with the supervisee;

(3) not be under any sanction from a disciplinary proceeding, unless the board waives this prohibition for good cause shown by the proposed supervisor;

(4) have knowledge of and experience with the supervisee's client population;

(5) have knowledge of and experience with the methods of practice that the supervisee employs;

(6) have an understanding of the organization and the administrative policies and procedures of the supervisee's practice setting; and

(7) be a member of the practice setting staff or meet the requirements of subsection (f).

(f) If a qualified clinical supervisor is not available from among staff in the supervisee's practice setting, the supervisee may secure an otherwise qualified clinical supervisor outside the practice setting if all of the following conditions are met:

(1) The supervisor has an understanding of the practice setting's mission, policies, and procedures.

(2) The extent of the supervisor's responsibility for the supervisee is clearly defined in terms of client cases to be supervised, role in personnel evaluation within the practice setting, and other aspects of the clinical supervision training plan.

(3) The responsibility for payment for supervision is clearly defined.

(4) If the supervisee pays the supervisor directly for the supervision, the supervisor maintains responsibility for the client and to the practice setting.

(g) Each clinical supervisor shall perform the following duties:

(1) Provide oversight, guidance, and direction for the supervisee's clinical practice of addiction counseling by assessing and evaluating the supervisee's performance;

(2) conduct supervision as a process distinct from personal therapy, didactic instruction, or addiction counseling consultation;

(3) provide documentation of supervisory qualifications to the supervisee;

(4) periodically evaluate the supervisee's clinical functioning;

(5) provide supervision in accordance with the clinical supervision training plan;

(6) maintain documentation of supervision in accordance with the clinical supervision training plan;

(7) provide the documentation required by the board when the supervisee completes the postgraduate supervised professional experience. The supervisor shall submit this documentation on board-approved forms and in a manner that will enable the board to evaluate the extent and quality of the supervisee's professional experience and assign credit for that experience;

(8) provide a level of supervision that is commensurate with the education, training, experience, and ability of both the supervisor and the supervisee; and

(9) ensure that each client knows that the supervisee is practicing addiction counseling under supervision.

(h)(1) In order for an applicant for a clinical addiction counselor license to obtain credit for hours accrued before August 1, 2011 toward the required 4,000 hours of clinical supervision, the applicant shall provide an attestation that the clinical supervision occurred in accordance with a plan that meets the following conditions:

(A) The supervision was scheduled and formalized.

(B) The supervision included review and examination of cases.

(C) Assessment of the supervisee's competencies was addressed by the supervisor.

(2) The attestation shall be signed by one of the following:

(A) The supervisor, if available; or

(B) if the supervisor is not available, another person who was in the supervisee's practice setting with knowledge of the supervisee's clinical supervision.

(i) For supervision hours accrued on and after August 1, 2011, each supervisor and supervisee shall develop and cosign a written clinical supervision training plan on forms provided by the board at the beginning of the supervisory relationship. The supervisee shall submit an official position description and the training plan to the board and shall receive board approval of the plan before any supervised professional experience hours for clinical licensure can begin to accrue. This plan shall clearly define and delineate the following items:

(1) The supervisory context, which shall include the purpose of supervision;

(2) a summary of the anticipated types of clients and the services to be provided, as evidenced by the supervisee's official position description;

(3) a plan that describes the supervision goals and objectives and the means to attain and evaluate progress towards the goals;

(4) the supervisor's responsibilities;

(5) the supervisee's responsibilities;

(6) the format and schedule of supervision;

(7) a plan for documenting the following information:

(A) The date of each supervisory meeting;

(B) the length of each supervisory meeting;

(C) a designation of each supervisory meeting as an individual or group meeting;

(D) a designation of each supervisory meeting

as conducted in the same physical space or by another means as specified in paragraph (b)(2);

(E) the 4,000 hours of postgraduate supervised clinical addiction counseling experience, which shall include specifically documenting the 1,500 hours of direct client contact conducting substance abuse assessments and treatment; and

(F) an evaluation of the supervisee's progress under clinical supervision;

(8) a plan to address and remedy circumstances in which there is a conflict between the supervisor and the supervisee;

(9) a plan to notify clients of the following information:

(A) The fact that the supervisee is practicing addiction counseling under supervision;

(B) the limits of client confidentiality within the supervisory process; and

(C) the name, address, and telephone number of the clinical supervisor;

(10) the date on which the parties entered into the clinical supervision training plan and the time frame that the plan is intended to encompass;

(11) an agreement to amend or renegotiate the terms of the clinical supervision training plan, if warranted, including written notification of these changes to the board office, as provided in subsection (j);

(12) the supervisee's informed consent for the supervisor to discuss supervision or performance issues with the supervisee's clients, the supervisee's other addiction counseling or employment supervisors, the board, or any other individual or entity to which either the supervisee or the supervisor is professionally accountable; and

(13) a statement signed by each supervisor and supervisee acknowledging that each person has read and agrees to the postgraduate supervised professional experience requirements specified in this regulation.

(j) All changes to the clinical supervision training plan shall be submitted by the supervisee to the board for its approval. The changes shall be submitted no more than 45 days after the date on which the changes took effect. If the supervisee fails to submit the changes to the board within that 45-day period, no supervised hours of practice shall be accrued or credited for any practice, beginning on the date the changes took effect through the date on which the changes to the plan are approved by the board. (Authorized by K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; implementing L. 2010, ch. 45, §4, as

amended by 2011 HB 2182, §12; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

**102-7-7. Renewal; late renewal.** (a) To be considered for license renewal, each licensed addiction counselor and each licensed clinical addiction counselor shall submit the following items to the board:

- (1) A completed renewal application;
- (2) the continuing education reporting form; and
- (3) the renewal fee specified in K.A.R. 102-7-2.

(b) If the items specified in subsection (a) are not submitted before the date the license expires, the licensee may late renew the license by performing the following:

- (1) Submitting a completed late renewal application form;
- (2) paying the required renewal fee and the late renewal penalty fee specified in K.A.R. 102-7-2; and
- (3) submitting the continuing education reporting form and documentation pursuant to K.A.R. 102-7-10.

(c) Each individual who holds an addiction counseling license or a clinical addiction counseling license but who fails to renew the license before its expiration and subsequently applies to renew the license shall indicate the following on the late renewal application form:

(1) Specification of whether or not the individual has continued to practice addiction counseling in Kansas or has continued to represent that individual as being a licensed addiction counselor or a licensed clinical addiction counselor in Kansas after the individual's license expired; and

(2) if either condition in paragraph (c)(1) has been met, an explanation of the circumstances. (Authorized by K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; implementing L. 2010, ch. 45, §8, as amended by 2011 HB 2182, §14, and K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

**102-7-7a. Reinstatement after suspension or revocation.** (a) If the license of any individual has been suspended and the individual subsequently wants to apply for license reinstatement, the individual shall submit the following items:

(1) The completed reinstatement application form;

(2) the required reinstatement fee specified in K.A.R. 102-7-2;

(3) the continuing education reporting form and documentation pursuant to K.A.R. 102-7-10;

(4) proof satisfactory to the board that the individual has complied with sanctions and any other conditions imposed under the suspension; and

(5) any materials, information, evaluation or examination reports, or other documentation that may be requested by the board and that will enable the board to satisfactorily evaluate and determine whether or not the license should be reinstated.

(b) If the license of any individual has been revoked and the individual subsequently wants to apply for license reinstatement, the individual shall submit the following items:

(1) The completed reinstatement application form;

(2) the required reinstatement fee specified in K.A.R. 102-7-2;

(3) the continuing education reporting form and documentation pursuant to K.A.R. 102-7-10; and

(4) any materials, information, evaluation or examination reports, or other documentation that the board may request and that will enable the board to satisfactorily evaluate and determine whether or not to reinstate the license. Factors to be considered by the board in determining whether or not to reinstate the revoked license shall include the following:

(A) The extent to which the individual presently merits the public trust;

(B) the extent to which the individual has demonstrated consciousness of the misconduct that resulted in the license revocation;

(C) the extent of the individual's remediation and rehabilitation in regard to the misconduct that resulted in the license revocation;

(D) the nature and seriousness of the original misconduct;

(E) the individual's conduct after the license revocation;

(F) the time elapsed since the license revocation; and

(G) the individual's present knowledge and competence in addiction counseling skills. (Authorized by K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; implementing L. 2010, ch. 45, §8, as amended by 2011 HB 2182, §14; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

**102-7-8. Renewal audit.** (a) A random audit of the continuing education documentation for 10 percent of the addiction counselor licenses and the clinical addiction counselor licenses expiring each month shall be conducted by the board.

(b) Each licensee selected for the random audit shall be notified after the board has received the licensee's renewal application form required by K.A.R. 102-7-7.

(c) Upon board notification, each renewal applicant shall submit the following to the board within 30 days after the license expiration date:

(1) The completed renewal audit forms; and

(2) the original continuing education documents that validate all continuing education hours claimed for credit during the current renewal period.

(d) Continuing education hours that a renewal applicant earns after board receipt of the renewal application form shall not be approved for continuing education credit for the period being audited. (Authorized by K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; implementing L. 2010, ch. 45, §8, as amended by 2011 HB 2182, §14, and K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

**102-7-9. Continuing education.** (a) Each licensee shall complete 30 hours of documented and approved continuing education oriented to the enhancement of an addiction counselor's practice, values, ethics, skills, or knowledge during each two-year renewal period. Continuing education hours accumulated in excess of the requirement shall not be carried over to the next renewal period.

(b) During each two-year renewal period and as a part of the required continuing education hours, each licensee shall complete three hours of professional ethics and each clinical addiction counselor licensee shall complete six hours related to the diagnosis and treatment of substance use disorders. These hours shall be obtained from any of the activities specified in paragraphs (d)(1), (d)(2), (d)(3), (d)(4), (d)(9), and (d)(10).

(c) One hour of continuing education credit shall consist of at least 50 minutes of classroom instruction or at least one clock-hour of other types of acceptable continuing education experiences listed in subsection (d). One-quarter hour of continuing education credit may be granted

for each 15 minutes of acceptable continuing education. Credit shall not be granted for fewer than 15 minutes.

(d) Acceptable continuing education, whether taken within the state or outside the state, shall include the following:

(1) An academic addiction counseling course or an academic course oriented to the enhancement of addiction counselor's practice, values, ethics, skills, or knowledge that is taken for academic credit. Each licensee shall be granted 15 continuing education hours for each academic credit hour that the licensee successfully completes. The maximum number of allowable continuing education hours shall be 30;

(2) an academic addiction counseling course, or an academic course oriented to the enhancement of an addiction counselor's practice, values, ethics, skills, or knowledge, that is audited. Each licensee shall receive continuing education credit on the basis of the actual contact time that the licensee spends attending the course, up to a maximum of 15 hours per academic credit hour. The maximum numbers of allowable continuing education hours shall be 30;

(3) a seminar, institute, conference, workshop, or course. The maximum number of allowable continuing education hours shall be 30;

(4) if a posttest is provided, an activity consisting of completing a computerized interactive learning module, viewing a telecast or videotape, listening to an audiotape, or reading. The maximum number of allowable continuing education hours shall be 30;

(5) if a posttest is not provided, an activity consisting of completing a computerized interactive learning module, viewing a telecast or videotape, listening to an audiotape, or reading. The maximum number of allowable continuing education hours shall be five;

(6) a cross-disciplinary offering in medicine, law, a foreign or sign language, computer science, professional or technical writing, business administration, management sciences, or any other discipline if the offering is clearly related to the enhancement of an addiction counselor's practice, values, ethics, skills, or knowledge. The maximum number of allowable continuing education hours shall be 10;

(7) a self-directed learning project preapproved by the board. The maximum number of allowable continuing education hours shall be 10;

(8) providing supervision to practicum or intern

students, applicants for licensure as clinical addiction counselors, or other clinical mental health practitioners. The maximum number of allowable continuing education hours shall be 10;

(9) the first-time preparation and presentation of an addiction seminar, institute, conference, workshop, or course, or the substantial revision of an addiction counseling seminar, institute, conference, workshop, or course. The maximum number of allowable continuing education hours shall be 10 for documented preparation and presentation time;

(10) the preparation of a professional addiction counseling article published for the first time in a professional journal, a book chapter published by a recognized publisher, or a written presentation given for the first time at a statewide or national professional meeting. If more than one licensee or other professional authored the material, the continuing education credit shall be prorated among the authors. The maximum number of allowable continuing education hours shall be 10; and

(11) participation in a professional organization or appointment to a professional credentialing board, if the goals of the organization or board are clearly related to the enhancement of addiction counseling practice, values, ethics, skills, and knowledge. Participation may include holding office or serving on committees of the organization or board. The maximum number of allowable continuing education hours shall be 10.

(e) Continuing education credit approval shall not be granted for identical programs if the programs are completed within the same renewal period.

(f) Continuing education credit shall not be granted for the following:

(1) In-service training, if the training is for job orientation or job training or is specific to the employing agency; and

(2) any activity for which the licensee cannot demonstrate to the board's satisfaction that the program's goals and objectives are to enhance the licensee's practice, values, ethics, skills, or knowledge in addiction counseling.

(g) Each licensee shall maintain individual, original continuing education records. These records shall document the licensee's continuing education activity attendance, participation, or completion as specified in K.A.R. 102-7-10. Any licensee may be required to submit these records to the board at least 30 days before the expiration date of each current licensure period. (Authorized

by K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; implementing L. 2010, ch. 45, §8, as amended by 2011 HB 2182, §14; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

**102-7-10. Documentation of continuing education.** Each of the following forms of documentation shall be accepted as proof that a licensee has completed that continuing education activity:

(a) An official transcript or other proof indicating a passing grade for an academic course;

(b) a statement signed by the instructor indicating the number of actual contact hours attended for an audited academic course. A copy shall not be accepted;

(c) a signed statement from the provider of a seminar, institute, conference, workshop, or course indicating that the licensee attended the continuing education program. A copy shall not be accepted;

(d) for each videotape, audiotape, computerized interactive learning module, or telecast that the licensee utilized for continuing education purposes, a written statement from the licensee specifying the media format, content title, presenter or sponsor, content description, length, and activity date;

(e) a copy of a self-directed project. The licensee shall submit this copy to the board to evaluate and certify the number of credit hours that the board will grant;

(f) written, signed verification from the university practicum or intern instructor or other official training director for whom the licensee supervised undergraduate or graduate students or from the postgraduate supervisee for whom the licensee provided supervision. A copy shall not be accepted;

(g) a copy of an academic course syllabus and verification that the licensee presented the course;

(h) a copy of a letter from the presentation sponsor or a copy of the brochure announcing the licensee as the presenter, the agenda of the presentation, and verification that the licensee presented the seminar, institute, conference, workshop, or course;

(i) a copy of an article or book chapter written by the licensee and verification of publication or written presentation at a professional meeting. The licensee shall submit these materials to the board to evaluate and certify the number of hours of credit to be granted; and

(j) a signed letter from a professional organization or credentialing board outlining the licensee's participation in that professional organization or credentialing board. A copy shall not be accepted. (Authorized by K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; implementing L. 2010, ch. 45, §8, as amended by 2011 HB 2182, §14; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

**102-7-11. Unprofessional conduct.** Each of the following acts shall be considered unprofessional conduct for a licensed addiction counselor, a licensed clinical addiction counselor, or an applicant for an addiction counselor license or a clinical addiction counselor license:

(a) Except when the information has been obtained in the context of confidentiality, failing to notify the board, within a reasonable period of time, that the licensee or applicant or any other person regulated by the board or applying for licensure or registration has met any of these conditions:

(1) Has had a professional license, certificate, permit, registration, certification, or professional membership granted by any jurisdiction, professional association, or professional organization that has been limited, conditioned, qualified, restricted, suspended, revoked, refused, voluntarily surrendered, or allowed to expire in lieu of or during investigatory or disciplinary proceedings;

(2) has been subject to any other disciplinary action by any credentialing board, professional association, or professional organization;

(3) has been demoted, terminated, suspended, reassigned, or asked to resign from employment, or has resigned from employment, for some form of misfeasance, malfeasance, or nonfeasance;

(4) has been substantiated of abuse against a child, an adult, or a resident of a care facility; or

(5) has practiced the licensee's profession in violation of the laws or regulations that regulate the profession;

(b) knowingly allowing another person to use one's license;

(c) impersonating another person holding a license or registration issued by this or any other board;

(d) having been convicted of a crime resulting from or relating to one's professional practice of addiction counseling;

(e) furthering the licensure application of another person who is known or reasonably believed

to be unqualified with respect to character, education, or other relevant eligibility requirements;

(f) knowingly aiding or abetting any individual who is not credentialed by the board to represent that individual as a person who was or is credentialed by the board;

(g) failing to recognize, seek intervention, and otherwise appropriately respond when one's own personal problems, psychosocial distress, or mental health difficulties interfere with or negatively impact professional judgment, professional performance and functioning, or the ability to act in the client's best interests;

(h) failing or refusing to cooperate in a timely manner with any request from the board for a response, information, or assistance with respect to the board's investigation of any report of an alleged violation filed against oneself or any other applicant or professional who is required to be licensed or registered by the board. Each person taking longer than 30 days to provide the requested response, information, or assistance shall have the burden of demonstrating that the person has acted in a timely manner;

(i) offering to perform or performing services clearly inconsistent or incommensurate with one's training, education, or experience or with accepted professional standards;

(j) engaging in any behavior that is abusive or demeaning to a client, student, or supervisee;

(k) imposing one's personal values, spiritual beliefs, or lifestyle on a client, student, or supervisee;

(l) discriminating against any client, student, directee, or supervisee on the basis of color, race, gender, age, religion, national origin, or disability;

(m) failing to inform each client of that client's rights as those rights relate to the addiction counseling relationship;

(n) failing to provide each client with a description of the services, fees, and payment expectations, or failing to reasonably comply with that description;

(o) failing to provide each client with a description of the possible effects of the proposed treatment if the treatment is experimental or if there are clear and known risks to the client;

(p) failing to inform each client, student, or supervisee of any financial interests that might accrue to the licensee or applicant if the licensee or applicant refers a client, student, or supervisee to any other service or if the licensee or applicant uses any tests, books, or apparatus;

(q) failing to inform each client that the client can receive services from a public agency if one is employed by that public agency and also offers services privately;

(r) failing to obtain written, informed consent from each client, or the client's legal representative or representatives, before performing any of the following actions:

(1) Electronically recording sessions with that client;

(2) permitting a third-party observation of their activities; or

(3) releasing information concerning a client to a third person, unless required or permitted by law;

(s) failing to exercise due diligence in protecting the information regarding the client from disclosure by other persons in one's work or practice setting;

(t) engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation;

(u) using alcohol or any illegal drug or misusing any substance that could cause impairment while performing the duties or services of an addiction counselor;

(v) engaging in a harmful dual relationship or exercising undue influence;

(w) making sexual advances toward or engaging in physical intimacies or sexual activities with either of the following:

(1) Any person who is a client, supervisee, or student; or

(2) any person who has a significant relationship with the client and that relationship is known to the licensee;

(x) making sexual advances toward or engaging in physical intimacies or sexual activities with any person who meets either of the following conditions:

(1) Has been a client within the past 24 months; or

(2) has had a significant relationship with a current client or a person who has been a client within the past 24 months and that relationship is known to the licensee;

(y) directly or indirectly offering or giving to a third party or soliciting, receiving, or agreeing to receive from a third party any fee or other consideration for referring the client or in connection with performing professional services;

(z) permitting any person to share in the fees for professional services, other than a partner, an

employee, an associate in a professional firm, or a consultant authorized to practice addiction counseling or clinical addiction counseling;

(aa) soliciting or assuming professional responsibility for clients of another agency or colleague without attempting to coordinate the continued provision of client services by that agency or colleague;

(bb) making claims of professional superiority that one cannot substantiate;

(cc) guaranteeing that satisfaction or a cure will result from performing or providing any professional service;

(dd) claiming or using any secret or special method of treatment or techniques that one refuses to disclose to the board;

(ee) continuing or ordering tests, procedures, or treatments or using treatment facilities or services not warranted by the client's condition, best interests, or preferences;

(ff) taking credit for work not personally performed, whether by giving inaccurate or misleading information or by failing to disclose accurate or material information;

(gg) if engaged in research, failing to meet these requirements:

(1) Considering carefully the possible consequences for human beings participating in the research;

(2) protecting each participant from unwarranted physical and mental harm;

(3) ascertaining that each participant's consent is voluntary and informed; and

(4) preserving the privacy and protecting the anonymity of each subject of the research within the terms of informed consent;

(hh) making or filing a report that one knows to be false, distorted, erroneous, incomplete, or misleading;

(ii) failing to notify the client promptly if one anticipates terminating or interrupting service to the client;

(jj) failing to seek continuation of service, or abandoning or neglecting a client under or in need of professional care, without making reasonable arrangements for that care;

(kk) abandoning employment under circumstances that seriously impair the delivery of professional care to clients and without providing reasonable notice to the employer;

(ll) failing to terminate addiction counseling services if it is apparent that the relationship no longer serves the client's needs or best interests;

(mm) when supervising, failing to provide accurate and current information, timely evaluations, and constructive consultation;

(nn) when applicable, failing to inform a client that addiction counseling services are provided or delivered under supervision;

(oo) failing to inform a client that addiction counseling services are delivered under supervision as a student or an individual seeking clinical licensure;

(pp) failing to report unprofessional conduct of a licensed addiction counselor, licensed clinical addiction counselor, or any individual licensed by the board;

(qq) intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing another person from filing a report or record that is required by state or federal law, or inducing another person to take any of these actions;

(rr) offering to perform or performing any service, procedure, or therapy that, by the accepted standards of addiction counseling practice in the community, would constitute experimentation on human subjects without first obtaining the full, informed, and voluntary written consent of the client or the client's legal representative or representatives;

(ss) practicing addiction counseling after one's license expires;

(tt) using without a license, or continuing to use after a license has expired, any title or abbreviation defined by regulation; and

(uu) violating any provision of the addictions counselor licensure act or any implementing regulation. (Authorized by K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; implementing L. 2011, ch. 114, §15; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

**102-7-11a. Recordkeeping.** (a) Each licensed addiction counselor and each licensed clinical addiction counselor shall maintain a record for each client that accurately reflects the licensee's contact with the client and the results of the addiction counseling or clinical addiction counseling services provided. Each licensee shall have ultimate responsibility for the content of the licensee's records and the records of those persons under the licensee's supervision. These records may be maintained in a variety of formats, if reasonable steps are taken to maintain the confiden-

tiality, accessibility, and durability of the records. Each record shall be completed in a timely manner and, at a minimum, shall include the following information for each client in sufficient detail to permit planning for continuity of care:

(1) Adequate identifying data;

(2) the date or dates of services that the licensee or the licensee's supervisee provided;

(3) the type or types of services that the licensee or the licensee's supervisee provided;

(4) the initial assessment, conclusions, and recommendations;

(5) the treatment plan; and

(6) the clinical or progress notes from each session.

(b) If a licensee is the owner or custodian of client records, the licensee shall retain a complete record for the following time periods, unless otherwise provided by law:

(1) At least six years after the date of termination of one or more contacts with an adult; and

(2) for a client who is a minor on the date of termination of the contact or contacts, at least until the later of the following two dates:

(A) Two years past the date on which the client reaches the age of majority; or

(B) six years after the date of termination of the contact or contacts with the minor. (Authorized by K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; implementing L. 2010, ch. 45, §2, as amended by 2011 HB 2182, §10; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

**102-7-12. Designation of referral source for use in the diagnosis and treatment of substance use disorders.** The "diagnostic and statistical manual of mental disorders," fifth edition, published by the American psychiatric association, shall be designated as the manual to diagnose and treat substance use disorders. (Authorized by K.S.A. 65-6608 and 74-7507; implementing K.S.A. 65-6608 and 65-6610; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012; amended March 15, 2019.)

## Article 8.—APPLIED BEHAVIOR ANALYSIS

**102-8-1. Definitions.** Each of the following terms, as used in the act and this article of the board's regulations, shall have the meaning specified in this regulation:

(a) “Academic equivalent of a semester credit hour” means the prorated proportionate credit for formal academic coursework if that coursework is completed on the basis of trimester or quarter hours rather than semester hours.

(b) “Act” means applied behavior analysis licensure act.

(c) “Client” means a person who is a direct recipient of applied behavior analysis services.

(d) “Continuing education” means formally organized programs or activities that are designed for and have content intended to enhance the licensee’s skill, values, ethics, and ability to practice applied behavior analysis.

(e) “Fraudulent representation” shall include the following:

- (1) Deceit;
- (2) misrepresentation; and
- (3) concealing a material fact.

(f) “Harmful dual relationship” means a professional relationship between a licensee and a client, student, supervisee, or any person who has had a significant relationship with either a current client or a person who has been a client within the past 24 months if that relationship is known to the licensee, in which the objectivity or competency of the licensee is impaired or compromised because of any of the following types of present or previous relationships:

- (1) Familial;
- (2) social;
- (3) emotional;
- (4) financial;
- (5) supervisory; or
- (6) administrative.

(g) “Malfeasance” means the performance of an act by a licensee that is prohibited or that constitutes wrongdoing or misconduct.

(h) “Misfeasance” means the improper performance of a lawful act by a licensee.

(i) “Nonfeasance” means the omission of an act that a licensee is required to do.

(j) “Practice setting” means the public or private agency or delivery system within which applied behavior analysis is practiced or delivered.

(k) “Related field” means a degree program in a helping profession and shall include the following:

- (1) Counseling;
- (2) education;
- (3) engineering;
- (4) healing arts;
- (5) human services;
- (6) marriage and family therapy;

(7) natural sciences;

(8) social work; and

(9) psychology.

(l) “Undue influence” means misusing one’s professional position of confidence, trust, or authority over a client or supervisee or taking advantage of a client’s vulnerability, weakness, infirmity, or distress for any of the following purposes:

(1) To improperly influence or change a client’s or supervisee’s actions or decisions;

(2) to exploit a client or supervisee for the licensee’s or a third party’s financial gain, personal gratification, or advantage; or

(3) to impose one’s personal values, spiritual beliefs, or lifestyle on a client, student, or supervisee. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

**102-8-2. Fees.** (a) Each applicant for licensure as an assistant behavior analyst or a behavior analyst shall pay the appropriate fee or fees as follows:

- (1) Initial assistant behavior analyst license, \$70;
- (2) initial behavior analyst license, \$70;
- (3) renewal of an assistant behavior analyst license, \$70; or
- (4) renewal of a behavior analyst license, \$120.

(b) Fees paid to the board shall not be refundable. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

**102-8-4. Application for licensure.** (a) Each applicant for licensure as an assistant behavior analyst or a behavior analyst shall request the appropriate forms from the executive director of the board.

(b) Each applicant for licensure as an assistant behavior analyst shall submit the completed application materials to the board and perform the following:

(1) Submit the application fee as specified in K.A.R. 102-8-2;

(2) submit proof that the applicant has met the requirements for certification to practice applied behavior analysis at the assistant level; and

(3)(A) Arrange for the applicant’s transcripts covering all applicable college or university coursework, including the required baccalaureate degree, to be sent directly from each academic institution to the board office. Each applicant who graduated from a college or university outside the

United States shall also arrange for the applicant's transcript to be translated and evaluated for degree equivalency by a source and in a manner acceptable to the board; or

(B) arrange for a copy of the applicant's transcripts covering all applicable college or university coursework, including the required baccalaureate degree, to be sent directly to the board from the certifying entity.

(c) Each applicant for licensure as a behavior analyst shall submit the completed application materials to the board and perform the following:

(1) Submit the application fee as specified in K.A.R. 102-8-2;

(2) submit proof that the applicant has met the requirements for certification to practice applied behavior analysis; and

(3)(A) Arrange for the applicant's transcripts covering all applicable college or university coursework, including the required graduate degree, to be sent directly from each academic institution to the board office. Each applicant who graduated from a college or university outside the United States shall also arrange for the applicant's transcript to be translated and evaluated for degree equivalency by a source and in a manner acceptable to the board; or

(B) arrange for a copy of the applicant's transcripts covering all applicable college or university coursework, including the required graduate degree, to be sent directly to the board from the certifying entity.

(d) Each applicant who has met all requirements for licensure pursuant to the act and this article of the board's regulations and has paid the initial license fee specified in K.A.R. 102-8-2 shall be licensed by the board. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

**102-8-6. Supervision.** (a) Each licensed assistant behavior analyst shall be supervised by a licensed behavior analyst.

(b) Each licensed assistant behavior analyst shall receive at least 12 supervision sessions annually. Each supervision session shall require two-way interactions involving real-time visual and auditory contact. The supervision shall include the following:

(1) At least one monthly supervision session of at least one hour each. At least two of the 12 supervision sessions shall be conducted with the supervi-

ee in person and shall include direct observation of the supervisee's provision of applied behavior analysis services to clients. Except as specified in this paragraph, no more than half of the supervision sessions may be conducted in group supervision. Under extenuating circumstances approved by the board, additional group supervision may be allowed. The licensee shall submit a written request to the board with a detailed explanation of the extenuating circumstances that are the basis of the licensee's request, which shall be submitted no later than 30 days before the request would take effect; and

(2) review, discussion, and recommendations focusing on the supervisee's practice of applied behavior analysis.

(c) Each supervisor and each supervisee shall maintain documentation of the supervision for three years after the date of supervision. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

**102-8-7. License; expiration and renewal.** (a) Each license issued pursuant to the act shall expire 24 months after the date of issuance unless revoked before that time.

(b) To be considered for license renewal, each licensed assistant behavior analyst and each licensed behavior analyst shall submit the following items to the board:

(1) A completed renewal application;

(2) the continuing education reporting form;

(3) the renewal fee specified in K.A.R. 102-8-2; and

(4) for each licensed assistant behavior analyst, the following proof of supervision required in K.A.R. 102-8-6:

(A) The name and identifying information of any licensed behavior analyst providing supervision; and

(B) documentation that supervision was provided, including dates, format, and length of time as verified by the supervisor.

(c) Each licensee who fails to renew the license before its expiration and who subsequently applies for late renewal of the license shall indicate on the late renewal application form whether the individual has continued to engage in the practice of applied behavior analysis in Kansas or has continued to represent that individual in Kansas as a licensed assistant behavior analyst or licensed behavior analyst and, if so, under what circumstanc-

es. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

**102-8-8. Renewal audit.** (a) Each licensee selected for a random audit shall submit the following to the board within 30 days after the license expiration date:

- (1) The completed renewal audit forms; and
- (2) either the original continuing education documents that validate all continuing education hours claimed for credit during the current renewal period or other documentation of completed continuing education hours approved by the board.

(b) Continuing education hours that a renewal applicant earns after board receipt of the renewal application form shall not be approved for continuing education credit for the period being audited.

(c) Failure to comply with this regulation shall be considered unprofessional conduct. (Authorized by K.S.A. 2015 Supp. 65-7505; implementing K.S.A. 2015 Supp. 65-7504 and 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

**102-8-9. Continuing education.** (a) Each licensed assistant behavior analyst shall complete 30 hours of documented and approved continuing education oriented to the enhancement of the licensee's practice, values, ethics, skills, or knowledge during each two-year renewal period. Continuing education hours accumulated in excess of the requirement shall not be carried over to the next renewal period.

(b) Each licensed behavior analyst shall complete 30 hours of documented and approved continuing education oriented to the enhancement of the licensee's practice, values, ethics, skills, or knowledge during each two-year renewal period. Continuing education hours accumulated in excess of the requirement shall not be carried over to the next renewal period.

(c) During each two-year renewal period and as a part of the required continuing education hours, each licensee shall complete four hours of professional ethics. These hours shall be obtained from any of the activities specified in paragraphs (e)(1), (e)(2), (e)(3), (e)(4), (e)(9), and (e)(10).

(d) One hour of continuing education credit shall consist of at least 50 minutes of classroom instruction or at least one clock-hour of any oth-

er type of acceptable continuing education experience listed in subsection (e). One-quarter hour of continuing education credit may be granted for each 15 minutes of acceptable continuing education. Credit shall not be granted for fewer than 15 minutes.

(e) Acceptable continuing education, whether taken in Kansas or outside the state, shall consist of the following:

(1) An academic applied behavior analysis course or an academic course oriented to the enhancement of the licensee's practice, values, ethics, skills, or knowledge that is taken for academic credit. Each licensee shall be granted 15 continuing education hours for each semester credit hour or the academic equivalent of a semester credit hour that the licensee successfully completes;

(2) an academic applied behavior analysis course or an academic course oriented to the enhancement of the licensee's practice that is audited. Each licensee shall receive continuing education credit on the basis of the actual contact time that the licensee spends attending the course, up to a maximum of 15 hours per academic credit hour;

(3) a seminar, institute, conference, workshop, or course;

(4) an activity consisting of completing a computerized interactive learning module, viewing a telecast or videotape, listening to an audiotape, or reading with a posttest;

(5) an activity consisting of completing a computerized interactive learning module, viewing a telecast or videotape, listening to an audiotape, or reading without a posttest;

(6) a cross-disciplinary offering in medicine, law, a foreign or sign language, computer science, professional or technical writing, business administration, management sciences, or any other discipline if the offering is clearly related to the enhancement of the licensee's practice, values, ethics, skills, or knowledge. The maximum number of allowable continuing education hours shall be 10;

(7) a self-directed learning project preapproved by the board. The maximum number of allowable continuing education hours shall be 10;

(8) providing supervision to practicum or intern students. The maximum number of allowable continuing education hours shall be 10;

(9) the first-time preparation and presentation of an applied behavior analysis seminar, institute, conference, workshop, or course, or the substantial revision of an applied behavior analysis sem-

inar, institute, conference, workshop, or course. The maximum number of allowable continuing education hours shall be 10 for documented preparation and presentation time;

(10) the preparation of a professional applied behavior analysis article published for the first time in a professional journal, a book chapter published by a recognized publisher, or a written presentation given for the first time at a statewide or national professional meeting. If more than one licensee or other professional authored the material, the continuing education credit shall be prorated among the authors. The maximum number of allowable continuing education hours shall be 10; and

(11) participation in a professional organization or appointment to a professional credentialing board, if the goals of the organization or board are clearly related to the enhancement of applied behavior analysis practice, values, ethics, skills, and knowledge. Participation may include holding office or serving on committees of the organization or board. The maximum number of allowable continuing education hours shall be 10.

(f) Continuing education credit approval shall not be granted for identical programs if the programs are completed within the same renewal period.

(g) Continuing education credit shall not be granted for the following:

(1) In-service training, if the training is for job orientation or job training or is specific to the employing agency; and

(2) any activity for which the licensee cannot demonstrate to the board's satisfaction that the program's goals and objectives are to enhance the licensee's practice, values, ethics, skills, or knowledge in applied behavior analysis.

(h) Each licensee shall maintain individual, original continuing education records for three years after the renewal date. These records shall document the licensee's continuing education activity attendance, participation, or completion as specified in K.A.R. 102-8-10. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

**102-8-10. Documentation of continuing education.** Each of the following forms of documentation shall be accepted as proof that a licensee has completed the continuing education activity:

(a) An official transcript or other written proof indicating the licensee's passing grade for an academic course;

(b) a statement signed by the instructor indicating the number of actual contact hours that the licensee attended for an audited academic course;

(c) a signed statement from the provider of a seminar, institute, conference, workshop, or course indicating that the licensee attended the program;

(d) for each videotape, audiotape, computerized interactive learning module, or telecast that the licensee utilized for continuing education purposes, a written statement from the licensee specifying the media format, content title, presenter or sponsor, content description, length, and activity date;

(e) a copy of a self-directed project. The licensee shall submit this copy to the board to evaluate and certify the number of credit hours that the board may grant;

(f) written, signed verification from the university practicum or intern instructor or other official training director for whom the licensee supervised undergraduate or graduate students or from the postgraduate supervisee for whom the licensee provided supervision;

(g) a copy of an academic course syllabus and verification that the licensee presented the course;

(h) a copy of a letter from the presentation sponsor or a copy of the brochure announcing the licensee as the presenter, the agenda of the presentation, and verification that the licensee presented the seminar, institute, conference, workshop, or course;

(i) a copy of an article or book chapter written by the licensee and verification of publication or written presentation at a professional meeting. The licensee shall submit these materials to the board to evaluate and certify the number of hours of credit to be granted; and

(j) a signed letter from a professional organization or certifying entity outlining the licensee's participation in that professional organization or credentialing board. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

**102-8-11. Unprofessional conduct.** Each of the following acts shall be considered unprofessional conduct for a licensed assistant behavior analyst, a licensed behavior analyst, or an applicant for an assistant behavior analyst license or a behavior analyst license:

(a) Except when the information has been obtained in the context of confidentiality, failing to notify the board, within a reasonable period of time, that the licensee or applicant or any other person regulated by the board or applying for licensure has met any of the following conditions:

(1) Has had a professional license, certificate, permit, registration, certification, or professional membership granted by any jurisdiction, professional association, or professional organization that has been limited, conditioned, qualified, restricted, suspended, revoked, refused, voluntarily surrendered, or allowed to expire in lieu of or during investigatory or disciplinary proceedings;

(2) has been subject to any other disciplinary action by any credentialing board, professional association, or professional organization;

(3) has been demoted, terminated, suspended, reassigned, or asked to resign from employment or has resigned from employment, for some form of misfeasance, malfeasance, or nonfeasance; or

(4) has violated any provision of the act or any implementing regulation;

(b) knowingly allowing another person to use one's license;

(c) impersonating another person holding a license or registration issued by the board or any other agency;

(d) having been convicted of a crime resulting from or relating to one's professional practice of applied behavior analysis;

(e) knowingly aiding or abetting any individual who is not credentialed by the board to represent that individual as a person who was or is licensed by the board;

(f) failing to recognize, seek intervention, and otherwise appropriately respond when one's own personal problems, psychosocial distress, or mental health difficulties interfere with or negatively impact professional judgment, professional performance and functioning, or the ability to act in the client's best interests;

(g) failing or refusing to cooperate within 30 days with any request from the board for a response, information, or assistance with respect to the board's investigation of any report of an alleged violation filed against oneself or any other applicant or professional who is required to be licensed by the board. Each person taking longer than 30 days to provide the requested response, information, or assistance shall have the burden of demonstrating that the person has acted in a timely manner;

(h) offering to perform or performing services clearly inconsistent or incommensurate with one's training, education, or experience or with accepted professional standards;

(i) engaging in any behavior that is abusive or demeaning to a client, student, or supervisee;

(j) discriminating against any client, student, directee, or supervisee on the basis of age, gender, race, culture, ethnicity, national origin, religion, sexual orientation, disability, language, or socioeconomic status;

(k) failing to advise and explain to each client the respective rights, responsibilities, and duties involved in the licensee's professional relationship with the client;

(l) failing to provide each client with a description of the services, fees, and payment expectations or failing to reasonably comply with that description;

(m) failing to provide each client with a description of the possible effects of the proposed treatment if the treatment is experimental or if there are clear and known risks to the client;

(n) failing to inform each client, student, or supervisee of any financial interests that might accrue to licensee or applicant if the licensee or applicant refers a client, student, or supervisee to any other service or if the licensee or applicant uses any tests, books, or apparatus;

(o) failing to inform each client that the client can receive services from a public agency if one is employed by that public agency and also offers services privately;

(p) failing to provide copies of reports or records to a licensed healthcare provider authorized by the client following the licensee's receipt of a formal written request, unless the release of that information is restricted or exempted by law or by this article of the board's regulations, or the disclosure of the information would be injurious to the welfare of the client;

(q) failing to obtain written, informed consent from each client, or the client's legal representative or representatives, before performing any of the following actions:

(1) Electronically recording sessions with the client;

(2) permitting a third-party observation of the licensee's provision of applied behavior analysis services to the client; or

(3) releasing information concerning a client to a third person, unless required or permitted by law;

(r) failing to exercise due diligence in protecting the information regarding the client from disclosure by other persons in one's work or practice setting;

(s) engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation;

(t) revealing information, a confidence, or a secret of any client, or failing to protect the confidences, secrets, or information contained in a client's records, unless at least one of the following conditions is met:

(1) Disclosure is required or permitted by law;

(2) failure to disclose the information presents a serious danger to the health or safety of an individual or the public;

(3) the licensee is a party to a civil, criminal, or disciplinary investigation or action arising from the practice of applied behavior analysis, in which case disclosure shall be limited to that action; or

(4) payment for services is needed;

(u) using alcohol or any illegal drug or misusing any substance that could cause impairment while performing the duties or services of a licensee;

(v) engaging in a harmful dual relationship or exercising undue influence;

(w) making sexual advances toward or engaging in physical intimacies or sexual activities with any of the following:

(1) Any person who is a client, supervisee, or student; or

(2) any person who has a significant relationship with the client and that relationship is known to the licensee;

(x) making sexual advances toward or engaging in physical intimacies or sexual activities with any person who meets either of the following conditions:

(1) Has been a client within the past 24 months; or

(2) has had a significant relationship with a current client or a person who has been a client within the past 24 months and that relationship is known to the licensee;

(y) directly or indirectly offering or giving to a third party or soliciting, receiving, or agreeing to receive from a third party any fee or other consideration for referring the client or in connection with performing professional services;

(z) permitting any person to share in the fees for professional services, other than a partner, an employee, an associate in a professional firm, or a consultant authorized to practice applied behavior analysis;

(aa) soliciting or assuming professional responsibility for any clients of another agency or colleague without attempting to coordinate the continued provision of client services by that agency or colleague;

(bb) making claims of professional superiority that one cannot substantiate;

(cc) guaranteeing that satisfaction or a cure will result from performing or providing any professional service;

(dd) claiming or using any secret or special method of treatment or techniques that one refuses to disclose to the board;

(ee) continuing or ordering tests, procedures, or treatments or using treatment facilities or services not warranted by the client's condition, best interests, or preferences;

(ff) taking credit for work not personally performed, whether by giving inaccurate or misleading information or by failing to disclose accurate or material information;

(gg) if engaged in research, failing to meet the following requirements:

(1) Considering carefully the possible consequences for human beings participating in the research;

(2) protecting each participant from unwarranted physical and mental harm;

(3) ascertaining that each participant's consent is voluntary and informed; and

(4) preserving the privacy and protecting the anonymity of each subject of the research within the terms of informed consent;

(hh) making or filing a report that one knows to be false, distorted, erroneous, incomplete, or misleading;

(ii) failing to notify the client promptly if one anticipates terminating or interrupting service to the client;

(jj) failing to seek continuation of service, or abandoning or neglecting a client under or in need of professional care, without making reasonable arrangements for that care;

(kk) abandoning employment under circumstances that seriously impair the delivery of professional care to clients and without providing reasonable notice to the employer;

(ll) failing to terminate applied behavior analysis services if it is apparent that the relationship no longer serves the client's needs or best interests;

(mm) when supervising, failing to provide accurate and current information, timely evaluations, and constructive consultation;

(nn) when applicable, failing to inform a client that applied behavior analysis services are provided or delivered under supervision;

(oo) failing to report unprofessional conduct of a licensed assistant behavior analyst, a licensed behavior analyst, or any other individual licensed by the board;

(pp) intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing another person from filing a report or record that is required by state or federal law, or inducing another person to take any of these actions;

(qq) offering to perform or performing any service, procedure, treatment, or therapy that, by the accepted standards of applied behavior analysis practice in the community, would constitute experimentation on human subjects without first obtaining the full, informed, and voluntary written consent of the client or the client's legal representative or representatives;

(rr) practicing applied behavior analysis after one's license expires; and

(ss) using without a license, or continuing to use after a license has expired, any title or abbreviation defined by regulation. (Authorized by K.S.A. 2015 Supp. 65-7505; implementing K.S.A. 2015 Supp. 65-7504 and 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

**102-8-12. Recordkeeping.** (a) Each licensed assistant behavior analyst and each licensed behavior analyst shall maintain a record for each client that accurately reflects the licensee's contact with the client and the client's progress. Each licensee shall have ultimate responsi-

bility for the content of the licensee's records and the records of those persons under the licensee's supervision. These records may be maintained in a variety of formats, if reasonable steps are taken to maintain the confidentiality, accessibility, and durability of the records. Each record shall be completed in a timely manner and, at a minimum, shall include the following information for each client in sufficient detail to permit planning for continuity of care:

- (1) Adequate identifying data;
- (2) the date or dates of services that the licensee or the licensee's supervisee provided;
- (3) the type or types of services that the licensee or the licensee's supervisee provided;
- (4) the initial assessment, conclusions, and recommendations;
- (5) the treatment plan; and
- (6) the clinical or progress notes from each session.

(b) If a licensee is the owner or custodian of client records, the licensee shall retain a complete record for the following time periods, unless otherwise provided by law:

- (1) For an adult, at least six years after the date of termination of one or more contacts; and
- (2) for a client who is a minor on the date of termination of the contact or contacts, at least until the later of the following two dates:

(A) Two years past the date on which the client reaches the age of 18; or

(B) six years after the date of termination of the contact or contacts with the minor. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)



## Agency 105

# State Board of Indigents' Defense Services

### Articles

105-3. APPOINTED ATTORNEYS.

105-4. ENTITLEMENT TO LEGAL REPRESENTATION.

105-5. ATTORNEY COMPENSATION.

105-7. INVESTIGATIVE, EXPERT OR OTHER SERVICES.

105-11. REIMBURSEMENT FROM DEFENDANT.

### Article 3.—APPOINTED ATTORNEYS

**105-3-2. Eligibility to serve.** (a) Each licensed attorney engaged in the private practice of law shall be eligible to serve on the panel if the following criteria are met:

(1) Each attorney on the voluntary panel representing an indigent defendant shall have completed 12 hours of continuing legal education in the area of criminal law within three years of appointment or have graduated from an accredited law school during the three years immediately before appointment.

(2) Each attorney assigned to the defense of any felony classified as a non-drug grid offense with severity level of 3 or 4 or any felony classified as a drug grid offense with a severity level of 1, 2, or 3 shall have tried to a verdict, either as defense counsel or prosecutor, five or more felony jury trials.

(3) Each attorney assigned to the defense of any felony classified as an off-grid offense or a non-drug grid offense with a severity level of 1 or 2 shall have tried to verdict, either as defense counsel or prosecutor, five or more jury trials involving the following:

(A) Non-drug offenses of severity levels 1 through 4 or drug grid offenses of severity levels 1 through 3; or

(B) any off-grid offenses.

(4) Each attorney assigned or appointed to the defense of any indigent person accused of a capital murder, as defined by K.S.A. 2011 Supp. 21-5401 and amendments thereto, shall be a prequalified death penalty attorney. Each attorney shall be screened by the board to determine the attorney's qualifications to serve as defense counsel to an indigent person accused of a capital murder, pursuant to "guideline 5.1 qualifications of defense counsel," as published on pages 35 and 36 in the February 2003 edition of the American bar associ-

ation (ABA) "guidelines for the appointment and performance of defense counsel in death penalty cases" and hereby adopted by reference, except for the history of guideline, related standards, and commentary on page 36. Each attorney who is eligible to serve on the capital appointments panel shall be prequalified by the board as meeting this regulation.

(5) Each attorney assigned or appointed to represent an indigent person who has been convicted of capital murder and who is under a sentence of death in the direct review of the judgment shall be prequalified by the board as meeting this regulation.

(6) Each attorney assigned or appointed to represent an indigent person who has been convicted of capital murder and who is under a sentence of death in postconviction proceedings shall be prequalified by the board as meeting this regulation.

(7) To ensure compliance with these regulations in capital murder or homicide cases, each attorney assigned or appointed to the defense of any indigent person accused of a capital murder or a homicide pursuant to K.S.A. 2011 Supp. 21-5401, 21-5402, 21-5403, or 21-5404, and amendments thereto, shall be appointed from panel lists screened pursuant to these regulations and approved by the board.

(b) Except for appointment of an attorney to provide representation for an indigent person accused of a capital murder or a homicide pursuant to K.S.A. 2011 Supp. 21-5401, 21-5402, 21-5403, or 21-5404 and amendments thereto, an indigent person who has been convicted of capital murder and who is under a sentence of death in the direct review of the judgment or an indigent person who has been convicted of capital murder and who is under a sentence of death in postconviction proceedings, the judge may waive any of the require-

ments of this regulation if the judge determines that the attorney selected by the judge has sufficient training, resources, and experience to undertake the case in question. (Authorized by and implementing K.S.A. 22-4501, K.S.A. 22-4522, K.S.A. 22-4505, and K.S.A. 22-4506; effective May 1, 1984; amended, T-105-6-13-88, July 1, 1988; amended Nov. 1, 1988; amended Oct. 30, 1989; amended, T-105-6-15-93, June 15, 1993; amended Aug. 16, 1993; amended Nov. 1, 1996; amended Aug. 20, 1999; amended, T-105-6-28-12, June 28, 2012; amended Nov. 9, 2012.)

#### **Article 4.—ENTITLEMENT TO LEGAL REPRESENTATION**

**105-4-1. Determination of eligibility.** (a) At the commencement of proceedings against any defendant, the defendant may apply for legal representation at state expense by submitting, to the court, an affidavit of indigency on a form provided by the board. The court shall determine if the defendant is indigent, based upon consideration of the following factors, as defined in K.A.R. 105-4-2:

- (1) The defendant's liquid assets;
- (2) the defendant's household income;
- (3) either the defendant's actual, reasonable, and necessary expenses incurred to support the defendant's household or the most current federal poverty guidelines, as published by the U.S. department of health and human services, for the defendant's family unit;
- (4) the anticipated cost of private legal representation; and
- (5) any transfer of property by the defendant without adequate monetary consideration after the date of the alleged commission of the offense.

(b) An eligible indigent defendant shall mean a person whose combined household income and liquid assets equal less than the most current federal poverty guidelines, as published by the U.S. department of health and human services, for the defendant's family unit.

(c) The court may also consider any special circumstances affecting the defendant's eligibility for legal representation at state expense.

(d) If the court determines that the defendant is financially able to employ counsel after counsel has been appointed, the court shall require the defendant to reimburse the board in accordance with the provisions of K.S.A. 22-4510, and amendments thereto, for all or part of the

expenditures made on the defendant's behalf. (Authorized by K.S.A. 22-4504 and K.S.A. 22-4522; implementing K.S.A. 22-4504 and K.S.A. 22-4510; effective May 1, 1984; amended, T-105-10-3-05, Oct. 3, 2005; amended Feb. 17, 2006; amended, T-105-8-16-10, Aug. 16, 2010; amended Nov. 5, 2010.)

**105-4-2. Definition of terms.** Terms used to determine eligibility for indigents' defense services shall have the following meanings: (a) Household income. The defendant's household income shall be defined as the defendant's income and the income of all other persons related by birth, marriage, or adoption who reside with the defendant. Income shall include the total cash receipts before taxes from all resources, including money, wages, and the net receipts from nonfarm or farm self-employment. Income shall include regular payments from a governmental income maintenance program, alimony, child support, public or private pensions, annuities, and income from dividends, interest, rents, royalties, or periodic receipts from estates or trusts.

(b) Liquid assets. The defendant's liquid assets shall be defined as cash in hand, stocks and bonds, accounts at financial institutions, real property or homestead having a net value greater than \$50,000, a car, and any other property that can be readily converted to cash, with the following exceptions:

(1) The defendant's clothing, household furnishings, and any personal property that is exempt from attachment or levy of execution by K.S.A. 60-2304, and amendments thereto; and

(2) any other property, except a homestead having a net value greater than \$50,000, that is exempt from attachment or levy of execution by K.S.A. 60-2301 et seq., and amendments thereto. The net value of the homestead shall be the fair market value less the mortgage, other encumbrances, and the reasonable cost of sale. The net value of any property transferred after the date of the alleged commission of the offense shall be included in the determination of the defendant's liquid assets.

(c) Transfer of property.

(1) If the defendant has transferred property after the alleged commission of the offense, the court shall determine the reason for the transfer of property and whether adequate monetary consideration was received. If adequate monetary consideration was not received, the court

shall presume that the transfer was made for the purpose of establishing eligibility unless the defendant furnishes clear and convincing evidence that the transfer was made exclusively for another purpose.

(2) If a transfer was made either for the purpose of establishing eligibility or without adequate monetary consideration and the property is reconveyed to the defendant or an adjustment is made by which the defendant receives full value, the defendant shall, if otherwise qualified, be eligible to receive legal representation at state expense. (Authorized by K.S.A. 22-4504 and 22-4522; implementing K.S.A. 22-4504; effective May 1, 1984; amended Nov. 1, 1996; amended, T-105-7-22-11, July 22, 2011; amended Nov. 14, 2011.)

**105-4-3. Affidavit of indigency.** A standard format for an affidavit of indigency shall include the following information: (a) The defendant's liquid assets and household income;

(b) the defendant's household expenses;

(c) any extraordinary financial obligations of the defendant;

(d) the size of the defendant's household; and

(e) any transfer of property by the defendant after the date of the alleged commission of the offense.

If the information provided by the defendant on the affidavit is unclear, incomplete, contradictory, or questionable, further inquiry may be conducted by the board, the court, the county or district attorney, or other officer assigned by the court. The affidavit of indigency forms shall be published and distributed annually to the judicial administrator and to the administrative judge of each district. (Authorized by K.S.A. 22-4522; implementing K.S.A. 22-4504; effective May 1, 1984; amended May 1, 1985; amended, T-105-7-22-11, July 22, 2011; amended Nov. 14, 2011.)

## Article 5.—ATTORNEY COMPENSATION

**105-5-2. Rates of compensation.** (a) Each appointed counsel shall be compensated at the rate of \$80 per hour.

(b) Contract counsel shall be compensated at the rate or rates specified in the contract between the board and the appointed counsel. (Authorized by and implementing K.S.A. 22-4507 and 22-4522; effective May 1, 1984; amended May 1, 1988; amended, T-105-6-13-88, July 1, 1988; amended Oct. 31, 1988; amended July 1, 1993; amended, T-105-6-15-93, July 1, 1993; amended

Aug. 16, 1993; amended March 28, 1994; amended Aug. 20, 1999; amended, T-105-7-5-06, July 5, 2006; amended Nov. 13, 2006; amended, T-105-8-16-10, Aug. 16, 2010; amended Nov. 5, 2010; amended Dec. 11, 2015; amended Nov. 14, 2016; amended April 26, 2019; amended March 20, 2020.)

### **105-5-3. Appellate courts; compensation.**

(a) For authorized services performed in appealing a case to the court of appeals or the Kansas supreme court, compensation shall be paid at the rate prescribed in K.A.R. 105-5-2 as approved by the court.

(b) Compensation for attorneys' services in cases appealed to the Kansas supreme court or the court of appeals shall not exceed \$1,920. However, additional compensation may be approved by the board as approved by the court. (Authorized by and implementing K.S.A. 22-4507 and 22-4522; effective May 1, 1984; amended May 1, 1985; amended Aug. 20, 1999; amended, T-105-7-5-06, July 5, 2006; amended Nov. 13, 2006; amended, T-105-8-16-10, Aug. 16, 2010; amended Nov. 5, 2010; amended Dec. 11, 2015; amended Nov. 14, 2016; amended April 26, 2019; amended March 20, 2020.)

**105-5-6. Reasonable compensation; non-tried cases.** (a) Each appointed attorney shall be compensated for time expended in representing indigent defendants and other indigent persons at the hourly rate prescribed in K.A.R. 105-5-2. Except as provided in K.A.R. 105-5-8, reasonable compensation shall not exceed \$1,600 in the following cases:

(1) Those felony cases in the trial court that are classified as non-drug offenses of severity levels 1 through 5 that are not submitted to a judge or jury, including services at a preliminary hearing and sentencing, if applicable; and

(2) those felony cases in the trial court that are classified as drug offenses, that have not been submitted to a judge or jury, and in which there have been six hours or more spent in court in defense of the indigent defendant, including services at a preliminary hearing and sentencing, if applicable.

(b) Except as provided in K.A.R. 105-5-8 and K.A.R. 105-5-6(a), reasonable compensation shall not exceed \$1,200 in the following cases:

(1) Those felony cases in the trial court that are not submitted to a judge or jury, including services at a preliminary hearing and sentencing, if

applicable, and are classified as severity levels 6 through 10 non-drug offenses; and

(2) those felony cases in the trial court that are not submitted to a judge or jury, that are classified as drug offenses, and in which there have been fewer than six hours spent in court in defense of the indigent defendant, including services at a preliminary hearing and sentencing, if applicable.

(c) Except as provided in K.A.R. 105-5-8, K.A.R. 105-5-6(a), and K.A.R. 105-5-6(b), reasonable compensation shall not exceed \$800 in the following types of cases:

(1) Habeas corpus cases as authorized by K.S.A. 22-4503 and K.S.A. 22-4506 and amendments thereto;

(2) cases filed pursuant to K.S.A. 60-1507 and K.S.A. 22-4506 and amendments thereto;

(3) habeas corpus cases as authorized by K.S.A. 22-2710 and amendments thereto;

(4) habeas corpus cases as authorized by K.S.A. 22-3428 and K.S.A. 22-3428a and amendments thereto; and

(5) habeas corpus cases as authorized by K.S.A. 59-2960 and amendments thereto.

(d) Except as provided in K.A.R. 105-5-8, reasonable compensation shall not exceed \$427 in the following types of cases:

(1) Representation of grand jury witnesses determined to be indigent and called to testify pursuant to K.S.A. 22-3009 and amendments thereto;

(2) representation of indigent persons committed to custody as material witnesses pursuant to K.S.A. 22-2805 and amendments thereto;

(3) probation revocation hearings; and

(4) motions to modify sentence pursuant to K.S.A. 2019 Supp. 21-6702 and amendments thereto. (Authorized by and implementing K.S.A. 22-4507 and 22-4522; effective May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1988; amended, T-105-6-13-88, July 1, 1988; amended Nov. 1, 1988; amended Oct. 30, 1989; amended July 1, 1993; amended, T-105-6-15-93, July 1, 1993; amended Aug. 16, 1993; amended Aug. 20, 1999; amended, T-105-7-5-06, July 5, 2006; amended Nov. 13, 2006; amended, T-105-8-16-10, Aug. 16, 2010; amended Nov. 5, 2010; amended Dec. 11, 2015; amended Nov. 14, 2016; amended April 26, 2019; amended March 20, 2020.)

**105-5-7. Reasonable compensation; tried cases.** Each appointed attorney shall be compensated for time expended in representing indigent

defendants at the hourly rate prescribed in K.A.R. 105-5-2. Except as provided in K.A.R. 105-5-8, reasonable compensation for felony cases tried on pleas of not guilty and submitted to a judge or jury for adjudication, including compensation for services at the preliminary hearing, sentencing, and motions to modify the sentence, shall not exceed the following:

(a) \$2,560 for felonies classified as non-drug offenses of severity levels 5 through 10;

(b) \$3,200 for felonies classified as non-drug offenses of severity level 4 and felonies classified as drug offenses of severity levels 2 through 5; and

(c) \$8,000 for felonies classified as non-drug offenses of severity levels 1 through 3, off-grid felonies, and felonies classified as drug offenses of severity level 1. (Authorized by and implementing K.S.A. 22-4507 and 22-4522; effective May 1, 1984; amended, T-105-6-13-88, July 1, 1988; amended Nov. 1, 1988; amended Oct. 30, 1989; amended July 1, 1993; amended, T-105-6-15-93, July 1, 1993; amended Aug. 16, 1993; amended Aug. 20, 1999; amended, T-105-7-5-06, July 5, 2006; amended Nov. 13, 2006; amended, T-105-8-16-10, Aug. 16, 2010; amended Nov. 5, 2010; amended Dec. 11, 2015; amended Nov. 14, 2016; amended April 26, 2019; amended March 20, 2020.)

**105-5-8. Compensation; exceptional cases.** (a) Any compensation for attorneys' services in excess of the amounts specified in K.A.R. 105-5-6 and K.A.R. 105-5-7 may be approved only in exceptional cases. A finding by the court that a case is exceptional shall be subject to final approval by the board. An exceptional case shall mean any of the following:

(1) Any case involving a felony charge in the trial court that is off-grid;

(2) any felony case tried on a not guilty plea in which there have been 25 or more hours spent in court in defense of the indigent defendant;

(3) any felony case not submitted to a judge or jury in which there have been 10 hours or more of in-court time spent in defense of the indigent defendant; or

(4) any case that has been declared an exceptional case by the court due to its complexity or other significant characteristics.

(b) Each claim for compensation in an exceptional case shall be accompanied by a specific finding in a court order specifying the basis for the declaration that the case is exceptional.

(c) Reasonable compensation for attorneys' services in exceptional cases shall not exceed \$8,000 per case. However, additional compensation may be approved by the board if warranted by the extreme complexity of the case. (Authorized by and implementing K.S.A. 22-4507 and 22-4522; effective May 1, 1984; amended, T-105-6-13-88, July 1, 1988; amended Nov. 1, 1988; amended Oct. 30, 1989; amended July 1, 1993; amended, T-105-6-15-93, July 1, 1993; amended Aug. 16, 1993; amended Aug. 20, 1999; amended, T-105-7-5-06, July 5, 2006; amended Nov. 13, 2006; amended, T-105-8-16-10, Aug. 16, 2010; amended Nov. 5, 2010; amended Dec. 11, 2015; amended Nov. 14, 2016; amended Aug 26, 2019; amended March 20, 2020.)

## **Article 7.—INVESTIGATIVE, EXPERT OR OTHER SERVICES**

**105-7-1. Funding approval; court order authorizing services.** (a) Funding for the estimated cost of investigative, expert, and other services shall be approved by the board before any appointed attorney submits the order to the court for authorization of the services. Funding shall not be approved until the board signs a contract with the service provider for the approved cost as specified in the contract. The contract form provided by the board shall be used. Attorney time spent preparing a contract other than that approved by the board shall not be compensable.

The original contract signed by the service provider and the board shall be maintained by the board. A fully executed copy of this contract shall be returned to the attorney requesting defense services.

(b) Each court order authorizing investigative, expert, or other services for an indigent defendant shall be made on a form approved by the board and shall include an estimate of the cost of those services. Attorney time spent preparing an order form other than that approved by the board shall not be compensable.

(c) If the district court finds, on the record, that timely procurement of necessary services could not await prior authorization by the court, then funding for those necessary services already provided shall be approved by the board.

A copy of the court order shall be sent to the board promptly, after being signed by the judge. (Authorized by K.S.A. 22-4508, 22-4512a, and 22-4522; implementing K.S.A. 22-4508, 22-4512a; effective May 1, 1984; amended Dec. 14, 2012.)

**105-7-2. Claims.** (a) Each claim for compensation for investigative, expert, or other services provided to an indigent defendant shall be submitted on a form approved by the board. Each claim shall be signed by the attorney requesting the service and the judge before transmittal to the board. Each claim for investigative, expert, or other services shall include the service provider's time sheet detailing time expended in the performance of these services and any compensation received for the same services from any other source.

(b) Claims for expert services rendered at the request of a public defender office shall be excluded from the provisions of K.A.R. 105-7-1. (Authorized by K.S.A. 22-4512a and 22-4522; implementing K.S.A. 22-4508 and 22-4512a; effective May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended Aug. 20, 1999; amended Dec. 14, 2012.)

**105-7-3. Limitations.** (a) Each claim for compensation shall be for investigative, expert, or other services performed on or after the date of the order authorizing the services, unless the judge finds that timely procurement of necessary services could not await prior authorization by the court.

(b) A claim shall not exceed the estimated cost and funding approved by the board as specified in the contract and the order authorizing the services. (Authorized by and implementing K.S.A. 22-4522; effective May 1, 1984; amended Dec. 14, 2012.)

**105-7-4. Investigators.** Each individual performing services as an investigator shall be compensated at a rate not to exceed \$35 per hour, unless a higher rate has been approved in advance by the director. (Authorized by K.S.A. 22-4522; implementing K.S.A. 22-4508 and 22-4522; effective May 1, 1984; amended Aug. 20, 1999; amended Dec. 14, 2012.)

**105-7-6. Interpreters.** Each individual performing services as interpreter for the defense shall be compensated at a rate not to exceed \$30 per hour, unless a higher rate has been approved in advance by the director. No more than one interpreter per defendant may be compensated for services performed at the same stage of the proceeding. (Authorized by K.S.A. 22-4522; implementing K.S.A. 22-4508 and 22-4522; effective May 1, 1984; amended May 1, 1987; amended Aug. 20, 1999; amended Dec. 14, 2012.)

**105-7-8.** (Authorized by K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 22-4508 and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended May 1, 1988; amended Aug. 20, 1999; revoked Dec. 14, 2012.)

**Article 11.—REIMBURSEMENT  
FROM DEFENDANT**

**105-11-1.** (Authorized by K.S.A. 22-4504; implementing K.S.A. 22-4522; effective, T-105-10-3-05, Oct. 3, 2005; effective Feb. 17, 2006;

amended, T-105-7-5-06, July 5, 2006; amended Nov. 13, 2006; amended, T-105-7-26-07, July 26, 2007; amended Nov. 26, 2007; amended, T-105-8-12-08, Aug. 12, 2008; amended Dec. 29, 2008; amended, T-105-6-26-09, June 26, 2009; amended Oct. 16, 2009; amended, T-105-8-16-10, Aug. 16, 2010; amended Nov. 5, 2010; amended, T-105-7-22-11, July 22, 2011; amended Nov. 14, 2011; amended Dec. 14, 2012; amended Dec. 29, 2014; amended Dec. 11, 2015; amended Nov. 14, 2016; revoked April 26, 2019.)

## Agency 106

# Kansas Commission on Peace Officers' Standards and Training (KSCPOST)

### Editor's Note:

The Kansas Commission on Peace Officer's Standards and Training (KSCPOST) was created pursuant to L. 2006, Ch. 170, which became effective July 1, 2006. KSCPOST is the successor in authority to the Law Enforcement Training Commission. L. 2006, Ch. 170 also transferred certain powers, duties and functions from the Law Enforcement Training Center (Agency 107) to the KSCPOST.

### Articles

- 106-1. PEACE OFFICERS STANDARDS AND TRAINING.
- 106-2. DEFINITIONS.
- 106-3. OFFICER CERTIFICATION STANDARDS.
- 106-4. TRAINING SCHOOL STANDARDS.

### Article 1.—PEACE OFFICERS STANDARDS AND TRAINING

**106-1-1 and 106-1-2.** (Authorized by and implementing K.S.A. 1983 Supp. 74-5616; effective, T-84-31, Nov. 22, 1983; effective May 1, 1984; revoked, T-106-6-28-12, July 1, 2012; revoked Oct. 12, 2012.)

**106-1-3.** (Authorized by and implementing K.S.A. 1983 Supp. 74-5616; effective, T-84-31, Nov. 22, 1983; effective May 1, 1984; amended May 1, 1985; revoked, T-106-6-28-12, July 1, 2012; revoked Oct. 12, 2012.)

**106-1-4, 106-1-5, and 106-1-6.** (Authorized by and implementing K.S.A. 1983 Supp. 74-5616; effective, T-84-31, Nov. 22, 1983; effective May 1, 1984; revoked, T-106-6-28-12, July 1, 2012; revoked Oct. 12, 2012.)

**106-1-7 and 106-1-8.** (Authorized by and implementing K.S.A. 1983 Supp. 74-5616; effective, T-84-31, Nov. 22, 1983; effective May 1, 1984; amended May 1, 1985; revoked, T-106-6-28-12, July 1, 2012; revoked Oct. 12, 2012.)

### Article 2.—DEFINITIONS

**106-2-1. General definitions.** (a) "Applicant" means a person seeking certification as an officer.

(b) "Appointing authority" means a person or group of persons empowered by a statute, local

ordinance, or other lawful authority to make human resource decisions that affect the employment of officers. A sheriff shall be deemed to be that individual's own appointing authority.

(c) "Basic training course" means a curriculum of instruction that meets the training requirements for certification as an officer.

(d) "Criminal history record information" has the same meaning as that specified in K.S.A. 22-4701, and amendments thereto.

(e) "Legitimate law enforcement purpose" means a goal within the lawful authority of an officer that is to be achieved through methods or conduct condoned by the officer's appointing authority.

(f) "Officer" means a "police officer" or "law enforcement officer," as defined in K.S.A. 74-5602 and amendments thereto, who has been granted any certification by the commission.

(g) "Official document or official communication" means information created or transferred, in any medium, in the course of performing the duties of an officer required by law or by policies or procedures of an appointing authority.

(h) "Other training authority" means an organization or individual with a curriculum of instruction and assessments in firearms or emergency vehicle operation that the director of police training has determined may provide training equivalent to instructor courses offered at the training center.

(i) "Public safety concern" means reason to believe that the health, safety, or welfare of the

public at large would be adversely affected as a result of the reduced availability of law enforcement officers.

(j) "Trainee" means a person who is enrolled in a basic training course at a training school.

(k) "Training school" means a training organization operated by a law enforcement agency to provide basic training courses. This term shall include the training center. (Authorized by K.S.A. 2011 Supp. 74-5603, as amended by L. 2012, ch. 89, sec. 3, and K.S.A. 2011 Supp. 74-5607, as amended by L. 2012, ch. 89, sec. 5; implementing K.S.A. 2011 Supp. 74-5603, as amended by L. 2012, ch. 89, sec. 3, K.S.A. 2011 Supp. 74-5604a, K.S.A. 2011 Supp. 74-5607, as amended by L. 2012, ch. 89, sec. 5, and K.S.A. 74-5616, as amended by L. 2012, ch. 89, sec. 8; effective, T-106-6-28-12, July 1, 2012; effective Oct. 12, 2012.)

**106-2-2. Certain misdemeanors constituting grounds for disqualification of applicants.** Pursuant to K.S.A. 74-5605 and amendments thereto, an applicant shall not have had a conviction for misdemeanor theft, as defined in K.S.A. 2011 Supp. 21-5801 and amendments thereto, occurring within 12 months before the date of application for certification. (Authorized by and implementing K.S.A. 2011 Supp. 74-5605, as amended by L. 2012, ch. 89, sec. 4; effective, T-106-6-28-12, July 1, 2012; effective Oct. 12, 2012.)

**106-2-2a. Certain misdemeanors constituting grounds for denial or discipline.** (a) Pursuant to K.S.A. 74-5616 and amendments thereto, an applicant or officer shall not engage in conduct, whether or not charged as a crime or resulting in a conviction, that would constitute any of the following misdemeanor offenses:

(1) Vehicular homicide, as defined in K.S.A. 2011 Supp. 21-5406 and amendments thereto;

(2) interference with parental custody, as defined in K.S.A. 2011 Supp. 21-5409 and amendments thereto;

(3) interference with custody of a committed person, as defined in K.S.A. 2011 Supp. 21-5410 and amendments thereto;

(4) criminal restraint, as defined in K.S.A. 2011 Supp. 21-5411 and amendments thereto;

(5) assault or assault of a law enforcement officer, as defined in K.S.A. 2011 Supp. 21-5412 and amendments thereto;

(6) battery, battery against a law enforcement

officer, or battery against a school employee, as defined in K.S.A. 2011 Supp. 21-5413 and amendments thereto;

(7) mistreatment of a confined person, as defined in K.S.A. 2011 Supp. 21-5416 and amendments thereto;

(8) mistreatment of a dependent adult, as defined in K.S.A. 2011 Supp. 21-5417 and amendments thereto;

(9) unlawful administration of a substance, as defined in K.S.A. 2011 Supp. 21-5425 and amendments thereto;

(10) stalking, as defined in K.S.A. 2011 Supp. 21-5427 and amendments thereto;

(11) criminal sodomy, as defined in K.S.A. 2011 Supp. 21-5504(a)(2) and amendments thereto;

(12) sexual battery, as defined in K.S.A. 2011 Supp. 21-5505 and amendments thereto;

(13) lewd and lascivious behavior, as defined in K.S.A. 2011 Supp. 21-5513 and amendments thereto;

(14) endangering a child, as defined in K.S.A. 2011 Supp. 21-5601 and amendments thereto;

(15) contributing to a child's misconduct or deprivation, as defined in K.S.A. 2011 Supp. 21-5603 and amendments thereto;

(16) furnishing alcoholic liquor or cereal malt beverage to a minor, as defined in K.S.A. 2011 Supp. 21-5607 and amendments thereto;

(17) except when related to a legitimate law enforcement purpose, unlawful cultivation or distribution of controlled substances, as defined in K.S.A. 2011 Supp. 21-5705 and amendments thereto;

(18) except when related to a legitimate law enforcement purpose, unlawful possession of controlled substances, as defined in K.S.A. 2011 Supp. 21-5706 and amendments thereto;

(19) except when related to a legitimate law enforcement purpose, unlawfully obtaining and distributing a prescription-only drug, as defined in K.S.A. 2011 Supp. 21-5708 and amendments thereto;

(20) except when related to a legitimate law enforcement purpose, unlawful possession of certain drug precursors and paraphernalia, as defined in K.S.A. 2011 Supp. 21-5709 and amendments thereto;

(21) except when related to a legitimate law enforcement purpose, unlawful distribution of certain drug precursors and drug paraphernalia, as defined in K.S.A. 2011 Supp. 21-5710 and amendments thereto;

(22) except when related to a legitimate law enforcement purpose, unlawful abuse of toxic vapors, as defined in K.S.A. 2011 Supp. 21-5712 and amendments thereto;

(23) except when related to a legitimate law enforcement purpose, unlawful distribution or possession of a simulated controlled substance, as defined in K.S.A. 2011 Supp. 21-5713 and amendments thereto;

(24) except when related to a legitimate law enforcement purpose, unlawful representation that noncontrolled substance is controlled substance, as defined in K.S.A. 2011 Supp. 21-5714 and amendments thereto;

(25) unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage, as defined in K.S.A. 2011 Supp. 21-5608 and amendments thereto;

(26) theft, as defined in K.S.A. 2011 Supp. 21-5801 and amendments thereto;

(27) theft of property lost, mislaid or delivered by mistake, as defined in K.S.A. 2011 Supp. 21-5802 and amendments thereto;

(28) criminal deprivation of property, as defined in K.S.A. 2011 Supp. 21-5803 and amendments thereto;

(29) criminal trespass, as defined in K.S.A. 2011 Supp. 21-5808 and amendments thereto;

(30) criminal damage to property, as defined in K.S.A. 2011 Supp. 21-5813 and amendments thereto;

(31) giving a worthless check, as defined in K.S.A. 2011 Supp. 21-5821 and amendments thereto;

(32) counterfeiting, as defined in K.S.A. 2011 Supp. 21-5825 and amendments thereto;

(33) criminal use of a financial card, as defined in K.S.A. 2011 Supp. 21-5828 and amendments thereto;

(34) unlawful acts concerning computers, as defined in K.S.A. 2011 Supp. 21-5839 and amendments thereto;

(35) interference with law enforcement, as defined in K.S.A. 2011 Supp. 21-5904 and amendments thereto;

(36) interference with the judicial process, as defined in K.S.A. 2011 Supp. 21-5905 and amendments thereto;

(37) criminal disclosure of a warrant, as defined in K.S.A. 2011 Supp. 21-5906 and amendments thereto;

(38) simulating legal process, as defined in K.S.A. 2011 Supp. 21-5907 and amendments thereto;

(39) intimidation of a witness or victim, as defined in K.S.A. 2011 Supp. 21-5909 and amendments thereto;

(40) obstructing apprehension or prosecution, as defined in K.S.A. 2011 Supp. 21-5913 and amendments thereto;

(41) false impersonation, as defined in K.S.A. 2011 Supp. 21-5917 and amendments thereto;

(42) tampering with a public record, as defined in K.S.A. 2011 Supp. 21-5920 and amendments thereto;

(43) tampering with a public notice, as defined in K.S.A. 2011 Supp. 21-5921 and amendments thereto;

(44) violation of a protective order, as defined in K.S.A. 2011 Supp. 21-5924 and amendments thereto;

(45) official misconduct, as defined in K.S.A. 2011 Supp. 21-6002 and amendments thereto;

(46) misuse of public funds, as defined in K.S.A. 2011 Supp. 21-6005 and amendments thereto;

(47) breach of privacy, as defined in K.S.A. 2011 Supp. 21-6101 and amendments thereto;

(48) denial of civil rights, as defined in K.S.A. 2011 Supp. 21-6102 and amendments thereto;

(49) criminal false communication, as defined in K.S.A. 2011 Supp. 21-6103 and amendments thereto;

(50) disorderly conduct, as defined in K.S.A. 2011 Supp. 21-6203 and amendments thereto;

(51) harassment by telecommunication device, as defined in K.S.A. 2011 Supp. 21-6206 and amendments thereto;

(52) criminal distribution of firearms to a felon, as defined in K.S.A. 2011 Supp. 21-6303 and amendments thereto;

(53) promoting obscenity or promoting obscenity to minors, as defined in K.S.A. 2011 Supp. 21-6401 and amendments thereto;

(54) promotion to minors of material harmful to minors, as defined in K.S.A. 2011 Supp. 21-6402 and amendments thereto;

(55) except when related to a legitimate law enforcement purpose, prostitution, as defined in K.S.A. 2011 Supp. 21-6419 and amendments thereto;

(56) except when related to a legitimate law enforcement purpose, promoting prostitution, as defined in K.S.A. 2011 Supp. 21-6420 and amendments thereto;

(57) except when related to a legitimate law enforcement purpose, patronizing a prostitute, as defined in K.S.A. 2011 Supp. 21-6421 and amendments thereto; or

(58) a second or subsequent occurrence of driving under the influence, as defined in K.S.A. 8-1567 and amendments thereto.

(b) In determining any conduct that requires the intent to permanently deprive an owner or lessor of the possession, use, or benefit of property, prima facie evidence of intent shall include any act described in K.S.A. 2011 Supp. 21-5804, and amendments thereto.

(c) A certified copy of the order or journal entry documenting conviction of a misdemeanor shall constitute prima facie evidence of having engaged in such conduct. (Authorized by and implementing K.S.A. 2011 Supp. 74-5616, as amended by L. 2012, ch. 89, sec. 8; effective, T-106-6-28-12, July 1, 2012; effective Oct. 12, 2012.)

**106-2-3. Unprofessional conduct.** “Unprofessional conduct,” pursuant to K.S.A. 74-5616 and amendments thereto, means any of the following:

(a) Willfully or repeatedly violating one or more regulations promulgated by the commission;

(b) having had a license, certification, or other credential to act as an officer denied, revoked, conditioned, or suspended; having been publicly or privately reprimanded or censured by the licensing authority of another state, agency of the United States government, territory of the United States, or country; or having had other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States, or country. A certified copy of the record or order of public or private reprimand or censure, denial, suspension, condition, revocation, or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States, or country shall constitute prima facie evidence of such a fact for purposes of this subsection;

(c) willfully failing to report to the appointing authority or its designee knowledge gained through observation that another officer engaged in conduct that would be grounds for discipline by the commission;

(d) willfully disclosing criminal history record information or other information designated as confidential by statute or regulation, except for a legitimate law enforcement purpose or when required by order of a court or agency of competent jurisdiction;

(e) taking, threatening to take, or failing to take action as an officer if the action is or reasonably

would appear to be motivated by a familial, financial, social, sexual, romantic, physical, intimate, or emotional relationship;

(f) using excessive physical force in carrying out a law enforcement objective. As used in this subsection, physical force shall be deemed excessive if it is greater than what a reasonable and prudent officer would use under the circumstances;

(g) exploiting or misusing the position as an officer to obtain an opportunity or benefit that would not be available but for that position;

(h) exploiting or misusing the position as an officer to establish or attempt to establish a financial, social, sexual, romantic, physical, intimate, or emotional relationship;

(i) failing to report, in the manner required by the revised Kansas code for care of children, reasonable suspicion that a child has been harmed as a result of physical, mental, or emotional abuse or neglect; or

(j) engaging in any of the following conduct, except for a legitimate law enforcement purpose:

(1) Intentionally using a false or deceptive statement in any official document or official communication;

(2) committing conduct likely to endanger the public;

(3) performing duties as an officer while using or under the influence of alcohol;

(4) using any prescription-only drug, as defined by K.S.A. 65-1626 and amendments thereto, that impairs the officer's skill or judgment in performance of duties as an officer; or

(5) using any controlled substance that is unlawful to possess, as defined by K.S.A. 2011 Supp. 21-5706 and amendments thereto. (Authorized by and implementing K.S.A. 2011 Supp. 74-5616, as amended by L. 2012, ch. 89, sec. 8; effective, T-106-6-28-12, July 1, 2012; effective Oct. 12, 2012.)

**106-2-4. Good moral character.** (a) “Good moral character,” pursuant to K.S.A. 74-5605 and amendments thereto, shall include the following personal traits or qualities:

(1) Integrity;

(2) honesty;

(3) upholding the laws of the state and nation;

(4) conduct that warrants the public trust; and

(5) upholding the oath required for certification as specified in K.A.R. 106-3-6.

(b) Any single incident or event may suffice to show that an applicant or licensee lacks or has

failed to maintain good moral character. (Authorized by K.S.A. 2011 Supp. 74-5607, as amended by L. 2012, ch. 89, sec. 5; implementing K.S.A. 2011 Supp. 74-5605, as amended by L. 2012, ch. 89, sec. 4; effective, T-106-6-28-12, July 1, 2012; effective Oct. 12, 2012.)

### **Article 3.—OFFICER CERTIFICATION STANDARDS**

**106-3-1. Provisional certificate conditioned on attendance at next available basic training course.** Each provisional certificate issued to an officer newly appointed or elected on a provisional basis shall be conditioned upon the officer's attendance at the next available basic training course, unless the appointing authority gives written notice and a detailed explanation to the director of police training of both of the following:

(a) The required attendance creates a public safety concern.

(b) The officer should be permitted to attend a subsequent basic training course scheduled to commence within the officer's provisional appointment. (Authorized by K.S.A. 2011 Supp. 74-5607, as amended by L. 2012, ch. 89, sec. 5; implementing K.S.A. 2011 Supp. 74-5607a, as amended by L. 2012, ch. 89, sec. 6; effective, T-106-6-28-12, July 1, 2012; effective Oct. 12, 2012.)

**106-3-2. Provisional certification; working as officer during basic training course.** Each officer who has been granted provisional certification shall work as an officer while enrolled and attending a basic training course only as required by the course curriculum, except whenever the director of police training announces that the training center is closed or otherwise will not conduct basic training courses. (Authorized by and implementing K.S.A. 2011 Supp. 74-5607, as amended by L. 2012, ch. 89, sec. 5; effective, T-106-6-28-12, July 1, 2012; effective Oct. 12, 2012.)

**106-3-3. Standards for approval of psychological testing.** (a) Each assessment of an applicant for certification that is performed to determine the absence of a mental or personality disorder shall, at a minimum, include a psychological test that is generally accepted in the community of licensed psychologists to be valid for law enforcement candidate selection consistent with the standards provided by the society for industrial and organizational psychology, inc. in

“principles for the validation and use of personnel selection procedures,” fourth edition, dated 2003. Pages 3 through 61 of this document are hereby adopted by reference.

(b) Each psychological test administered shall be scored and interpreted according to the recommendations of the test's publisher and by a person appropriately licensed to score and interpret psychological testing. (Authorized by K.S.A. 2011 Supp. 74-5607, as amended by L. 2012, ch. 89, sec. 5; implementing K.S.A. 2011 Supp. 74-5605, as amended by L. 2012, ch. 89, sec. 4; effective, T-106-6-28-12, July 1, 2012; effective Oct. 12, 2012.)

**106-3-4. Verification of high school equivalence.** Verification of “the equivalent of a high school education,” pursuant to K.S.A. 74-5605 and amendments thereto, shall mean any of the following:

(a) A general education development (GED) credential;

(b) proof of program completion and hours of instruction at a non-accredited private secondary school registered with the state board of education of Kansas, or of the state in which instruction was completed, and a score in at least the 50th percentile on either of the following tests:

(1) American college test (ACT); or

(2) scholastic aptitude test (SAT); or

(c) proof of admission to a postsecondary state educational institution accredited by the Kansas state board of regents or by another accrediting body having minimum admission standards at least as stringent as those of the Kansas state board of regents. (Authorized by and implementing K.S.A. 2011 Supp. 74-5605, as amended by L. 2012, ch. 89, sec. 4; effective, T-106-6-28-12, July 1, 2012; effective Oct. 12, 2012.)

**106-3-5. Determination of work hours for part-time certification.** Calculation of the number of work hours for part-time certification of an officer shall be based on a calendar year and shall include the total cumulative number of hours that the officer worked for each appointing authority during a calendar year. (Authorized by K.S.A. 2011 Supp. 74-5607, as amended by L. 2012, ch. 89, sec. 5; implementing K.S.A. 2011 Supp. 74-5602, as amended by L. 2012, ch. 89, sec. 2, and K.S.A. 2011 Supp. 74-5607a, as amended by L. 2012, ch. 89, sec. 6; effective, T-106-6-28-12, July 1, 2012; effective Oct. 12, 2012.)

**106-3-6. Oath required for certification.**

As a condition to certification as an officer, each applicant shall swear or affirm the following: "On my honor, I will never betray my badge, my integrity, my character, or the public trust. I will always have the courage to hold myself and others accountable for our actions. I will always uphold the constitution of the United States and of the state of Kansas, my community, and the agency I serve." (Authorized by and implementing K.S.A. 2011 Supp. 74-5607, as amended by L. 2012, ch. 89, sec. 5; effective, T-106-6-28-12, July 1, 2012; effective Oct. 12, 2012.)

**Article 4.—TRAINING  
SCHOOL STANDARDS**

**106-4-1. Approval of training schools.**

Each training school offering a basic training course shall meet the requirements of this regulation for approval by the commission:

(a) Each training school shall be certified by the director of police training. The administrator of each training school seeking certification shall submit the following in writing to the director of police training at least 45 days before the proposed date of operation:

(1) A completed application on a form furnished by the director of police training;

(2) a description of the basic training course to be offered that demonstrates that the course meets or exceeds the training objectives of the basic training course curriculum adopted pursuant to K.S.A. 74-5603, and amendments thereto;

(3) a description of the requirements for the satisfactory completion of a basic training course offered by the training school;

(4) a description of each facility where the basic training course will be conducted; and

(5) a list of the instructors who will provide training, along with a summary of their qualifications to instruct.

(b) Requirements for the successful completion of a basic training course shall include the following:

(1) Written testing that is designed to assess the trainees' learning. The design of the test instrument, the testing procedures, the testing results to be included in the final average score, and the method for calculating the final average score shall be developed by the training school. Each trainee shall be required to achieve a final average score of at least 70 percent on written testing;

(2) firearms proficiency that demonstrates a qualifying score of at least 70 percent on a course of fire approved by the director of police training;

(3) emergency vehicle operation proficiency as determined by the training school based upon the requirements of the approved curriculum, the driving facilities, and the space available;

(4) demonstrated understanding of the legal limitations of an officer's authority to use force evaluated by written or performance assessments, or a combination of both, with a description of the assessments and the standard for successful completion;

(5) other written or performance assessments specified by the training school, with a description of each assessment and the standard for successful completion;

(6) a requirement that each trainee attend at least 90 percent of the basic training course and successfully complete all coursework in the approved curriculum; and

(7) a requirement that trainees attend 100 percent of the mandated training in firearms and emergency vehicle operation.

(c) The equipment and the facilities where each basic training course is conducted shall provide a safe and effective learning environment and shall include the following at a minimum:

(1) Classroom space and instructional equipment conducive to learning;

(2) a firing range;

(3) a driver training area for emergency vehicle operation; and

(4) space and equipment for training in physical and defensive tactics.

(d) Each instructor providing instruction in a basic training course shall be knowledgeable in both the subject area to be taught and instructional methodology. Each instructor providing firearms instruction in a basic training course shall have satisfactorily completed a course for firearms instructors provided by the training center or other training authority. Each instructor providing emergency vehicle operation instruction shall have satisfactorily completed a course for emergency vehicle operation instruction provided by the training center or other training authority.

(e) At the completion of each basic training course offered by a training school, the school administrator shall submit to the director of police training evidence of successful completion for each officer enrolled in the basic training course who has satisfied the requirements provided to

the director of police training in the initial application for school certification.

(f) Each training school shall maintain records of all basic training courses offered. Records may be maintained in electronic format. The records shall include the following:

(1) A master copy of all written testing instruments;

(2) a schedule of all training provided during the basic training course;

(3) a record of daily trainee attendance;

(4) a list of each trainee enrolled in the basic training course, whether the trainee successfully completed the basic training course; and

(5) a record of scores or other measures of evaluation for each trainee that assess each trainee's successful completion of all requirements.

(g) In determining whether to certify a training school, the director of police training may consider both the information contained in the current application for certification and the manner in which the training school has previously been operated. The director of police training may refuse to certify a training school upon a finding of any of the following:

(1) The training either proposed or actually provided by the training school does not meet or exceed the training objectives of the appropriate approved basic training course.

(2) The instructors who are designated in the application for certification or who actually pro-

vide instruction in a basic training course do not meet the minimum qualifications for instructors.

(3) The facilities either proposed in the application or actually used in the basic training course fail to provide a safe and effective learning environment.

(4) The written or performance assessments either proposed in the application or actually used in the training course do not meet the standards provided or otherwise do not provide a basis for evaluation that satisfies the director of police training that the trainees will meet or have met the learning objectives specified in a basic training course curriculum.

(5) With the assistance or knowledge of the training school staff, trainees have met in whole or in part requirements for successful completion by fraud, misrepresentation, or cheating on or attempting to subvert the validity of examinations or assessments.

(6) The approved basic training course as described in the training school application for certification deviates from the basic training course as actually administered.

(h) The certification of each training school shall expire one year from the date of issuance. (Authorized by and implementing K.S.A. 2011 Supp. 74-5607, as amended by L. 2012, ch. 89, sec. 5, and K.S.A. 2011 Supp. 74-5604a; effective, T-106-6-28-12, July 1, 2012; effective Oct. 12, 2012.)



# Agency 107

## Law Enforcement Training Center

### **Editor's Note:**

The Kansas Commission on Peace Officer's Standards and Training (KSCPOST) was created pursuant to L. 2006, Ch. 170, which became effective July 1, 2006. KSCPOST is the successor in authority to the Law Enforcement Training Commission. L. 2006, Ch. 170 also transferred certain powers, duties and functions from the Law Enforcement Training Center (Agency 107) to the KSCPOST.

### *Articles*

- 107-1. CERTIFICATION OF LAW ENFORCEMENT OFFICERS AND TRAINING SCHOOLS.
- 107-2. CONTINUING EDUCATION.
- 107-3. PRE-TRAINING EVALUATION.

### **Article 1.—CERTIFICATION OF LAW ENFORCEMENT OFFICERS AND TRAINING SCHOOLS**

**107-1-1.** (Authorized by and implementing K.S.A. 1984 Supp. 74-5603 and 74-5604a; effective, T-85-5, Feb. 21, 1984; effective May 1, 1985; amended May 1, 1986; revoked, T-106-6-28-12, July 1, 2012; revoked Oct. 12, 2012.)

**107-1-2.** (Authorized by K.S.A. 1984 Supp. 74-5603 and 74-5604a; implementing K.S.A. 1984 Supp. 74-5607a, 74-5605, 74-5604a, and K.S.A. 74-5608a; effective, T-85-5, Feb. 21, 1984; effective May 1, 1985; amended May 1, 1986; revoked, T-106-6-28-12, July 1, 2012; revoked Oct. 12, 2012.)

**107-1-3.** (Authorized by K.S.A. 1984 Supp. 74-5604a and 74-5603; implementing K.S.A. 1984 Supp. 74-5604a; effective, T-85-5, Feb. 21, 1984; effective May 1, 1985; amended May 1, 1986; revoked, T-106-6-28-12, July 1, 2012; revoked Oct. 12, 2012.)

**107-1-4.** (Authorized by K.S.A. 1984 Supp. 74-5603 and 74-5604a; implementing K.S.A. 1984 Supp. 74-5604a; effective, T-85-5, Feb. 21, 1984;

effective May 1, 1985; amended May 1, 1986; revoked, T-106-6-28-12, July 1, 2012; revoked Oct. 12, 2012.)

**107-1-5.** (Authorized by K.S.A. 1983 Supp. 74-5603 and 74-5604a; implementing K.S.A. 1983 Supp. 74-5603, 74-5607a and 74-5604a; effective, T-85-5, Feb. 21, 1984; effective May 1, 1985; revoked, T-106-6-28-12, July 1, 2012; revoked Oct. 12, 2012.)

### **Article 2.—CONTINUING EDUCATION**

**107-2-1.** (Authorized by and implementing K.S.A. 1984 Supp. 74-5607a; effective, T-85-5, Feb. 21, 1984; effective May 1, 1985; amended May 1, 1986; revoked, T-106-6-28-12, July 1, 2012; revoked Oct. 12, 2012.)

### **Article 3.—PRE-TRAINING EVALUATION**

**107-3-1.** (Authorized by K.S.A. 1984 Supp. 74-5603 and 74-5604a; implementing K.S.A. 1984 Supp. 74-5604a, K.S.A. 1984 Supp. 74-5605, and K.S.A. 1984 Supp. 74-5618; effective May 1, 1985; amended May 1, 1986; revoked, T-106-6-28-12, July 1, 2012; revoked Oct. 12, 2012.)



## Agency 108

# Kansas State Employees Health Care Commission

### Articles

#### 108-1. ELIGIBILITY REQUIREMENTS.

##### Article 1.—ELIGIBILITY REQUIREMENTS

###### **108-1-1. Eligibility.** (a) General definitions.

(1) “Active participant” means any person enrolled in the health care benefits program.

(2) “Child” means any of the following:

(A) A natural son or daughter of a primary participant;

(B) A lawfully adopted son or daughter of a primary participant. The term “lawfully adopted” shall include those instances in which a primary participant has filed the petition for adoption with the court, has a placement agreement for adoption, or has been granted legal custody;

(C) A stepchild of a primary participant. However, if the natural or adoptive parent of the stepchild is divorced from the primary participant, the stepchild shall no longer qualify;

(D) A child of whom the primary participant has legal custody; or

(E) A grandchild, if at least one of the following conditions is met:

(i) The primary participant has legal custody of the grandchild or has lawfully adopted the grandchild;

(ii) the grandchild lives in the home of the primary participant and is the child of a covered eligible dependent child, and the primary participant provides more than 50 percent of the support for the grandchild; or

(iii) the grandchild is the child of a covered eligible dependent child and is considered to reside with the primary participant even when the grandchild or eligible dependent child is temporarily absent due to special circumstances including education of the covered eligible dependent child, and the primary participant provides more than 50 percent of the support for the grandchild.

(3) “COBRA” means the consolidated omnibus budget reconciliation act, public law 99-272, as amended.

(4) “Commission” means the Kansas state employees health care commission.

(5) “Direct bill participant” means any person enrolled in the health care benefits program pursuant to subsections (d), (e), and (h).

(6) “Eligible dependent child” means any dependent child who meets one of the following criteria:

(A) The child is under 26 years of age.

(B) The child is aged 26 or older, has a permanent and total disability, and has continuously maintained group coverage as an eligible dependent child of the primary participant before attaining the age of 26. The child shall be chiefly dependent on the primary participant for support.

(7) “Health care benefits program” means the state of Kansas health care benefits program established by the commission.

(8) “Permanent and total disability” means that an individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for a continuous period of at least 12 months. An individual shall not be considered to have a permanent and total disability unless that person furnishes proof of the permanent and total disability in the form and manner, and at the times, that the health care benefits program may require.

(9) “Primary participant” means any person enrolled in the health care benefits program under subsection (b), a direct bill participant under subsection (d), or a COBRA participant.

(10) “Variable-hour employee” means any officer or employee of a state agency for whom, at the date of hire, it cannot be determined that the employee is reasonably expected to work at least 1,000 hours per year.

(b) Primary participants. Subject to the provisions of subsection (c), the classes of persons eligible to participate as primary participants in the health care benefits program shall be the following classes of persons:

(1) Any elected official of the state;

(2) any other officer or employee of a state agency who meets both of the following conditions:

(A) Is working in one or more positions that together require at least 1,000 hours of work per year; and

(B) is not a variable-hour employee;

(3) any person engaged in a postgraduate residency training program in medicine at the university of Kansas medical center or in a postgraduate residency or internship training program in veterinary medicine at Kansas state university;

(4) any person serving with the foster grandparent program;

(5) any person participating under a phased retirement agreement outlined in K.S.A. 76-746, and amendments thereto;

(6) any student employee and any adjunct professor at a state institution of higher learning if the individual works in one or more positions that together require at least 1,560 hours of work per year; and

(7) any other class of individuals approved by the Kansas state employees health care commission, within the limitations specified in K.S.A. 75-6501 et seq., and amendments thereto.

(c) Waiting period.

(1) Each person who is within a class listed in paragraph (b)(1), (b)(2), (b)(3), (b)(4), (b)(6), or (b)(7) shall become eligible for enrollment in the health care benefits program following completion of a 30-day waiting period beginning with the first day of work for the state of Kansas. Each person shall have 31 days after becoming eligible to elect coverage.

(2) The waiting period established in paragraph (c)(1) shall not apply if all of the following conditions are met:

(A) The person is returning to work for the state of Kansas or is transferring from a position that was eligible for coverage under K.A.R. 108-1-3 or K.A.R. 108-1-4.

(B) Immediately before leaving the prior position, the person was enrolled in the health care benefits program.

(C) The break in service between the prior position and the new position does not exceed the following time periods:

(i) 30 calendar days; or

(ii) 365 calendar days, if the person was laid off, as defined in K.S.A. 75-2948 and amendments thereto.

(3) The waiting period established in paragraph (c)(1) shall not apply to any person who, on that person's first day of work for the state, is enrolled in the health care benefits program on any of the following bases:

(A) As a direct bill participant;

(B) under the continuation of benefits coverage provided under COBRA; or

(C) as a dependent of a participant in the health care benefits program.

(4) The waiting period established in paragraph (c)(1) may be waived by the commission or its designee if, within 30 days of the date of hire, the agency head or the agency head's designee certifies in writing to the commission, or its designee, that the waiver is being sought because the potential new employee is required to have health insurance as a condition of obtaining a work visa for employment in the United States.

(d) Classes of direct bill participants. Subject to the provisions of subsection (e), the classes of persons eligible to participate as members of the health care benefits program on a direct bill basis shall be the following:

(1) Any former elected state official;

(2) any retired state officer or employee who is eligible to receive retirement benefits under K.S.A. 74-4925, and amendments thereto, or retirement benefits administered by the Kansas public employees retirement system;

(3) any totally disabled former state officer or employee who is receiving disability benefits administered by the Kansas public employees retirement system;

(4) any surviving spouse or dependent of a qualifying participant in the health care benefits program;

(5) any person who is in a class listed in paragraph (b)(1), (b)(2), (b)(3), (b)(4), or (b)(6) and who is lawfully on leave without pay;

(6) any blind person licensed to operate a vending facility as defined in K.S.A. 75-3338, and amendments thereto;

(7) any former "state officer," as that term is defined in K.S.A. 74-4911f and amendments thereto, who elected not to be a member of the Kansas public employees retirement system as provided in K.S.A. 74-4911f and amendments thereto; and

(8) any former state officer or employee who separated from state service when eligible to receive a retirement benefit but, in lieu of that, withdrew that individual's employee contributions from the retirement system.

(e) Conditions for direct bill participants. Each person who is within a class listed in paragraph (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (d)(7), or (d)(8) shall be eligible to participate on a direct bill basis only if the conditions of both paragraphs (e)(1) and (e)(2) are met:

(1) The person was covered by the health care benefits program on one of the following bases:

(A) The person was covered as an active participant, as a COBRA participant, or as a spouse under paragraph (g)(1) immediately before the date that person ceased to be eligible for that type of coverage or the date the individual became newly eligible for a class listed in subsection (d).

(B) The person is the surviving spouse or eligible dependent child of a person who was enrolled as a primary participant or a direct bill participant when the primary participant died, and the surviving spouse or eligible dependent child was covered by the health care benefits program as a dependent pursuant to subsection (g) when the primary participant died.

(2) The person completes an enrollment form requesting transfer to the direct bill program and submits the form to the health care benefits program. The form shall be submitted no more than 30 days after the person ceased to be eligible for coverage.

(f) COBRA participants. Any individual with rights to extend coverage under COBRA may continue to participate in the health care benefits program, subject to the provisions of that federal law.

(g) Eligible dependent participants.

(1) Any person enrolled in the health care benefits program as a primary participant may enroll the following dependents, subject to the same conditions and limitations that apply to the primary participant:

(A) The primary participant's lawful wife or husband, as recognized by Kansas law and subject to the documentation requirements of the commission or its designee; and

(B) any of the primary participant's eligible dependent children, subject to the documentation requirements of the commission or its designee.

(2) An eligible dependent child who is enrolled by one primary participant shall not be eligible to be enrolled by another primary participant.

(3) An individual who is eligible to enroll as a primary participant in the health care benefits program shall be eligible to be enrolled under this subsection as a dependent in the health care benefits program, subject to the following requirements:

(A) The individual who enrolls as a dependent of a primary participant shall be the lawful spouse, as defined in paragraph (g)(1)(A).

(B) An individual who enrolls as a dependent of a primary participant shall not be eligible to

be enrolled as a primary participant during that plan year.

(C) Each individual who enrolls as a dependent of a primary participant shall be subject to the copays, deductibles, coinsurance, and employer contribution levels as a dependent and not as a primary participant.

(4) The term "dependent" shall exclude any individual who is not a citizen or national of the United States, unless the individual is a resident of the United States or a country contiguous to the United States, is a member of a primary participant's household, and resides with the primary participant for more than six months of the calendar year. The dependent shall be considered to reside with the primary participant even when the dependent is temporarily absent due to special circumstances, including illness, education, business, vacation, and military service.

(h) Direct bill participants; continuous coverage provisions.

(1) Except as otherwise provided in this subsection, each direct bill participant enrolled in the state health care benefits program on or after January 21, 2001, shall maintain continuous coverage in the program or shall lose eligibility to be in the state health care benefits program as a direct bill participant.

(2) Any person who discontinued direct bill coverage in the state health care benefits program before January 21, 2001, and who is not a direct bill participant on that date may return one time to the state health care benefits program if the person meets the criteria specified in subsections (d) and (e) and if that person has not previously discontinued and returned to direct bill coverage before January 21, 2001. (Authorized by K.S.A. 2014 Supp. 75-6501 and K.S.A. 75-6510; implementing K.S.A. 2014 Supp. 75-6501; effective, T-85-22, July 16, 1984; effective May 1, 1985; amended, T-88-64, Dec. 30, 1987; amended, T-89-12, May 1, 1988; amended, T-108-9-12-88, Sept. 12, 1988; amended Oct. 31, 1988; amended May 9, 1997; amended Jan. 21, 2001; amended Aug. 27, 2004; amended June 17, 2005; amended Jan. 6, 2006; amended July 16, 2010; amended, T-108-8-16-10, Aug. 16, 2010; amended March 11, 2011; amended Jan. 2, 2015.)

**108-1-3. School district employee health care benefits plan.** (a) Definitions for K.A.R. 108-1-3.

(1) "Active participant" means any person who is enrolled in the school district plan.

(2) “Child” means any of the following:

(A) A natural son or daughter of a primary participant;

(B) A lawfully adopted son or daughter of a primary participant. The term “lawfully adopted” shall include those instances in which a primary participant has filed the petition for adoption with the court, has a placement agreement for adoption, or has been granted legal custody;

(C) A stepchild of a primary participant. However, if the natural or adoptive parent of the stepchild is divorced from the primary participant, the stepchild shall no longer qualify;

(D) A child of whom the primary participant has legal custody; or

(E) A grandchild, if at least one of the following conditions is met:

(i) The primary participant has legal custody of the grandchild or has lawfully adopted the grandchild;

(ii) the grandchild lives in the home of the primary participant and is the child of a covered eligible dependent child, and the primary participant provides more than 50 percent of the support for the grandchild; or

(iii) the grandchild is the child of a covered eligible dependent child and is considered to reside with the primary participant even when the grandchild or eligible dependent child is temporarily absent due to special circumstances including education of the covered eligible dependent child, and the primary participant provides more than 50 percent of the support for the grandchild.

(3) “COBRA” means the consolidated omnibus budget reconciliation act, public law 99-272, as amended.

(4) “Commission” means the Kansas state employees health care commission.

(5) “Direct bill participant” means any person enrolled in the school district plan pursuant to subsections (d), (e), and (h).

(6) “Eligible dependent child” means any dependent child who meets one of the following criteria:

(A) The child is under 26 years of age.

(B) The child is aged 26 or older, has a permanent and total disability, and has continuously maintained group coverage as an eligible dependent child of the primary participant before attaining the age of 26. The child shall be chiefly dependent on the primary participant for support.

(7) “Health care benefits program” means the state of Kansas health care benefits program established by the commission.

(8) “Permanent and total disability” means that an individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for a continuous period of at least 12 months. An individual shall not be considered to have a permanent and total disability unless that person furnishes proof of the permanent and total disability in the form and manner, and at the times, that the health care benefits program may require.

(9) “Primary participant” means any person enrolled in the school district plan under subsection (b), a direct bill participant under subsection (d), or a COBRA participant.

(10) “Qualified school district” means a public school district, community college, area vocational technical school, or technical college that meets the terms, conditions, limitations, exclusions, and other provisions established by the commission for participation in the school district employee health care benefits component of the health care benefits program and has entered into a written agreement with the commission to participate in the program.

(11) “School district employee” means any individual who is employed by a qualified school district and who meets the definition of employee under K.S.A. 74-4932(4), and amendments thereto, except that the following employees shall be employed in a position that requires at least 1,000 hours of work per year:

(A) Employees of community colleges; and

(B) employees of area vocational technical schools and technical colleges that are not governed by a unified school district.

For purposes of this definition, a technical college shall be a participating employer under K.S.A. 74-4931, and amendments thereto, in accordance with K.S.A. 72-4471, and amendments thereto.

(12) “School district plan” means the school district employee health care benefits component of the health care benefits program.

(13) “Variable-hour employee” means any school district employee for whom, at the date of hire, it cannot be determined that the employee is reasonably expected to work at least 1,000 hours per year.

(b) Primary participants. Subject to the provisions of subsection (c), each school district employee shall be eligible to participate as a primary

participant in the school district plan. Eligibility and participation shall be subject to terms, conditions, limitations, exclusions, and other provisions established by the commission, including the amount and method of payment for employee and employer contributions.

(c) Waiting periods.

(1) Each school district employee whose first day of work for a qualified school district is on or after the first day on which the employee's qualified school district participates in the school district plan shall become eligible for coverage following completion of a 30-day waiting period beginning with the first day of work for the qualified school district. Each school district employee shall have 31 days after becoming eligible to elect coverage.

(2) The waiting period established in paragraph (c)(1) shall not apply if all of the following conditions are met:

(A) The person is returning to work for the qualified school district, transferring from another qualified school district, or transferring from a position that is eligible for coverage under K.A.R. 108-1-1 or K.A.R. 108-1-4.

(B) Immediately before leaving the prior position, the person was enrolled in the health care benefits program.

(C) The break in service between the prior position and the new position does not exceed the following time periods:

(i) 30 calendar days; or

(ii) 365 calendar days, if the person was laid off in accordance with the practices of the qualified school district.

(3) The waiting period established in paragraph (c)(1) shall not apply to any person who, on that person's first day of work for the qualified school district, is enrolled in the health care benefits program on any of the following bases:

(A) As a direct bill participant;

(B) under the continuation of benefits coverage provided under COBRA; or

(C) as a dependent of a participant in the health care benefits program.

(4) The waiting period established in paragraph (c)(1) may be waived by the commission or its designee if, within 30 days of the date of hire, the chief administrative officer of the qualified school district, or the chief administrative officer's designee, certifies in writing to the commission, or its designee, that the waiver is being sought because the new employee is required to have health in-

surance as a condition of obtaining a work visa for employment in the United States.

(5) Each school district employee who is employed by the qualified school district immediately before the first day on which the employee's qualified school district participates in the school district plan shall be subject to transitional provisions established by the commission regarding waiting periods and the effective date on which the employee becomes eligible to participate in the school district plan.

(d) Classes of direct bill participants. Subject to the provisions of subsection (e), the classes of persons eligible to participate as members of the school district plan on a direct bill basis shall be the following:

(1) Any retired school district employee who is eligible to receive retirement benefits;

(2) any totally disabled former school district employee who is receiving benefits under K.S.A. 74-4927, and amendments thereto;

(3) any surviving spouse or dependent of a primary participant in the school district plan;

(4) any person who is a school district employee and who is on approved leave without pay in accordance with the practices of the qualified school district; and

(5) any individual who was covered by the health care plan offered by the qualified school district on the day immediately before the first day on which the qualified school district participates in the school district plan, except that no individual who is an employee of the qualified school district and who does not meet the definition of school district employee in subsection (a) shall be qualified as a direct bill participant under this paragraph.

(e) Conditions for direct bill participants. Each person who is within a class listed in subsection (d) shall be eligible to participate on a direct bill basis only if the person meets both of the following conditions:

(1) The person was covered by the school district plan or the health care insurance plan offered by the qualified school district on one of the following bases:

(A) Immediately before the date the person ceased to be eligible for coverage, or for any person identified in paragraph (d)(5), immediately before the first day on which the qualified school district participates in the school district plan, the person either was covered as a primary participant under subsection (b) or was covered by the health

care insurance plan offered by the employee's qualified school district.

(B) The person is a surviving spouse or dependent of a plan participant who was enrolled as a primary participant or a direct bill participant when the primary participant died, and the surviving spouse or eligible dependent child was covered by the health care benefits program as a dependent under subsection (g) when the primary participant died.

(C) The person is a surviving spouse or dependent of a primary participant who was enrolled under the health care insurance plan offered by the participant's qualified school district when the primary participant died, and the person has maintained continuous coverage under the qualified school district's health care insurance plan before joining the health care benefits program.

(2) The person completes an enrollment form requesting transfer to the direct bill program and submits the form to the health care benefits program. The form shall be submitted no more than 30 days after the person ceased to be eligible for coverage, or in the case of any individual identified in paragraph (d)(5), no more than 30 days after the first day on which the qualified school district participates in the school district plan.

(f) COBRA participants. Any individual with rights to extend coverage under COBRA may participate in the school district plan, subject to the provisions of that federal law.

(g) Eligible dependent participants.

(1) Any person enrolled in the school district plan as a primary participant may enroll the following dependents, subject to the same conditions and limitations that apply to the primary participant:

(A) The primary participant's lawful wife or husband, as recognized by Kansas law and subject to the documentation requirements of the commission or its designee; and

(B) any of the primary participant's eligible dependent children, subject to the documentation requirements of the commission or its designee.

(2) An eligible dependent child who is enrolled by one primary participant shall not be eligible to be enrolled by another primary participant.

(3) An individual who is eligible to enroll as a primary participant in the health care benefits program shall be eligible to be enrolled under this subsection as a dependent in the health care benefits program, subject to the following requirements:

(A) The individual who enrolls as a dependent of a primary participant shall be the lawful spouse, as defined in paragraph (g)(1)(A).

(B) An individual who enrolls as a dependent of a primary participant shall not be eligible to be enrolled as a primary participant during that plan year.

(C) Each individual who enrolls as a dependent of a primary participant shall be subject to the copays, deductibles, coinsurance, and employer contribution levels as a dependent and not as a primary participant.

(4) The term "dependent" shall exclude any individual who is not a citizen or national of the United States, unless the individual is a resident of the United States or a country contiguous to the United States, is a member of a primary participant's household, and resides with the primary participant for more than six months of the calendar year. The dependent shall be considered to reside with the primary participant even when the dependent is temporarily absent due to special circumstances, including illness, education, business, vacation, and military service.

(h) Direct bill participants; continuous coverage provisions.

(1) Except as otherwise provided in this subsection, each direct bill participant enrolled in the health care benefits program on or after January 21, 2001 shall maintain continuous coverage in the program or shall lose eligibility to be in the health care benefits program as a direct bill participant.

(2) Any person who discontinued direct bill coverage in the health care benefits program before January 21, 2001 and who was not a direct bill participant on that date may return one time to the health care benefits program if the person meets the criteria specified in subsections (d) and (e) and if that person has not previously discontinued and returned to direct bill coverage before January 21, 2001. (Authorized by K.S.A. 2014 Supp. 75-6501 and K.S.A. 75-6510; implementing K.S.A. 2014 Supp. 75-6501 and K.S.A. 2014 Supp. 75-6508; effective, T-108-9-13-99, Sept. 13, 1999; effective Feb. 4, 2000; amended July 16, 2010; amended, T-108-8-16-10, Aug. 16, 2010; amended March 11, 2011; amended Jan. 2, 2015.)

**108-1-4. Local unit of government employee health care benefits plan.** (a) Definitions for K.A.R. 108-1-4.

(1) "Active participant" means any person who is enrolled in the local unit plan.

- (2) “Child” means any of the following:
- (A) A natural son or daughter of a primary participant;
  - (B) a lawfully adopted son or daughter of a primary participant. The term “lawfully adopted” shall include those instances in which a primary participant has filed the petition for adoption with the court, has a placement agreement for adoption, or has been granted legal custody;
  - (C) a stepchild of a primary participant. However, if the natural or adoptive parent of the stepchild is divorced from the primary participant, the stepchild shall no longer qualify;
  - (D) a child of whom the primary participant has legal custody; or
  - (E) a grandchild, if at least one of the following conditions is met:
    - (i) The primary participant has legal custody of the grandchild or has lawfully adopted the grandchild;
    - (ii) the grandchild lives in the home of the primary participant and is the child of a covered eligible dependent child, and the primary participant provides more than 50 percent of the support for the grandchild; or
    - (iii) the grandchild is the child of a covered eligible dependent child and is considered to reside with the primary participant even when the grandchild or eligible dependent child is temporarily absent due to special circumstances including education of the covered eligible dependent child, and the primary participant provides more than 50 percent of the support for the grandchild.
- (3) “COBRA” means the consolidated omnibus budget reconciliation act, public law 99-272, as amended.
- (4) “Commission” means the Kansas state employees health care commission.
- (5) “Direct bill participant” means any person enrolled in the local unit plan pursuant to subsections (d), (e), and (h).
- (6) “Eligible dependent child” means any dependent child who meets one of the following criteria:
- (A) The child is under 26 years of age.
  - (B) The child is aged 26 or older, has a permanent and total disability, and has continuously maintained group coverage as an eligible dependent child of the primary participant before attaining the age of 26. The child shall be chiefly dependent on the primary participant for support.
- (7) “Health care benefits program” means the state of Kansas health care benefits program established by the commission.
- (8) “Local unit” means any of the following:
- (A) Any county, township, or city;
  - (B) any community mental health center;
  - (C) any groundwater management district, rural water-supply district, or public wholesale water-supply district;
  - (D) any county extension council or extension district;
  - (E) any hospital established, maintained, and operated by a city of the first or second class, a county, or a hospital district in accordance with applicable law;
  - (F)(i) Any city, county, or township public library created under the authority of K.S.A. 12-1215 et seq., and amendments thereto;
  - (ii) any regional library created under the authority of K.S.A. 12-1231, and amendments thereto;
  - (iii) any library district created under the authority of K.S.A. 12-1236, and amendments thereto;
  - (iv) the Topeka and Shawnee county library district established under the authority of K.S.A. 12-1260 et seq., and amendments thereto;
  - (v) the Leavenworth and Leavenworth county library district established under the authority of K.S.A. 12-1270, and amendments thereto;
  - (vi) any public library established by a unified school district under the authority of K.S.A. 72-1623, and amendments thereto; or
  - (vii) any regional system of cooperating libraries established under the authority of K.S.A. 75-2547 et seq., and amendments thereto;
  - (G) any housing authority created pursuant to K.S.A. 17-2337 et seq., and amendments thereto;
  - (H) any local environmental protection program obtaining funds from the state water fund in accordance with K.S.A. 75-5657, and amendments thereto;
  - (I) any city-county, county, or multicounty health board or department established pursuant to K.S.A. 65-204 and 65-205, and amendments thereto;
  - (J) any nonprofit independent living agency, as defined in K.S.A. 65-5101 and amendments thereto;
  - (K) the Kansas guardianship program established pursuant to K.S.A. 74-9601 et seq., and amendments thereto; or
  - (L) any group of persons on the payroll of a county, township, city, special district or other local governmental entity, public school district, licensed child care facility operated by a not-for-

profit corporation providing residential group foster care for children and receiving reimbursement for all or part of this care from the department for children and families, nonprofit community mental health center pursuant to K.S.A. 19-4001 et seq. and amendments thereto, nonprofit community facility for people with intellectual disability pursuant to K.S.A. 19-4001 et seq. and amendments thereto, or nonprofit independent living agency as defined in K.S.A. 65-5101 and amendments thereto.

(9) "Local unit employee" means any individual who meets one or more of the following criteria:

(A) The individual is an appointed or elective officer or employee of a qualified local unit whose employment is not seasonal or temporary and whose employment requires at least 1,000 hours of work per year.

(B) The individual is an appointed or elective officer or employee who is employed concurrently by two or more qualified local units in positions that involve similar or related tasks and whose combined employment by the qualified local units is not seasonal or temporary and requires at least 1,000 hours of work per year.

(C) The individual is a member of a board of county commissioners of a county that is a qualified local unit, and the compensation paid for service on the board equals or exceeds \$5,000 per year.

(D) The individual is a council member or commissioner of a city that is a qualified local unit, and the compensation paid for service as a council member or commissioner equals or exceeds \$5,000 per year.

(10) "Local unit plan" means the local unit employee health care benefits component of the health care benefits program.

(11) "Permanent and total disability" means that an individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for a continuous period of at least 12 months. An individual shall not be considered to have a permanent and total disability unless that person furnishes proof of the permanent and total disability in the form and manner, and at the times, that the health care benefits program may require.

(12) "Primary participant" means any person enrolled in the local unit plan under subsection (b), a direct bill participant under subsection (d), or a COBRA participant.

(13) "Qualified local unit" means a local unit that meets the terms, conditions, limitations, exclusions, and other provisions established by the commission for participation in the local unit employee health care benefits component of the health care benefits program and that has entered into a written agreement with the commission to participate in the program.

(14) "Variable-hour employee" means any local unit employee for whom, at the date of hire, it cannot be determined that the employee is reasonably expected to work at least 1,000 hours per year.

(b) Primary participants. Subject to the provisions of subsection (c), each local unit employee shall be eligible to participate as a primary participant in the local unit plan. Eligibility and participation shall be subject to terms, conditions, limitations, exclusions, and other provisions established by the commission, including the amount and method of payment for employee and employer contributions.

(c) Waiting periods.

(1) Each local unit employee whose first day of work for a qualified local unit is on or after the first day on which the employee's qualified local unit participates in the local unit plan shall become eligible for coverage following completion of a 30-day waiting period beginning with the first day of work for the qualified local unit. Each local unit employee shall have 31 days after becoming eligible to elect coverage.

(2) The waiting period established in paragraph (c)(1) shall not apply if all of the following conditions are met:

(A) The person is returning to work for the qualified local unit, is transferring from another qualified local unit under this regulation, or is transferring from a position that is eligible for coverage under K.A.R. 108-1-1 or K.A.R. 108-1-3.

(B) Immediately before leaving the prior position, the person was enrolled in the health care benefits program provided by the state of Kansas under K.A.R. 108-1-1, the school district plan under K.A.R. 108-1-3, or the qualified local unit plan under K.A.R. 108-1-4.

(C) The break in service between the prior position and the new position does not exceed the following time periods:

(i) 30 calendar days; or

(ii) 365 calendar days, if the person was laid off in accordance with the practices of the prior qualified local unit.

(3) The waiting period established in paragraph (c)(1) shall not apply to any person who, on that person's first day of work for the qualified local unit, is enrolled in the local unit plan, the school district plan under K.A.R. 108-1-3, or the health care benefits plan under K.A.R. 108-1-1 on any of the following bases:

- (A) As a direct bill participant;
- (B) under the continuation of benefits coverage provided under COBRA; or
- (C) as a dependent of a participant in the health care benefits program.

(4) The waiting period established in paragraph (c)(1) may be waived by the commission or its designee if, within 30 days of the date of hire, the chief administrative officer of the qualified local unit, or the chief administrative officer's designee, certifies in writing to the commission, or its designee, that the waiver is being sought because the new employee is required to have health insurance as a condition of obtaining a work visa for employment in the United States.

(5) Each local unit employee who is employed by the qualified local unit immediately before the first day on which the qualified local unit participates in the local unit plan shall be subject to transitional provisions established by the commission regarding waiting periods and the effective date on which the employee becomes eligible to participate in the local unit plan.

(d) Classes of direct bill participants. Subject to the provisions of subsection (e), the classes of persons eligible to participate as members of the local unit plan on a direct bill basis shall be the following:

(1) Any retired local unit employee who meets one of the following conditions:

(A) The employee is eligible to receive retirement benefits under the Kansas public employees retirement system or the Kansas police and firemen's retirement system; or

(B) if the qualified local unit is not a participating employer under either the Kansas public employees retirement system or the Kansas police and firemen's retirement system, the employee is eligible to receive retirement benefits under the retirement plan provided by the qualified local unit;

(2) any totally disabled former local unit employee who meets one of the following conditions:

(A) The employee is receiving benefits under the Kansas public employees retirement system or the Kansas police and firemen's retirement system; or

(B) if the qualified local unit is not a participating employer under either the Kansas public employees retirement system or the Kansas police and firemen's retirement system, the employee is receiving disability benefits under the retirement or disability plan provided by the qualified local unit;

(3) any surviving spouse or dependent of a primary participant in the local unit plan;

(4) any person who is a local unit employee and who is on approved leave without pay in accordance with the practices of the qualified local unit; and

(5) any individual who was covered by the health care plan offered by the qualified local unit on the day immediately before the first day on which the qualified local unit participates in the local unit plan, except that no individual who is an employee of the qualified local unit and who does not meet the definition of local unit employee in subsection (a) shall be qualified as a direct bill participant under this paragraph.

(e) Conditions for direct bill participants. Each person who is within a class listed in subsection (d) shall be eligible to participate on a direct bill basis only if the person meets both of the following conditions:

(1) The person was covered by the local unit plan or the health care insurance plan offered by the qualified local unit on one of the following bases:

(A) Immediately before the date the person ceased to be eligible for coverage or, for any person identified in paragraph (d)(5), immediately before the first day on which the qualified local unit participates in the local unit plan, the person either was covered as a primary participant under subsection (b) or was covered by the health care insurance plan offered by the employee's qualified local unit.

(B) The person is a surviving spouse or dependent of a plan participant who was enrolled as a primary participant or a direct bill participant when the primary participant died, and the person was covered by the health care benefits program as a dependent under subsection (g) when the primary participant died.

(C) The person is a surviving spouse or dependent of a plan participant who was enrolled in the health care insurance plan offered by the participant's qualified local unit when the participant died, and the person has maintained continuous coverage under the local unit's health care insurance plan before joining the health care benefits program.

(2) The person completes an enrollment form requesting transfer to the direct bill program and submits the form to the health care benefits program. The form shall be submitted no more than 30 days after the person ceased to be eligible for coverage or, in the case of any individual identified in paragraph (d)(5), no more than 30 days after the first day on which the qualified local unit participates in the local unit plan.

(f) COBRA participants. Any individual with rights to extend coverage under COBRA may participate in the local unit plan, subject to the provisions of that federal law.

(g) Eligible dependent participants.

(1) Any person enrolled in the local unit plan under subsection (b), (d), or (f) as a primary participant may enroll the following dependents, subject to the same conditions and limitations that apply to the primary participant:

(A) The primary participant's lawful wife or husband, as recognized by Kansas law and subject to the documentation requirements of the commission or its designee; and

(B) any of the primary participant's eligible dependent children, subject to the documentation requirements of the commission or its designee.

(2) An eligible dependent child who is enrolled by one primary participant shall not be eligible to be enrolled by another primary participant in the health care benefits program.

(3) An individual who is eligible to enroll as a primary participant in the health care benefits program shall be eligible to be enrolled under this subsection as a dependent in the health care benefits program, subject to the following requirements:

(A) The individual who enrolls as a dependent of a primary participant shall be the lawful spouse, as defined in paragraph (g)(1)(A).

(B) An individual who enrolls as a dependent of a primary participant shall not be eligible to be enrolled as a primary participant during that plan year.

(C) Each individual who enrolls as a dependent of a primary participant shall be subject to the copays, deductibles, coinsurance, and employer contribution levels as a dependent and not as a primary participant.

(4) The term "dependent" shall exclude any individual who is not a citizen or national of the United States, unless the individual is a resident of the United States or a country contiguous to the United States, is a member of a primary participant's household, and resides with the primary participant for more than six months of the calendar year. The dependent shall be considered to reside with the primary participant even when the dependent is temporarily absent due to special circumstances, including illness, education, business, vacation, and military service.

(h) Direct bill participants; continuous coverage provisions.

(1) Except as otherwise provided in this subsection, each direct bill participant enrolled in the health care benefits program shall maintain continuous coverage in the program or shall lose eligibility to be in the health care benefits program as a direct bill participant.

(2) Any person who discontinued direct bill coverage in the health care benefits program before January 21, 2001 and was not a direct bill participant on that date may return one time to the health care benefits program if the person meets the criteria specified in subsections (d) and (e) and if that person has not previously discontinued and returned to direct bill coverage before January 21, 2001. (Authorized by K.S.A. 2014 Supp. 75-6501 and K.S.A. 75-6510; implementing K.S.A. 2014 Supp. 75-6501 and K.S.A. 2014 Supp. 75-6508; effective Aug. 30, 2002; amended March 28, 2003; amended Jan. 9, 2004; amended June 18, 2004; amended March 10, 2006; amended July 17, 2009; amended July 16, 2010; amended, T-108-8-16-10, Aug. 16, 2010; amended March 11, 2011; amended Jan. 2, 2015.)

# Agency 109

## Emergency Medical Services Board

**Editor's Note:**

The Emergency Medical Services Council was abolished on April 14, 1988. Powers, duties, and functions were transferred to its successor, the Emergency Medical Services Board. See K.S.A. 1988 Supp. 65-6101.

*Articles*

- 109-1. DEFINITIONS.
- 109-2. AMBULANCE SERVICES; PERMITS AND REGULATIONS.
- 109-3. STANDARDS FOR AMBULANCE ATTENDANTS, FIRST RESPONDERS, AND DRIVERS.
- 109-5. CONTINUING EDUCATION.
- 109-6. TEMPORARY CERTIFICATION.
- 109-7. FEES.
- 109-8. EXAMINATIONS.
- 109-9. INSTRUCTOR-COORDINATOR.
- 109-10. CURRICULA.
- 109-11. COURSE APPROVALS.
- 109-13. TRAINING OFFICERS.
- 109-15. CERTIFICATION.
- 109-16. GRADUATED SANCTIONS.

### Article 1.—DEFINITIONS

**109-1-1. Definitions.** Each of the following terms, as used in the board's regulations, shall have the meaning specified in this regulation:

(a) "AEMT" means advanced emergency medical technician.

(b) "Advanced life support" and "ALS" mean the statutorily authorized activities and interventions that may be performed by an advanced emergency medical technician or paramedic.

(c) "Air ambulance" means a fixed-wing or rotor-wing aircraft that is specially designed, constructed or modified, maintained, and equipped to provide air medical transportation and emergency care of patients.

(d) "Air medical director" means a physician as defined by K.S.A. 65-6112, and amendments thereto, who meets the following requirements:

(1) Is trained and experienced in care consistent with the air ambulance service's mission statement; and

(2) is knowledgeable in altitude physiology and the complications that can arise due to air medical transport.

(e) "Air medical personnel" means the attendants listed on the attendant roster, health care

personnel identified on the service health care personnel roster of the air ambulance service, specialty patient care providers specific to the mission, and the pilot or pilots necessary for the operation of the aircraft.

(f) "Airway maintenance," as used in K.S.A. 65-6121 and amendments thereto and as applied to the authorized activities of an advanced emergency medical technician, means the use of any invasive oral equipment and procedures necessary to ensure the adequacy and quality of ventilation and oxygenation.

(g) "Basic life support" and "BLS" mean the statutorily authorized activities and interventions that may be performed by an emergency medical responder or emergency medical technician.

(h) "CAPCE" means the commission on accreditation for pre-hospital continuing education.

(i) "Certified mechanic," as used in K.A.R. 109-2-2, means an individual employed or contracted by the ambulance service, city or county, qualified to perform maintenance on licensed ambulances and inspect these vehicles and validate, by signature, that the vehicles meet both mechanical and safety considerations for use.

(j) "Class," as used in these regulations, means

the period during which a group of students meets.

(k) “Clinical preceptor” means an individual who is responsible for the supervision and evaluation of students in clinical training in a health care facility.

(l) “Continuing education” means a formally organized learning experience that has education as its explicit principal intent and is oriented towards the enhancement of emergency medical services practice, values, skills, and knowledge.

(m) “Contrived experience,” as used in K.A.R. 109-11-3a, means a simulated ambulance call and shall include dispatch communications, responding to the scene, assessment and management of the scene and patient or patients, biomedical communications with medical control, ongoing assessment, care, and transportation of the patient or patients, transference of the patient or patients to the staff of the receiving facility, completion of records, and preparation of the ambulance for return to service.

(n) “Coordination” means the submission of an application for approval of initial courses of instruction or continuing education courses and the oversight responsibility of those same courses and instructors once the courses are approved.

(o) “Course of instruction” means a body of prescribed EMS studies approved by the board.

(p) “Critical care transport” means the transport by an ambulance of a critically ill or injured patient who receives care commensurate with the care rendered by health care personnel as defined in this regulation or a paramedic with specialized training as approved by service protocols and the medical director.

(q) “Educator” means instructor-coordinator, as defined in K.S.A. 65-6112 and amendments thereto.

(r) “Emergency” means a serious medical or traumatic situation or occurrence that demands immediate action.

(s) “Emergency call” means an immediate response by an ambulance service to a medical or trauma incident that happens unexpectedly.

(t) “Emergency care” means the services provided after the onset of a medical condition of sufficient severity that the absence of immediate medical attention could reasonably be expected to cause any of the following:

- (1) Place the patient’s health in serious jeopardy;
- (2) seriously impair bodily functions; or

(3) result in serious dysfunction of any bodily organ or part.

(u) “EMS” means emergency medical services.

(v) “EMR” means emergency medical responder.

(w) “EMT” means emergency medical technician.

(x) “Field internship preceptor” means an individual who is responsible for the supervision and evaluation of students in field training with an ambulance service.

(y) “Ground ambulance” means a ground-based vehicle that is specially designed and equipped for emergency medical care and transport of sick and injured persons and meets the requirements in K.A.R. 109-2-8.

(z) “Health care personnel” and “health care provider,” as used in these regulations, means a physician, physician assistant, licensed professional nurse, advanced practice registered nurse, or respiratory therapist.

(aa) “Incompetence,” as applied to attendants and as used in K.S.A. 65-6133 and amendments thereto, means a demonstrated lack of ability, knowledge, or fitness to perform patient care according to applicable medical protocols or as defined by the authorized activities of the attendant’s level of certification.

(bb) “Incompetence,” as applied to instructor-coordinators and training officers and as used in K.S.A. 65-6129b and K.S.A. 65-6129c and amendments thereto, means a pattern of practice or other behavior that demonstrates a manifest incapacity, inability, or failure to coordinate or to instruct attendant training programs.

(cc) “Incompetence,” as applied to an operator and as used in K.S.A. 65-6132 and amendments thereto, means either of the following:

(1) The operator’s inability or failure to provide the level of service required for the type of permit held; or

(2) the failure of the operator or an agent or employee of the operator to comply with a statute or regulation pertaining to the operation of a licensed ambulance service.

(dd) “Instructor-coordinator” and “I-C” mean any of the following individuals who are certified to instruct and coordinate attendant training programs:

- (1) Emergency medical technician;
- (2) physician;
- (3) physician’s assistant;
- (4) advanced practice registered nurse;

- (5) licensed professional nurse;
- (6) advanced emergency medical technician; or
- (7) paramedic.

(ee) “Interoperable” means that one system has the ability to communicate or work with another.

(ff) “Lab assistant” means an individual who is assisting a primary instructor in the instruction and evaluation of students in classroom laboratory training sessions.

(gg) “Long-term provider approval” means that the sponsoring organization has been approved by the executive director to provide any continuing education program as prescribed in K.A.R. 109-5-3.

(hh) “Mentoring educator” means an instructor-coordinator, as defined in K.S.A. 65-6112 and amendments thereto, who has obtained additional credentials prescribed by the board.

(ii) “Out of service,” as used in K.A.R. 109-2-5, means that a licensed ambulance is not immediately available for use for patient care or transport.

(jj) “Primary instructor” means an instructor-coordinator who is listed by the sponsoring organization as the individual responsible for the competent delivery of cognitive, psychomotor, and affective objectives of an approved initial course of instruction or continuing education program and who is the person primarily responsible for evaluating student performance and developing student competency.

(kk) “Prior-approved continuing education” means material submitted by a sponsoring organization, to the board, that is reviewed and subsequently approved by the executive director, in accordance with criteria established by regulations, and that is assigned a course identification number.

(ll) “Public call” means the request for an ambulance to respond to the scene of a medical emergency or accident by an individual or agency other than any of the following:

- (1) A ground ambulance service;
- (2) the Kansas highway patrol or any law enforcement officer who is at the scene of an accident or medical emergency;
- (3) a physician, as defined by K.S.A. 65-6112 and amendments thereto, who is at the scene of an accident or medical emergency; or
- (4) an attendant who has been dispatched to provide emergency first response and who is at the scene of an accident or medical emergency.

(mm) “Retroactively approved continuing education” means credit issued to an attendant after

attending a program workshop, conference, seminar, or other offering that is reviewed and subsequently approved by the executive director, in accordance with criteria established by the board.

(nn) “Roster” means a document whose purpose is to validate attendance at an educational offering and that includes the following information:

- (1) Name of the sponsoring organization;
- (2) location where the educational offering occurred;
- (3) signature, time of arrival, and time of departure of each attendee;
- (4) course identification number issued by the board;
- (5) title of the educational offering;
- (6) date of the educational offering; and
- (7) printed name and signature of the program manager.

(oo) “Service director” means an individual who has been appointed, employed, or designated by the operator of an ambulance service to handle daily operations and to ensure that the ambulance service is in conformance with local, state, and federal laws and ensure that quality patient care is provided by the service attendants.

(pp) “Service records” means the documents required to be maintained by state regulations and statutes pertaining to the operation and education within a licensed ambulance service.

(qq) “Single-program provider approval” means that the sponsoring organization has been granted approval to offer a specific continuing education program.

(rr) “Site coordinator” means a person supervising, facilitating, or monitoring students, facilities, faculty, or equipment at a training site.

(ss) “Syllabus” means a summary of the content of a course of instruction that includes the following:

- (1) A summary of the course goals and objectives;
- (2) student prerequisites, if any, for admission into the course;
- (3) instructional and any other materials required to be purchased by the student;
- (4) student attendance policies;
- (5) student requirements for successful course completion;
- (6) a description of the clinical and field training requirements, if applicable;
- (7) student discipline policies; and
- (8) instructor, educator, or mentoring educator information, which shall include the following:

(A) The name of the instructor, educator, or mentoring educator;

(B) the office hours of the instructor, educator, or mentoring educator or the hours during which the instructor, educator, or mentoring educator is available for consultation; and

(C) the electronic mail address of the instructor, educator, or mentoring educator.

(tt) "Sufficient application" means that the information requested on the application form is provided in full, any applicable fee has been paid, all information required by statute or regulation has been submitted to the board, and no additional information is required to complete the processing of the application.

(uu) "Teach" means instruct or coordinate training, or both.

(vv) "Unprofessional conduct," as applied to attendants and as used in K.S.A. 65-6133 and amendments thereto, means conduct that violates those standards of professional behavior that through professional experience have become established by the consensus of the expert opinion of the members of the emergency medical services profession as reasonably necessary for the protection of the public. This term shall include any of the following:

(1) Failing to take appropriate action to safeguard the patient;

(2) performing acts beyond the activities authorized for the level at which the individual is certified;

(3) falsifying a patient's or an ambulance service's records;

(4) verbally, sexually, or physically abusing a patient;

(5) violating statutes or regulations concerning the confidentiality of medical records or patient information obtained in the course of professional work;

(6) diverting drugs or any property belonging to a patient or an agency;

(7) making a false or misleading statement on an application for certification renewal or any agency record;

(8) engaging in any fraudulent or dishonest act that is related to the qualifications, functions, or duties of an attendant; or

(9) failing to cooperate with the board and its agents in the investigation of complaints or possible violations of the emergency medical services statutes or board regulations, including failing to furnish any documents or information legally re-

quested by the board. Attendants who fail to respond to requests for documents or requests for information within 30 days from the date of request shall have the burden of demonstrating that they have acted in a timely manner.

(ww) "Unprofessional conduct," as applied to instructor-coordinators and as used in K.S.A. 65-6129b and K.S.A. 65-6129c and amendments thereto, means any of the following:

(1) Engaging in behavior that demeans a student. This behavior shall include ridiculing a student in front of other students or engaging in any inhumane or discriminatory treatment of any student or group of students;

(2) verbally or physically abusing a student;

(3) failing to take appropriate action to safeguard a student;

(4) falsifying any document relating to a student or the sponsoring organization;

(5) violating any statutes or regulations concerning the confidentiality of student records;

(6) obtaining or seeking to obtain any benefit, including a sexual favor, from a student through duress, coercion, fraud, or misrepresentation, or creating an environment that subjects a student to unwelcome sexual advances, which shall include physical touching or verbal expressions;

(7) an inability to instruct because of alcoholism, excessive use of drugs, controlled substances, or any physical or mental condition;

(8) reproducing or duplicating a state examination for certification without board authority;

(9) engaging in any fraudulent or dishonest act that is related to the qualifications, functions, or duties of an instructor-coordinator or training officer;

(10) willfully failing to adhere to the course syllabus; or

(11) failing to cooperate with the board and its agents in the investigation of complaints or possible violations of the board's statutes or regulations, including failing to furnish any documents or information legally requested by the board. Instructor-coordinators and training officers who fail to respond to requests for documents or requests for information within 30 days of the request shall have the burden of demonstrating that they have acted in a timely manner. (Authorized by K.S.A. 2016 Supp. 65-6110, 65-6111, and 65-6133; implementing K.S.A. 2016 Supp. 65-6110, 65-6111, 65-6129b, 65-6129c, 65-6132, and 65-6133; effective May 1, 1985; amended May 1, 1986; amended, T-88-12, May 18, 1987; amended, T-88-24,

July 15, 1987; amended May 1, 1988; amended July 17, 1989; amended March 16, 1992; amended Jan. 31, 1994; amended Jan. 30, 1995; amended Jan. 31, 1997; amended Nov. 12, 1999; amended Jan. 27, 2012; amended March 15, 2013; amended April 29, 2016; amended Dec. 29, 2017.)

**109-1-1a.** (Authorized by K.S.A. 65-6110 and K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing K.S.A. 65-6110 and K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; revoked March 15, 2013.)

**109-1-2. Medical director.** Each air ambulance service shall have an air medical director who is responsible for advising the air ambulance service on policies and procedures that ensure that the appropriate aircraft, medical personnel, and equipment are provided during air ambulance transport. When necessary, the air medical director may designate another licensed physician to perform the air medical director's duties. (Authorized by K.S.A. 65-6110, as amended by L. 2011, ch. 114, sec. 81; implementing K.S.A. 65-6126, as amended by L. 2011, ch. 114, sec. 87; effective Jan. 31, 1997; amended Jan. 27, 2012.)

## Article 2.—AMBULANCE SERVICES; PERMITS AND REGULATIONS

**109-2-1. Ambulance service operator.** (a) Each operator of an ambulance service shall perform the following:

(1) Notify the board of any change in the service director within seven days of the change; and

(2) designate a person as the ambulance service director to serve as an agent of the operator.

(b) The ambulance service director shall meet the following requirements:

(1) Be responsible for the operation of the ambulance service;

(2) be available to the board regarding permit, regulatory, and emergency matters;

(3) be responsible for maintaining a current list of the ambulance service's attendants;

(4) notify the board of each addition or removal of an attendant from the attendant roster within 90 days of the addition or removal;

(5) notify the board of any known resignation, termination, incapacity, or death of a medical adviser once known and the plans for securing a new medical director; and

(6) submit written notification of each change in the medical director within 30 days of the change. (Authorized by K.S.A. 2015 Supp. 65-6110, 65-6111, and 65-6132; implementing K.S.A. 2015 Supp. 65-6110 and K.S.A. 65-6130; effective May 1, 1985; amended July 17, 1989; amended Jan. 31, 1997; amended Jan. 27, 2012; amended April 29, 2016.)

**109-2-2. Application for ambulance service permit and ambulance license; permit renewal and license renewal.** (a)(1) An applicant may apply for only one ambulance service permit for each ambulance service that the applicant seeks to operate. Each applicant shall indicate the type of service for the permit requested as ground ambulance service or air ambulance service.

(2) An applicant may apply for only one ambulance license for each ambulance that the applicant seeks to operate.

(3) Any operator may apply for a temporary license for an ambulance. Each temporary license shall be valid for 60 days. Any temporary license may be extended by the executive director.

(b) All ambulance service permit and ambulance license application and renewal forms shall be submitted in a format required by the executive director.

(c)(1) Each initial and each renewal applicant for a ground ambulance service permit and ambulance license shall meet one of the following requirements:

(A) Obtain a mechanical and safety inspection from a person doing business as or employed by a vehicle maintenance service or a city, county, or township or from a certified mechanic as defined in K.A.R. 109-1-1, for each ambulance within 180 days before the date of ambulance service application renewal; or

(B) have a long-term vehicle maintenance program with requirements equivalent to or exceeding the requirements of the mechanical and safety inspection form.

(2) In order for an ambulance license to be renewed, the mechanical safety inspection forms shall not contain any deficiencies identified that would compromise the safe transport of patients.

(d) Each initial and each renewal application for an air ambulance shall include a valid standard airworthiness certificate for each aircraft, evidence of an air safety training program, and an informational publication.

(e)(1) Each new ground ambulance shall meet one of the following requirements:

(A) Be required to have a mechanical or safety inspection submitted on forms required by the board or shall require documentation from the manufacturer indicating that the vehicle has undergone a predelivery inspection without deficiencies; or

(B) have a long-term vehicle maintenance program with requirements equivalent to or exceeding the requirements of the mechanical and safety inspection form.

(2) Each used or retrofitted ground ambulance shall be required to have a mechanical and safety inspection.

(f) Each ambulance service permit and non-temporary ambulance license shall expire on April 30 of each year. Any such permit or license may be renewed annually in accordance with this regulation. If the board receives a complete application for renewal of an ambulance service permit or an ambulance license on or before April 30, the existing permit or license shall not expire until the board has taken final action upon the renewal application or, if the board's action is unfavorable, until the last day for seeking judicial review.

(g) If the board receives an insufficient initial application or renewal application for an ambulance service permit or ambulance license, the applicant or operator shall be notified by the board of any errors or omissions. If the applicant or operator fails to correct the deficiencies and submit a sufficient application within 30 days from the date of written notification, the application may be considered by the board as withdrawn.

(h) An application for ambulance service permit or permit renewal shall be deemed sufficient if all of the following conditions are met:

(1) The applicant or operator either completes all forms provided with the application for ambulance service permit or permit renewal or provides all requested information online. No additional information is required by the board to complete the processing of the application.

(2) Each operator submits the list of supplies and equipment carried on each ambulance validated by the signature of the ambulance service's medical director to the board each year with the operator's application for an ambulance service permit.

(3) The applicant or operator submits payment of the fee in the correct amount for the ambulance service permit or permit renewal and ambulance license fees.

(4) Each operator provides the inspection results to the board on forms provided by the executive director with the application for renewal.

(i) Each publicly subsidized operator shall provide the following statistical information to the board with the application for renewal of a permit:

(1) The number of emergency and nonemergency ambulance responses and the number of patients transported for the previous calendar year;

(2) the operating budget and, if any, the tax subsidy;

(3) the charge for emergency and nonemergency patient transports, including mileage fees; and

(4) the number of full-time, part-time, and volunteer staff.

(j) Each private operator shall provide the following statistical information to the board with the application for renewal of a permit:

(1) The number of emergency and nonemergency ambulance responses and the number of patients transported for the previous calendar year;

(2) the charge for emergency and nonemergency patient transports, including mileage fees; and

(3) the number of full-time, part-time, and volunteer staff.

(k) As a condition of issuance of an initial ambulance service permit, each ambulance service operator shall provide with the application the ambulance service's operational policies and approved medical protocols pursuant to K.A.R. 109-2-5.

(l) The operator of each ground ambulance service or air ambulance service shall develop a list of the supplies and equipment that are carried on each ambulance. This list shall include the supplies and equipment required by the board for the license type and any additional supplies or equipment necessary to carry out the patient care activities as indicated in the ambulance service's medical protocols, in accordance with K.S.A. 65-6112 and amendments thereto. (Authorized by K.S.A. 2015 Supp. 65-6110 and 65-6111; implementing K.S.A. 2015 Supp. 65-6110, K.S.A. 65-6127, and K.S.A. 65-6128; effective May 1, 1985; amended July 17, 1989; amended Jan. 31, 1997; amended Dec. 29, 2000; amended Jan. 27, 2012; amended Jan. 3, 2014; amended April 29, 2016.)

**109-2-4.** (Authorized by and implementing K.S.A. 1995 Supp. 65-6110, 65-6111, K.S.A. 65-6127 and 65-6128; effective May 1, 1985; amended July 17, 1989; amended Jan. 31, 1997; revoked Jan. 27, 2012.)

**109-2-5. Ambulance service operational standards.** (a) Each ground ambulance shall have a two-way, interoperable communications system to allow contact with the ambulance service's primary communication center and with the medical facility, as defined by K.S.A. 65-411 and amendments thereto, to which the ambulance service most commonly transports patients.

(b) Smoking shall be prohibited in the patient and driver compartments of each ambulance at all times.

(c) Each operator shall ensure that the interior and exterior of the ambulance are maintained in a clean manner and that all medications, medical supplies, and equipment within the ambulance are maintained in good working order and according to applicable expiration dates.

(d) Each operator shall ensure that freshly laundered linen or disposable linen is on cots and pillows and ensure that the linen is changed after each patient is transported.

(e) When an ambulance has been utilized to transport a patient known or suspected to have an infectious disease, the operator shall ensure that the interior of the ambulance, any equipment used, and all contact surfaces are disinfected according to the ambulance service's infectious disease control policies and procedures. The operator shall place the ambulance out of service until a thorough disinfection according to the ambulance service's infection control policies and procedures has been completed.

(f) Each operator shall ensure that all items and equipment in the patient compartment are placed in cabinets or properly secured.

(g) Each operator shall park all ground ambulances in a completely enclosed building with a solid concrete floor. Each operator shall maintain the interior heat of the enclosed building at no less than 50 degrees Fahrenheit. Each operator shall ensure that the interior of the building is kept clean and has adequate lighting. Each operator shall store all supplies and equipment in a clean and safe manner.

(h) Each licensed ambulance shall meet all regulatory requirements for the ambulance license type, except when the ambulance is out of service.

(i) If an operator is unable to provide service for more than 24 hours, the operator or agent shall notify the executive director and submit an alternative plan, in writing and within 72 hours, for providing ambulance service for the operator's primary territory of coverage. The alternative plan

shall be subject to approval by the executive director and shall remain in effect no more than 30 days from the date of approval. Approval by the executive director shall be based on whether the alternate plan will provide sufficient coverage to transport and provide emergency care for persons within the operator's primary territory. A written request for one or more extensions of the alternative plan for no more than 30 days each may be approved by the executive director if the operator has made a good faith effort but, due to circumstances beyond the operator's control, has been unable to completely remedy the problem.

(j) Each operator subject to public call shall have a telephone with an advertised emergency number that is answered by an attendant or other person designated by the operator 24 hours a day. Answering machines shall not be permitted.

(k) Each operator shall produce the ambulance service permit and service records upon request of the board.

(l) Each operator shall maintain service records for three years.

(m) Each operator shall ensure that documentation is completed for each request for service and for each patient receiving patient assessment, care, or transportation. Each operator shall furnish a completed copy or copies of each patient care report form upon request of the board.

(n) Each operator shall maintain a daily record of each request for ambulance response. This record shall include the date, time of call, scene location, vehicle number, trip number, caller, nature of call, and disposition of each patient.

(o) Each operator shall maintain a copy of the patient care documentation for at least three years.

(p) Each operator shall ensure that a copy of the patient care documentation for initial transport of emergency patients is made available to the receiving medical facility, within 24 hours of the patient's arrival.

(q) Each operator shall maintain a current duty roster that demonstrates compliance with K.S.A. 65-6135, and amendments thereto. The duty roster shall reflect appropriate staffing for the service and ambulance type as specified in K.A.R. 109-2-6 and 109-2-7.

(r) Each operator shall provide a quality improvement or assurance program that establishes medical review procedures for monitoring patient care activities. This program shall include policies and procedures for reviewing patient care documentation. Each operator shall review patient

care activities at least once each quarter of each calendar year to determine whether the ambulance service's attendants are providing patient care commensurate with the attendant's scope of practice and local protocols.

(1) Review of patient care activities shall include quarterly participation by the ambulance service's medical director in a manner that ensures that the medical director is meeting the requirements of K.S.A. 65-6126, and amendments thereto.

(2) Each operator shall, upon request, provide documentation to the executive director demonstrating that the operator is performing patient care reviews and that the medical director is reviewing, monitoring, and verifying the activities of the attendants pursuant to K.S.A. 65-6126, and amendments thereto, as indicated by the medical director's electronic or handwritten signature.

(3) Each operator shall ensure that documentation of all medical reviews of patient care activities is maintained for at least three years.

(4) Within 60 days after completion of the internal review processes of an incident, each operator shall report to the board on forms approved by the board any incident indicating that an attendant or other health care provider functioning for the operator met either of the following conditions:

(A) Acted below the applicable standard of care and, because of this action, had a reasonable probability of causing injury to a patient; or

(B) acted in a manner that could be grounds for disciplinary action by the board or other applicable licensing agency.

(s) Each ambulance service operator shall develop and implement operational policies or guidelines, or both, that have a table of contents and address policies and procedures for each of the following topics:

- (1) Radio and telephone communications;
- (2) interfacility transfers;
- (3) emergency driving and vehicle operations;
- (4) do not resuscitate (DNR) orders, durable powers of attorney for health care decisions, and living wills;
- (5) multiple-victim and mass-casualty incidents;
- (6) hazardous material incidents;
- (7) infectious disease control;
- (8) crime scene management;
- (9) documentation of patient reports;
- (10) consent and refusal of treatment;
- (11) management of firearms and other weapons;
- (12) mutual aid, which means a plan for re-

questing assistance from another resource;

(13) patient confidentiality;

(14) extrication of persons from entrapment; and

(15) any other procedures deemed necessary by the operator for the efficient operation of the ambulance service.

(t) Each ambulance service operator shall provide the operational policies to the executive director, upon request.

(u) Each ambulance service operator shall adopt and implement medical protocols developed and approved in accordance with K.S.A. 65-6112, and amendments thereto. The medical protocols shall be approved annually.

(v) Each operator's medical protocols shall include a table of contents and treatment procedures at a minimum for the following medical and trauma-related conditions for pediatric and adult patients:

- (1) Diabetic emergencies;
- (2) shock;
- (3) environmental emergencies;
- (4) chest pain;
- (5) abdominal pain;
- (6) respiratory distress;
- (7) obstetrical emergencies and care of the newborn;
- (8) poisoning and overdoses;
- (9) seizures;
- (10) cardiac arrest;
- (11) burns;
- (12) stroke or cerebral-vascular accident;
- (13) chest injuries;
- (14) abdominal injuries;
- (15) head injuries;
- (16) spinal injuries;
- (17) multiple-systems trauma;
- (18) orthopedic injuries;
- (19) drowning; and
- (20) anaphylaxis.

(w) Each operator shall make available a current copy of the ambulance service's operational policies or guidelines and medical protocols to any person listed as an attendant and any other health care provider on the ambulance service's attendant roster. (Authorized by K.S.A. 2011 Supp. 65-6110 and K.S.A. 2011 Supp. 65-6111; implementing K.S.A. 2011 Supp. 65-6110, K.S.A. 2011 Supp. 65-6112, K.S.A. 2011 Supp. 65-6126, K.S.A. 65-6130, and K.S.A. 2011 Supp. 65-6135; effective May 1, 1985; amended, T-88-24, July 15, 1987; amended May 1, 1988; amended Aug. 27, 1990; amended Aug. 16, 1993; amended Jan. 31, 1997; amended Jan. 27, 2012; amended July 5, 2013.)

**109-2-6. Types of ambulance services and staffing.** (a) Permits shall be issued for two types of ambulance service. These types shall be known as air ambulance and ground ambulance.

(b) Each air ambulance service shall meet the following requirements:

(1) Provide advanced life support or critical care transport as defined in K.A.R. 109-1-1;

(2) have at least one licensed air ambulance; and

(3) not be subject to public call as defined in K.A.R. 109-1-1.

(c)(1) Each ground ambulance service shall meet the following requirements:

(A) Provide basic life support at a minimum as defined in K.A.R. 109-1-1;

(B) have at least one licensed ambulance that meets all requirements of K.A.R. 109-2-8;

(C) staff each ambulance with, at a minimum, either two attendants or one attendant and a health care provider, as defined in K.A.R. 109-1-1, and ensure that an attendant certified pursuant to K.S.A. 65-6119, 65-6120, or 65-6121, and amendments thereto, or a health care provider is in the patient compartment during patient transport; and

(D) have a method of receiving calls and dispatching ambulances that ensures that an ambulance leaves the station within an annual average of five minutes from the time an emergency call is received by the ambulance service.

(2) Any ground ambulance service operator may provide advanced life support or critical care transport as defined in K.A.R. 109-1-1 and described in K.S.A. 65-6123, 65-6120, and 65-6119, and amendments thereto, if all of the following conditions are met:

(A) At a minimum, an attendant certified pursuant to K.S.A. 65-6119, 65-6120, or 65-6123, and amendments thereto, or a health care provider is in the patient compartment during patient transport.

(B) The ambulance or personnel, or both, are adequately equipped.

(C) The treatment is approved by medical protocols or medical control pursuant to K.S.A. 65-6119, 65-6120, and 65-6123, and amendments thereto. (Authorized by K.S.A. 2015 Supp. 65-6110; implementing K.S.A. 2015 Supp. 65-6110, K.S.A. 65-6128, and K.S.A. 2015 Supp. 65-6135; effective May 1, 1985; amended May 1, 1987; amended, T-88-24, July 15, 1987; amended May 1, 1988; amended July 17, 1989; amended Jan. 31, 1997; amended Jan. 27, 2012; amended April 29, 2016.)

**109-2-7.** (Authorized by K.S.A. 2013 Supp. 65-6110; implementing K.S.A. 2013 Supp. 65-6110, K.S.A. 65-6128, and K.S.A. 2013 Supp. 65-6135; effective May 1, 1985; amended May 1, 1987; amended, T-88-24, July 15, 1987; amended May 1, 1988; amended Aug. 27, 1990; amended Feb. 3, 1992; amended Jan. 31, 1997; amended July 7, 2014; revoked April 29, 2016.)

**109-2-8. Standards for ground ambulances and equipment.** (a) Each ground ambulance shall meet the vehicle and equipment standards that are applicable to that type of ambulance.

(b) Each ground ambulance shall have the ambulance license prominently displayed in the patient compartment.

(c) The patient compartment size shall meet or exceed the following specifications:

(1) Headroom: 60 inches; and

(2) length: 116 inches.

(d) Each ambulance shall have a heating and cooling system that is controlled separately for the patient and the driver compartments. The air conditioners for each compartment shall have separate evaporators.

(e) Each ambulance shall have separate ventilation systems for the driver and patient compartments. These systems shall be separately controlled within each compartment. Fresh air intakes shall be located in the most practical, contaminant-free air space on the ambulance. The patient compartment shall be ventilated through the heating and cooling systems.

(f) The patient compartment in each ambulance shall have adequate lighting so that patient care can be given and the patient's status monitored without the need for portable or hand-held lighting. A reduced lighting level shall also be provided. A patient compartment light and step-well light shall be automatically activated by opening the entrance doors. Interior light fixtures shall not protrude more than 1½ inches.

(g) Each ambulance shall have an electrical system to meet maximum demand of the electrical specifications of the vehicle. All conversion equipment shall have individual fusing that is separate from the chassis fuse system.

(h) Each ground ambulance shall have lights and sirens as required by K.S.A. 8-1720 and K.S.A. 8-1738, and amendments thereto.

(i) Each ground ambulance shall have an exterior patient loading light over the rear door, which

shall be activated both manually by an inside switch and automatically when the door is opened.

(j) The operator shall mark each ground ambulance licensed by the board as follows:

(1) The name of the ambulance service shall be in block letters, not less than four inches in height, and in a color that contrasts with the background color. The service name shall be located on both sides of the ambulance and shall be placed in such a manner that it is readily identifiable to other motor vehicle operators.

(2) Any operator may use a decal or logo that identifies the ambulance service in place of lettering. The decal or logo shall be at least 10 inches in height and shall be in a color that contrasts with the background color. The decal or logo shall be located on both sides of the ambulance and shall be placed in such a manner that the decal or logo is readily identifiable to other motor vehicle operators.

(3) Each ground ambulance initially licensed by the board before January 1, 1995 that is identified either by letters or a logo on both sides of the ground ambulance shall be exempt from the minimum size requirements in paragraphs (1) and (2) of this subsection.

(k) Each ground ambulance shall have a communications system that is readily accessible to both the attendant and the driver and is in compliance with K.A.R. 109-2-5(a).

(l) An operator shall equip each ground ambulance as follows:

(1) At least two annually inspected ABC fire extinguishers or comparable fire extinguishers, which shall be secured;

(2) either two portable, functional flashlights or one flashlight and one spotlight;

(3) one four-wheeled or six-wheeled, all-purpose, multilevel cot with an elevating head and at least two safety straps with locking mechanisms;

(4) one urinal;

(5) one bedpan;

(6) one emesis basin or convenience bag;

(7) one complete change of linen;

(8) two blankets;

(9) one waterproof cot cover;

(10) one pillow;

(11) a no-smoking sign posted in the patient compartment and the driver compartment; and

(12) mass-casualty triage tags.

(m) The operator shall equip each ground ambulance with the following internal medical systems:

(1) An oxygen system with at least two outlets located within the patient compartment and at

least 2,000 liters of storage capacity, with a minimum oxygen level of 200 psi. The cylinder shall be in a compartment that is vented to the outside. The pressure gauge and regulator control valve shall be readily accessible to the attendant from inside the patient compartment; and

(2) a functioning, on-board, electrically powered suction aspirator system with a vacuum of at least 300 millimeters of mercury at the catheter tip. The unit shall be easily accessible with large-bore, nonkinking suction tubing and a large-bore, semirigid, nonmetallic oropharyngeal suction tip.

(n) The operator shall equip each ground ambulance with the following medical equipment:

(1) A portable oxygen unit of at least 300-liter storage capacity, complete with pressure gauge and flowmeter and with a minimum oxygen level of 200 psi. The unit shall be readily accessible from inside the patient compartment;

(2) a functioning, portable, self-contained battery or manual suction aspirator with a vacuum of at least 300 millimeters of mercury at the catheter tip and a transparent or translucent collection bottle or bag. The unit shall be fitted with large-bore, nonkinking suction tubing and a large-bore, semirigid, nonmetallic oropharyngeal suction tip, unless the unit is self-contained; and

(3) currently dated supplies, medications, and equipment as authorized by the scope of practice and protocols, in accordance with the applicable list of supplies, medications, and equipment approved by the medical director.

(o) The operator shall equip each ground ambulance with the following blood-borne and body fluid pathogen protection equipment in a quantity sufficient for crew members:

(1) Surgical or medical protective gloves;

(2) protective goggles, glasses or chin-length clear face shields;

(3) filtering masks that cover the mouth and nose;

(4) nonpermeable, full-length, long-sleeve protective gowns;

(5) a leakproof, rigid container clearly marked as "Biohazard" for the disposal of sharp objects; and

(6) a leakproof, closeable container for soiled linen and supplies.

(p) If an operator's medical protocols or equipment list is amended, a copy of these changes shall be submitted to the board by the ambulance service operator within 15 days of implementation of the change. Equipment and supplies obtained on

a trial basis or for temporary use by the operator shall not be required to be reported to the board by an operator. (Authorized by K.S.A. 2016 Supp. 65-6110; implementing K.S.A. 2016 Supp. 65-6110 and K.S.A. 65-6128; effective May 1, 1985; amended, T-88-24, July 15, 1987; amended May 1, 1988; amended July 17, 1989; amended Aug. 16, 1993; amended Jan. 31, 1997; amended Jan. 27, 2012; amended Feb. 13, 2015; amended April 29, 2016; amended June 30, 2017.)

**109-2-9. Variances.** (a) A temporary variance from any or all portions of an identified regulation may be granted for a time period determined by the board to an applicant, based upon the nature of the variance requested and the needs of the applicant.

(b) Each applicant for a variance shall submit a written request, no later than 30 calendar days before a regularly scheduled board meeting, that contains the following information:

(1) The name, address, and certificate level or license type of the applicant;

(2) a statement of the reason for the variance request;

(3) the specific portion or portions of an identified regulation from which a variance is requested;

(4) the period of time for which a variance is requested;

(5) the number of units or persons involved;

(6) an explanation of how adherence to each portion or portions of the regulation from which the variance is requested would result in a serious hardship to the applicant; and

(7) an explanation and, if applicable, supportive documents indicating how a variance would not result in an unreasonable risk to the public interest, safety, or welfare.

(c) In addition to meeting the requirements in subsection (b), each sponsoring organization that requests a variance shall describe how granting a variance will not jeopardize the quality of instruction.

(d) Periodic evaluations of the variance after it is granted may be conducted by the board.

(e) Conditions may be imposed by the board on any variance granted as necessary to protect the public interest, safety, or welfare, including conditions to safeguard the quality of the instruction provided by a sponsoring organization. (Authorized by and implementing K.S.A. 2016 Supp. 65-6111; effective May 1, 1985; amended July 17, 1989; amended Jan. 31, 1997; amended July 10, 2009; amended Dec. 29, 2017.)

**109-2-10a. Air safety program and informational publication.** (a) Each operator of an air ambulance service shall have an air safety training program for all air medical personnel. The program shall include the following:

(1) Air medical and altitude physiology;

(2) aircraft orientation, including specific capabilities, limitations, and safety measures for each aircraft used;

(3) depressurization procedures for fixed-wing aircraft;

(4) safety in and around the aircraft for all air medical personnel, patients, and lay individuals;

(5) rescue and survival techniques appropriate to the terrain and the conditions under which the air ambulance service operates;

(6) hazardous scene recognition and response for rotor-wing aircraft;

(7) aircraft evacuation procedures, including the rapid loading and unloading of patients;

(8) refueling procedures for normal and emergency situations; and

(9) in-flight emergencies and emergency landing procedures.

(b) Each operator of an air ambulance service shall maintain documentation demonstrating the initial completion and annual review of the air safety training program for all air medical personnel and shall provide this documentation to the board on request.

(c) Each operator of an air ambulance service shall provide an informational publication that promotes the proper use of air medical transport, upon request, to all ground-based ambulance services, law enforcement agencies, and hospitals that use the air ambulance service. Each publication shall address the following topics:

(1) Availability, accessibility, and scope of care of the air ambulance service;

(2) capabilities of air medical personnel and patient care modalities afforded by the air ambulance service;

(3) patient preparation before air medical transport;

(4) landing zone designation and preparation;

(5) communication and coordination between air and ground medical personnel; and

(6) safe approach and conduct around the aircraft. (Authorized by and implementing K.S.A. 65-6110, as amended by L. 2011, ch. 114, sec. 81, and K.S.A. 2010 Supp. 65-6111; effective Jan. 27, 2012.)

**109-2-11. Standards for air ambulances and equipment.**

(a) The operator shall ensure that the patient compartment in each air ambulance is configured in such a way that air medical personnel have adequate access to the patient in order to begin and maintain care commensurate with the patient's needs. The operator shall ensure that the air ambulance has adequate access and necessary space to maintain the patient's airway and to provide adequate ventilatory support by an attendant from the secured, seat-belted position within the air ambulance.

(b) Each air ambulance operator shall have a policy that addresses climate control of the aircraft for the comfort and safety of both the patient and air medical personnel. The air medical crew shall take precautions to prevent temperature extremes that could adversely affect patient care.

(c) The operator shall equip each air ambulance with the following:

(1) Either two portable functioning flashlights or a flashlight and one spotlight;

(2) either a cot with an elevating head and at least three safety straps with locking mechanisms or an isolette;

(3) one emesis basin or convenience bag;

(4) one complete change of linen;

(5) one blanket;

(6) one waterproof cot cover; and

(7) a no-smoking sign posted in the aircraft.

(d) Each air ambulance shall have a two-way communications system that is readily accessible to both the medical personnel and the pilot and that meets the following requirements:

(1) Allows communication between the aircraft and air traffic control systems; and

(2) allows air medical personnel to communicate at all times with medical control, exclusive of the air traffic control system.

(e) The pilot or pilots shall be sufficiently isolated from the patient care area to minimize in-flight distractions and interference.

(f) The operator shall equip each air ambulance with an internal medical system that includes the following:

(1) An internal oxygen system with at least one outlet per patient located inside the patient compartment and with at least 2,500 liters of storage capacity with a minimum of 200 psi. The pressure gauge, regulator control valve, and humidifying accessories shall be readily accessible to attendants and medical personnel from inside the patient compartment during in-flight operations;

(2) an electrically powered suction aspirator system with an airflow of at least 30 liters per minute and a vacuum of at least 300 millimeters of mercury. The unit shall be equipped with large-bore, nonkinking suction tubing and a semirigid, nonmetallic oropharyngeal suction tip; and

(3) oxygen flowmeters and outlets that are padded, flush-mounted, or located to prevent injury to air medical personnel, unless helmets are worn by all crew members during all phases of flight operations.

(g) The operator shall equip each air ambulance with the following:

(1) A portable oxygen unit of at least 300-liter storage capacity complete with pressure gauge and flowmeter with a minimum of 200 psi. The unit shall be readily accessible from inside the patient compartment;

(2) a portable, self-contained battery or manual suction aspirator with an airflow of at least 28 liters per minute and a vacuum of at least 300 millimeters of mercury. The unit shall be fitted with large-bore, nonkinking suction tubing and a semirigid, nonmetallic, oropharyngeal suction tip;

(3) medical supplies and equipment that include the following:

(A) Airway management equipment, including tracheal intubation equipment, adult, pediatric, and infant bag-valve masks, and ventilatory support equipment;

(B) a cardiac monitor capable of defibrillating and an extra battery or power source;

(C) cardiac advanced life support drugs and therapeutic modalities, as indicated by the ambulance service's medical protocols;

(D) neonate specialty equipment and supplies for neonatal missions and as indicated by the ambulance service's medical protocols;

(E) trauma advanced life support supplies and treatment modalities, as indicated in the ambulance service's medical protocols; and

(F) a pulse oximeter and an intravenous infusion pump; and

(4) blood-borne and body fluid pathogen protection equipment as described in K.A.R. 109-2-8.

(h) If an operator's medical protocols are amended, the operator shall submit these changes to the board with a letter of approval pursuant to K.S.A. 65-6112 (r), and amendments thereto, within 15 days of implementation of the change.

(i) Equipment and supplies obtained on a trial basis or for temporary use by the operator shall not be required to be reported to the board by

the operator. If the operator's medical equipment list is amended, the operator shall submit these changes to the board within 15 days with a letter of approval from the ambulance service's medical director.

(j) Each air ambulance operator shall ensure that each air ambulance has on board, at all times, appropriate survival equipment for the mission and terrain of the ambulance service's geographic area of operations.

(k) Each air ambulance operator shall ensure that the aircraft has an adequate interior lighting system so that patient care can be provided and the patient's status can be monitored without interfering with the pilot's vision. The air ambulance operator shall ensure that the aircraft cockpit is capable of being shielded from light in the patient care area during night operations or that red lighting or a reduced lighting level is also provided for the pilot and air ambulance personnel.

(l) Each aircraft shall have at least one stretcher that meets the following requirements:

(1) Accommodates a patient who is up to six feet tall and weighs 212 pounds;

(2) is capable of elevating the patient's head at least 30 degrees for patient care and comfort;

(3) has three securing straps for adult patients; and

(4) has a specifically designed mechanism for securing pediatric patients.

(m) Each air ambulance operator shall ensure that all equipment, stretchers, and seating are so arranged as not to block rapid egress by air medical personnel or patients from the aircraft. The operator shall ensure that all equipment on board the aircraft is affixed or secured in either approved racks or compartments or by strap restraint while the aircraft is in operation.

(n) The aircraft shall have an electric inverter or appropriate power source that is sufficient to power patient-specific medical equipment without compromising the operation of any electrical aircraft equipment.

(o) When an isolette is used during patient transport, the operator shall ensure that the isolette is able to be opened from its secured in-flight position in order to provide full access to the infant.

(p) Each air ambulance operator shall ensure that all medical equipment is maintained according to the manufacturer's recommendations and does not interfere with the aircraft's navigation or onboard systems.

(q)(1) Each operator of an air ambulance ser-

vice shall staff each air ambulance with a pilot and one of the following groups of individuals, who shall remain in the patient compartment during patient transport:

(A) At least two of the following: physician, physician assistant, advanced practice registered nurse, or professional nurse; or

(B) one of the individuals listed in paragraph (q)(1)(A) and one of the following:

(i) A paramedic; or

(ii) an optional staff member commensurate with the patient's care needs, as determined by the ambulance service's medical director or as described in the ambulance service's medical protocols, who shall be health care personnel as defined in K.A.R. 109-1-1. The medical personnel shall remain in the patient compartment during patient transport.

(2)(A) When providing critical care transports as defined in K.A.R. 109-1-1, at least one of the medical personnel specified in paragraphs (q)(1)(A) and (B) shall be currently certified in advanced cardiac life support by a certifying entity approved by the board.

(B) When performing neonatal or pediatric missions, at least one of the medical personnel specified in paragraphs (q)(1)(A) and (B) shall be currently certified in advanced life support for neonatal and pediatric patients by a certifying entity approved by the board.

(C) When responding to the scene of an accident or medical emergency, not including transports between medical facilities, at least one of the medical personnel specified in paragraphs (q)(1)(A) and (B) shall be certified in one of the following areas by a certifying entity approved by the board:

(i) International trauma life support-advanced (ITLSA);

(ii) transport professional advanced trauma course (TPATC);

(iii) trauma nurse core course (TNCC);

(iv) certified flight registered nurse (CFRN);

(v) certified transport registered nurse (CTRN);

(vi) pre-hospital trauma life support (PHTLS);

(vii) advanced care and trauma transport (ACTT);

(viii) critical care emergency medical technician paramedic (CCEMTP); or

(ix) flight paramedic-certification (FP-C). (Authorized by and implementing K.S.A. 2015 Supp. 65-6110; effective May 1, 1987; amended July 17, 1989; amended Jan. 31, 1997; amended Jan. 27, 2012; amended July 7, 2014; amended April 29, 2016.)

**109-2-12. Standards for rotor-wing ambulance aircraft and equipment.** (a) Each operator of an air ambulance service shall comply with the requirements in K.A.R. 109-2-11.

(b) The aircraft configuration shall not compromise patient stability during any part of flight operations. The aircraft shall have an entry that allows loading and unloading of the patient without maneuvering the patient more than 45 degrees about the lateral axis and 30 degrees about the longitudinal axis and does not compromise the functioning of monitoring systems, intravenous lines, or manual or mechanical ventilation.

(c) The aircraft shall have an external search light, which shall meet the following requirements:

- (1) Provide at least 400,000-candlepower illumination at 200 feet;
- (2) be separate from the aircraft landing lights;
- (3) be moveable 90 degrees longitudinally and 180 degrees laterally; and
- (4) be capable of being controlled from inside the aircraft.

(d) Each rotor-wing aircraft shall have a two-way interoperable communications system that is readily accessible to both the attendants and the pilot and meets the following requirements:

- (1) Allows communications between the aircraft and a hospital for medical control, exclusive of the air traffic control system; and
- (2) allows communications between the aircraft and ground-based ambulance services, exclusive of the air traffic control system. (Authorized by and implementing K.S.A. 65-6110, as amended by L. 2011, ch. 114, sec. 81; effective May 1, 1987; amended July 17, 1989; amended Jan. 31, 1997; amended Jan. 27, 2012.)

**109-2-13. Standards for fixed-wing ambulance aircraft and equipment.** (a) Each operator shall ensure that each fixed-wing air ambulance is pressurized during patient transports according to the ambulance service's medical protocols and operational policies.

(b) The pilot or pilots shall be sufficiently isolated from the patient care area to minimize inflight distractions and interference.

(c) Each fixed-wing air ambulance shall have a two-way, interoperable communications system that is readily accessible to both the attendants and the pilot and that meets the following requirements:

- (1) Allows communications between the aircraft and a hospital; and
- (2) allows an attendant to communicate at all

times with medical control, exclusive of the air traffic control system.

(d) Fixed-wing ambulance aircraft shall have on board patient comfort equipment including the following:

- (1) One urinal; and
- (2) one bedpan. (Authorized by and implementing K.S.A. 2013 Supp. 65-6110; effective Jan. 31, 1997; amended Jan. 27, 2012; amended July 7, 2014.)

### **Article 3.—STANDARDS FOR AMBULANCE ATTENDANTS, FIRST RESPONDERS, AND DRIVERS**

**109-3-1. Standards for ambulance attendants.** Each attendant shall be at least 17 years of age. (Authorized by and implementing K.S.A. 65-6110; effective July 17, 1989; amended Jan. 31, 1997; amended July 10, 2009.)

**109-3-3. Emergency medical responder; authorized activities.** Each emergency medical responder shall be authorized to perform any intervention specified in K.S.A. 65-6144, and amendments thereto, and as further specified in this regulation:

- (a) Emergency vehicle operations:
  - (1) Operating each ambulance in a safe manner in nonemergency and emergency situations. "Emergency vehicle" shall mean ambulance, as defined in K.S.A. 65-6112 and amendments thereto; and
  - (2) stocking an ambulance with supplies in accordance with regulations adopted by the board and the ambulance service's approved equipment list to support local medical protocols;
- (b) initial scene management:
  - (1) Assessing the scene, determining the need for additional resources, and requesting these resources;
  - (2) identifying a multiple-casualty incident and implementing the local multiple-casualty incident management system;
  - (3) recognizing and preserving a crime scene;
  - (4) triaging patients, utilizing local triage protocols;
  - (5) providing safety for self, each patient, other emergency personnel, and bystanders;
  - (6) utilizing methods to reduce stress for each patient, other emergency personnel, and bystanders;
  - (7) communicating with public safety dispatchers and medical control facilities;

- (8) providing a verbal report to receiving personnel;
- (9) providing a written report to receiving personnel;
- (10) completing a prehospital care report;
- (11) setting up and providing patient and equipment decontamination;
- (12) using personal protection equipment;
- (13) practicing infection control precautions;
- (14) moving patients without a carrying device; and
- (15) moving patients with a carrying device;
- (c) patient assessment and stabilization:
  - (1) Obtaining consent for providing care;
  - (2) communicating with bystanders, other health care providers, and patient family members while providing patient care;
  - (3) communicating with each patient while providing care; and
  - (4) assessing the following: blood pressure manually by auscultation or palpation or automatically by noninvasive methods; heart rate; level of consciousness; temperature; pupil size and responsiveness to light; absence or presence of respirations; respiration rate; and skin color, temperature, and condition;
- (d) cardiopulmonary resuscitation and airway management:
  - (1) Applying cardiac monitoring electrodes;
  - (2) performing any of the following:
    - (A) Manual cardiopulmonary resuscitation for an adult, child, or infant, using one or two attendants;
    - (B) cardiopulmonary resuscitation using a mechanical device;
    - (C) postresuscitative care to a cardiac arrest patient;
    - (D) cricoid pressure by utilizing the sellick maneuver;
    - (E) head-tilt maneuver or chin-lift maneuver, or both;
    - (F) jaw thrust maneuver;
    - (G) modified jaw thrust maneuver for injured patients;
    - (H) modified chin-lift maneuver;
    - (I) mouth-to-barrier ventilation;
    - (J) mouth-to-mask ventilation;
    - (K) mouth-to-mouth ventilation;
    - (L) mouth-to-nose ventilation;
    - (M) mouth-to-stoma ventilation;
    - (N) manual airway maneuvers; or
    - (O) manual upper-airway obstruction maneuvers, including patient positioning, finger sweeps, chest thrusts, and abdominal thrusts; and
  - (3) suctioning the oral and nasal cavities with a soft or rigid device;
  - (e) control of bleeding, by means of any of the following:
    - (1) Elevating the extremity;
    - (2) applying direct pressure;
    - (3) utilizing a pressure point;
    - (4) applying a tourniquet;
    - (5) utilizing the trendelenberg position; or
    - (6) applying a pressure bandage;
    - (f) extremity splinting, by means of any of the following:
      - (1) Soft splints;
      - (2) anatomical extremity splinting without return to position of function;
      - (3) manual support and stabilization; or
      - (4) vacuum splints;
      - (g) spinal immobilization, by means of any of the following:
        - (1) Cervical collar;
        - (2) full-body immobilization device;
        - (3) manual stabilization;
        - (4) assisting an EMT, an AEMT, or a paramedic with application of an upper-body spinal immobilization device;
        - (5) helmet removal; or
        - (6) rapid extrication;
        - (h) oxygen therapy by means of any of the following:
          - (1) Humidifier;
          - (2) nasal cannula;
          - (3) non-rebreather mask;
          - (4) partial rebreather mask;
          - (5) regulators;
          - (6) simple face mask;
          - (7) blow-by;
          - (8) using a bag-valve-mask with or without supplemental oxygen; or
          - (9) ventilating an inserted supraglottic or subglottic airway;
        - (i) administration of medications according to the board's "approved medication list," dated April 5, 2019, which is hereby adopted by reference;
        - (j) recognizing and complying with advanced directives by making decisions based upon a do-not-resuscitate order, living will, or durable power of attorney for health care decisions; and
        - (k) providing the following techniques for preliminary care:
          - (1) Cutting of the umbilical cord;
          - (2) irrigating the eyes of foreign or caustic materials;
          - (3) bandaging the eyes;

- (4) positioning the patient based on situational need;
- (5) securing the patient on transport devices;
- (6) restraining a violent patient, if technician or patient safety is threatened;
- (7) disinfecting the equipment and ambulance;
- (8) disposing of contaminated equipment, including sharps and personal protective equipment, and material;
- (9) decontaminating self, equipment, material, and ambulance;
- (10) following medical protocols for declared or potential organ retrieval;
- (11) participating in the quality improvement process;
- (12) providing EMS education to the public; and
- (13) providing education on injury prevention to the public. (Authorized by K.S.A. 65-6111; implementing K.S.A. 65-6144; effective March 9, 2012; amended May 5, 2017; amended Jan. 24, 2020.)

**109-3-4. Emergency medical technician; authorized activities.** Each emergency medical technician shall be authorized to perform any intervention specified in the following:

- (a) K.S.A. 65-6144, and amendments thereto, and as further specified in K.A.R. 109-3-3; and
- (b) K.S.A. 65-6121, and amendments thereto, and as further specified in the following paragraphs:
  - (1) Airway maintenance by means of any of the following:
    - (A) Blind insertion of a supraglottic airway, with the exception of the laryngeal mask airway;
    - (B) oxygen venturi mask;
    - (C) gastric decompression by orogastric or nasogastric tube with any authorized airway device providing that capability;
    - (D) auscultating the quality of breath sounds;
    - (E) pulse oximetry;
    - (F) automatic transport ventilator;
    - (G) manually triggered ventilator;
    - (H) flow-restricted oxygen-powered ventilation device;
    - (I) bag-valve-mask with in-line small-volume nebulizer;
    - (J) carbon dioxide colorimetric detection;
    - (K) capnometry; or
    - (L) suctioning a stoma; and
  - (2) administration of patient-assisted and non-patient-assisted medications according to the board's "approved medication list," which is

adopted by reference in K.A.R. 109-3-3. (Authorized by K.S.A. 65-6111; implementing K.S.A. 65-6121; effective March 9, 2012; amended May 5, 2017; amended Jan. 24, 2020.)

**109-3-5. Advanced emergency medical technician; authorized activities.** Each advanced emergency medical technician shall be authorized to perform any intervention specified in the following:

- (a) K.S.A. 65-6144, and amendments thereto, and as further specified in K.A.R. 109-3-3;
- (b) K.S.A. 65-6121, and amendments thereto, and as further specified in K.A.R. 109-3-4; and
- (c) K.S.A. 65-6120, and amendments thereto, and as further specified in the following paragraphs:
  - (1) Advanced airway management, except for endotracheal intubation; and
  - (2) administration of patient-assisted and nonpatient-assisted medications according to the board's "advanced EMT medication list," dated November 6, 2013, which is hereby adopted by reference. (Authorized by K.S.A. 2013 Supp. 65-6111; implementing K.S.A. 2013 Supp. 65-6120; effective March 9, 2012; amended Nov. 2, 2012; amended Aug. 29, 2014.)

#### Article 5.—CONTINUING EDUCATION

**109-5-1. Continuing education.** (a) Continuing education credit shall be awarded in quarter-hour increments for instruction for which an individual meets the requirements in subsection (b) and shall not be issued for more than one hour of credit for a 60-minute period.

(b) Each individual seeking continuing education credit for a course shall submit either of the following:

- (1) The individual's certificate of attendance; or
- (2) the individual's certificate of completion.
- (c) Each acceptable certificate of attendance or certificate of completion shall include the following:
  - (1) The name of the provider of the continuing education course;
  - (2) the name of the attendant being issued the certificate;
  - (3) the title of the course;
  - (4) the date or dates on which the course was conducted;
  - (5) the location where the course was conducted;
  - (6) the amount of approved continuing education credit issued to the individual for attending the course;

(7) the course identification number issued by the board, by CAPCE, or by another state's emergency medical services regulatory or accrediting body; and

(8) the name of the person or entity authorized by the provider to issue the certificate.

(d)(1) Acceptable continuing education programs shall include the following:

(A) Initial courses of instruction and continuing education provided by a sponsoring organization and approved by the board;

(B) programs approved or accredited by CAPCE, which shall be presumptively accepted by the board unless the board determines that a particular program does not meet board requirements; and

(C) programs or courses approved by another state's emergency medical services regulatory or accrediting body, which shall be presumptively accepted by the board unless the board determines that a particular program does not meet board requirements.

(2) Any program not addressed in this subsection may be submitted for approval by the attendant as specified in K.A.R. 109-5-5.

(e) The number of clock-hours received for continuing education credit during one calendar day shall not exceed 12.

(f) Each attendant and sponsoring organization shall keep documentation of completion of approved continuing education for at least three years and shall provide this documentation to the board upon request by the executive director. (Authorized by K.S.A. 65-6110 and 65-6111; implementing K.S.A. 65-6129; effective, T-88-122, May 18, 1987; amended, T-88-24, July 15, 1987; amended May 1, 1988; amended July 17, 1989; amended Feb. 3, 1992; amended Aug. 16, 1993; amended Dec. 19, 1994; amended Nov. 1, 1996; amended Nov. 12, 1999; amended, T-109-8-8-00, Aug. 8, 2000; amended Nov. 13, 2000; amended Aug. 30, 2002; amended Sept. 10, 2010; amended, T-109-2-7-11, Feb. 7, 2011; amended June 3, 2011; amended Jan. 4, 2016; amended Dec. 29, 2017; amended March 1, 2019.)

**109-5-1a. Emergency medical responder (EMR) continuing education.** Each applicant for certification renewal as an EMR shall meet one of the following requirements:

(a) Have earned at least 16 clock-hours of board-approved continuing education during the initial certification period and during each bienni-

al period thereafter to meet the requirements for the EMR specified in the "Kansas continuing education plan," as adopted by the board in February 2019, which is hereby adopted by reference; or

(b) have met both of the following requirements within the 11 months before the expiration of certification:

(1) Passed the board-approved EMR cognitive assessment; and

(2) either passed a board-approved psychomotor skills assessment or received validation of the applicant's psychomotor skills by a medical director affiliated with an ambulance service or a sponsoring organization. (Authorized by K.S.A. 65-6110 and 65-6111; implementing K.S.A. 65-6129 and 65-6144; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Jan. 4, 2016; amended Nov. 14, 2016; amended Dec. 29, 2017; amended Jan. 24, 2020.)

**109-5-1b. Emergency medical technician (EMT) continuing education.** Each applicant for certification renewal as an EMT shall meet one of the following requirements:

(a) Have earned at least 28 clock-hours of board-approved continuing education during the initial certification period and during each biennial period thereafter to meet the requirements for the EMT specified in the "Kansas continuing education plan," which is adopted by reference in K.A.R. 109-5-1a; or

(b) have met both of the following requirements within the 11 months before the expiration of certification:

(1) Passed the board-approved EMT cognitive assessment; and

(2) either passed a board-approved psychomotor skills assessment or received validation of the applicant's psychomotor skills by a medical director affiliated with an ambulance service or a sponsoring organization. (Authorized by K.S.A. 2016 Supp. 65-6110 and 65-6111; implementing K.S.A. 2016 Supp. 65-6129; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Jan. 4, 2016; amended Nov. 14, 2016; amended Dec. 29, 2017.)

**109-5-1c. Advanced emergency medical technician (AEMT) continuing education.** Each applicant for certification renewal as an AEMT shall meet one of the following requirements:

(a) Have earned at least 44 clock-hours of board-approved continuing education during the

initial certification period and during each biennial period thereafter to meet the requirements for the AEMT specified in the “Kansas continuing education plan,” which is adopted by reference in K.A.R. 109-5-1a; or

(b) have met both of the following requirements within the 11 months before the expiration of certification:

(1) Passed the board-approved AEMT cognitive assessment; and

(2) either passed a board-approved psychomotor skills assessment or received validation of the applicant’s psychomotor skills by a medical director affiliated with an ambulance service or a sponsoring organization. (Authorized by K.S.A. 2016 Supp. 65-6110, 65-6111, and 65-6123; implementing K.S.A. 2016 Supp. 65-6120, 65-6123, and 65-6129; effective March 9, 2012; amended Jan. 4, 2016; amended Nov. 14, 2016; amended Dec. 29, 2017.)

**109-5-1d. Paramedic continuing education.** Each applicant for certification renewal as a paramedic shall meet one of the following requirements:

(a) Have earned at least 60 clock-hours of board-approved continuing education during the initial certification period and during each biennial period thereafter to meet the requirements for the paramedic as specified in the “Kansas continuing education plan,” which is adopted by reference in K.A.R. 109-5-1a; or

(b) have met both of the following requirements within the 11 months before the expiration of certification:

(1) Passed the board-approved paramedic cognitive assessment; and

(2) either passed a board-approved psychomotor skills assessment or received validation of the applicant’s psychomotor skills by a medical director affiliated with an ambulance service or a sponsoring organization. (Authorized by K.S.A. 2016 Supp. 65-6110, 65-6111, and 65-6119; implementing K.S.A. 2016 Supp. 65-6119 and 65-6129; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Jan. 4, 2016; amended Dec. 29, 2017.)

**109-5-1e. Instructor-coordinator (I-C) continuing education.** Each applicant for certification renewal as an I-C shall provide documentation of both of the following:

(a) The applicant is certified as an attendant at

or above the level of EMT or is licensed as a physician or professional nurse, as defined by K.S.A. 65-1113 and amendments thereto.

(b) The applicant attended, during the biennial period immediately preceding the date of application for renewal, an educator conference approved by the board. (Authorized by K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing K.S.A. 65-6129b; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011.)

**109-5-1f.** (Authorized by K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing K.S.A. 65-6129c, as amended by L. 2010, ch. 119, sec. 9; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; revoked Dec. 29, 2017.)

**109-5-2.** (Authorized by K.S.A. 65-6111, as amended by L. 2008, ch. 47, sec. 1; implementing K.S.A. 65-6129, as amended by L. 2008, ch. 78, sec. 2, K.S.A. 65-6129b, and K.S.A. 65-6129c; effective, T-88-12, July 15, 1987; amended May 1, 1988; amended July 17, 1989; amended Nov. 12, 1999; amended May 15, 2009; revoked Jan. 4, 2016.)

**109-5-3. Continuing education approval for long-term providers.** (a) Any sponsoring organization may submit an application to the board requesting approval as a long-term provider of continuing education.

(b) Each sponsoring organization seeking long-term provider approval for continuing education courses shall meet the following requirements:

(1) Submit a complete application packet to the executive director at least 30 calendar days before the first initial course to be offered as part of the long-term provider of continuing education training program. A complete application packet shall include the following:

(A) A complete application form provided by the executive director that includes the signatures of the training program manager and the medical director; and

(B) a long-term continuing education training program management plan that describes how the applicant shall meet the requirements of subsection (b);

(2) appoint a training program manager who will serve as the liaison to the board concerning continuing education training;

(3) appoint a physician who will serve as the medical director for the training program;

(4) provide a sufficient number of lab instructors to maintain a student-to-instructor ratio of 6:1 during laboratory training sessions;

(5) provide a sufficient quantity of EMS training equipment to maintain a student-to-equipment ratio of 6:1 during laboratory training sessions;

(6) provide to each student, upon request, the following:

(A) A course schedule that includes the following:

(i) The date and time of each class lesson;

(ii) the title of each lesson; and

(iii) the name of the qualified instructor and that individual's qualifications, as specified in K.A.R. 109-11-9, to teach each lesson; and

(B) a certificate of attendance that includes the following:

(i) The name of the training program;

(ii) a statement that the training program has been approved by the board as a long-term provider of continuing education training;

(iii) the title of the continuing education offering;

(iv) the date and location of the continuing education offering;

(v) the amount of continuing education credit awarded to each participant for the offering;

(vi) the course identification number issued by the board; and

(vii) the printed name and signature of the program manager;

(7) maintain training program records and continuing education course records for at least three years. The following records shall be maintained:

(A) A copy of the application form and all documents required to be submitted with the application for training program approval;

(B) student attendance rosters;

(C) course educational objectives; and

(D) master copies and completed copies of each student's evaluations of the educational offerings;

(8) establish a continuing education program quality management plan that includes the following:

(A) A description of the training needs assessment used to determine the continuing education courses to be conducted;

(B) a description of the training program evaluations to be conducted and a description of how a review and analysis of the completed evaluations by the training program's medical director and the training program manager shall be conducted;

(C) equipment use, maintenance, and cleaning policies; and

(D) training program infection-control policies;

(9) submit quarterly reports to the executive director that include the following:

(A) The date, title, and location of each EMS continuing education course offered;

(B) the amount of EMS continuing education credit issued for each EMS course offered; and

(C) the printed name and signature of the training program manager; and

(10) a description of how the program will ensure that all education offered under the auspices of the long-term provider approval meets the definition of continuing education as specified in K.A.R. 109-1-1.

(c) Each approved long-term provider wanting to offer continuing education in a distance learning format shall incorporate the following items into the provider's long-term continuing education training program management plan:

(1) A definition of the process by which students can access the qualified instructor, as specified in K.A.R. 109-11-9, during any distance learning offerings;

(2) a definition of the procedures used to ensure student participation in course offerings; and

(3) specification of each learning management system that will be used and how each system is to be used in the course.

(d) Each long-term provider of continuing education courses shall submit any change of program manager or medical director and any change to the long-term continuing education program management plan to the board office no later than 30 calendar days after the change has occurred. Failure to submit any of these changes may result in suspension of approval as a long-term provider of continuing education.

(e) Each approved long-term provider of continuing education training shall provide the executive director with a copy of all training program records and continuing education course records upon the executive director's request. (Authorized by and implementing K.S.A. 2016 Supp. 65-6111; effective, T-88-12, May 18, 1987; amended, T-88-24, July 15, 1987; amended May 1, 1988; amended July 17, 1989; amended Nov. 12, 1999; amended May 15, 2009; amended Sept. 10, 2010; amended March 15, 2013; amended Dec. 29, 2017.)

**109-5-4.** (Authorized by K.S.A. 65-6110, 65-6111, and 65-6129; implementing K.S.A. 65-6129, 65-6129b, and 65-6129c; effective Feb. 3, 1992; amended Nov. 12, 1999; amended, T-109-8-8-00, Aug. 8, 2000; amended Nov. 13, 2000; amended Oct. 31, 2003; revoked Feb. 12, 2010.)

**109-5-5. Retroactive approval of continuing education course.** (a) Any attendant may submit a request to the board for retroactive approval of a course for continuing education credit that was completed not more than 180 days before the request is received in the board office.

(b) Each request shall be submitted on a form provided by the board.

(c) In order for retroactive approval of a continuing education course to be granted, the attendant shall provide the following, in addition to the request form:

(1) (A) A certificate of attendance or certificate of completion that meets the requirements of K.A.R. 109-5-1; or

(B) an official college transcript showing the number of credit hours awarded for the course;

(2) documentation of the course objectives; and

(3) one of the following:

(A) The signature of the emergency medical services medical director for the ambulance service serving the emergency medical service response area in which the attendant lives or the emergency medical services medical director for the ambulance service, educational institution, or advisory board for which the attendant is currently employed or a member, on the form provided by the board; or

(B) verification that the objectives of the course meet or exceed the objectives of the Kansas education standards for EMR as adopted by reference in K.A.R. 109-10-1a, the Kansas education standards for the EMT as adopted by reference in K.A.R. 109-10-1b, the Kansas education standards for the AEMT as adopted by reference in K.A.R. 109-10-1c, or the Kansas education standards for paramedic as adopted by reference in K.A.R. 109-10-1d, whichever is applicable for the level of certification that the attendant is renewing.

(d) The amount of continuing education credit awarded shall be determined by one of the following:

(1) The number of hours listed on the certificate of attendance or certificate of completion; or

(2) for each college credit hour earned, 15 hours of continuing education credit.

(e) The applicant shall be notified in writing by the board of any errors or omissions in the request for approval. Failure to correct any deficiency cited in the written notice of error or omission within 15 calendar days shall constitute withdrawal of the request. (Authorized by K.S.A.

2015 Supp. 65-6111; implementing K.S.A. 2015 Supp. 65-6129; effective Oct. 31, 2008; amended Sept. 2, 2011; amended March 15, 2013; amended July 1, 2016.)

**109-5-6. Single-program approval for providers of continuing education.** (a) Any entity specified in K.A.R. 109-1-1(bb) may submit an application to the executive director to conduct single-program continuing education.

(b) Each provider of single-program continuing education shall meet the following requirements:

(1) Submit a complete application for single-program approval to the executive director at least 30 days before the requested offering. A complete application shall include the following:

(A) The signatures of the program manager and the program medical advisor; and

(B) a course schedule that includes the date and time of each continuing education program, the title of each continuing education topic in the program, and the instructor;

(2) provide each student with a certificate of attendance that includes the following:

(A) The name of the continuing education program;

(B) a statement that the continuing education program has been approved by the board;

(C) the title of the continuing education program;

(D) the date and location of the continuing education program;

(E) the amount of continuing education credit completed by the attendant for the continuing education program;

(F) the board-assigned course identification number; and

(G) the printed name and signature of the program coordinator; and

(3) maintain the following records for at least three years:

(A) A copy of all documents required to be submitted with the application for single-program approval;

(B) a copy of the curriculum vitae or other documentation of the credentials for each instructor and lab instructor;

(C) student attendance records;

(D) course educational objectives; and

(E) completed copies of student evaluations of the educational offering.

(c) Upon request by the executive director, each provider of single-program continuing education shall provide a copy of all continuing education

program records and continuing education course records. (Authorized by and implementing K.S.A. 65-6111, as amended by L. 2008, ch. 47, sec. 1; effective May 15, 2009.)

**109-5-7a.** (Authorized by K.S.A. 65-6110, K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing K.S.A. 65-6110, K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1, and K.S.A. 65-6144, as amended by L. 2010, ch. 119, sec. 11; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; revoked Dec. 29, 2017.)

**109-5-7b.** (Authorized by K.S.A. 65-6110, K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing K.S.A. 65-6110, K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; revoked Dec. 29, 2017.)

**109-5-7c.** (Authorized by K.S.A. 65-6110, as amended by L. 2011, ch. 114, sec. 81, and K.S.A. 2010 Supp. 65-6111; implementing K.S.A. 65-6110, as amended by L. 2011, ch. 114, sec. 81, K.S.A. 2010 Supp. 65-6111, and K.S.A. 2010 Supp. 65-6120, as amended by L. 2011, ch. 114, sec. 83; effective, T-109-2-10-12, Feb. 10, 2012; effective May 4, 2012; revoked Dec. 29, 2017.)

**109-5-7d.** (Authorized by K.S.A. 65-6110, K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing K.S.A. 65-6110 and K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; revoked Dec. 29, 2017.)

## Article 6.—TEMPORARY CERTIFICATION

**109-6-1. Requirements for temporary certification for applicant with non-Kansas credentials.** (a) An applicant for temporary certification who is certified or licensed as an attendant in another jurisdiction but whose coursework is not substantially equivalent to that required in Kansas may be granted one-year temporary certification by meeting the following requirements:

(1) Providing verification of current attendant certification or licensure issued by that jurisdiction that is comparable to the certification level sought in Kansas; and

(2) providing either the name, address, and telephone number of or a signed statement from the physician, physician assistant, professional

nurse, or attendant who is certified at the same or higher level as that of the applicant and who will directly supervise the applicant during the year of temporary certification.

(b) Within one year from the date on which the temporary certificate is issued, if the applicant provides verification of successful completion of the required coursework, attendant's certification shall be granted. If the applicant does not provide this verification within one year from the date on which the temporary certificate is issued, the temporary certificate shall expire and the application for an attendant's certificate shall be denied. (Authorized by K.S.A. 2008 Supp. 65-6111; implementing K.S.A. 2008 Supp. 65-6129; effective, T-88-24, July 15, 1987; amended May 1, 1988; amended Jan. 22, 1990; amended Nov. 1, 1996; amended Feb. 12, 2010.)

**109-6-2. Renewal of attendant and instructor-coordinator certificates.** (a) Each attendant certificate shall expire on December 31 of the second complete calendar year following the date of issuance.

(b) An attendant and an instructor-coordinator who is also an attendant may renew that person's certificate for each biennial period in accordance with this regulation and with K.A.R. 109-5-1e.

(c) Each application for certification renewal shall be submitted on a form provided by the executive director or through the online renewal process. Copies, facsimiles, and other reproductions of the certification renewal form shall not be accepted.

(d) Each application for renewal shall be deemed sufficient when the following conditions are met:

(1) The applicant provides in full the information requested on the form, and no additional information is required by the board to complete the processing of the application.

(2) The applicant submits a renewal fee in the applicable amount specified in K.A.R. 109-7-1.

(e) The date receipt of a document shall mean the date stamped on the document when the document is received in the board office. (Authorized by K.S.A. 2016 Supp. 65-6111; implementing K.S.A. 2016 Supp. 65-6129 and 65-6129b; effective Nov. 1, 1996; amended Oct. 31, 1997; amended Nov. 12, 1999; amended, T-109-8-8-00, Aug. 8, 2000; amended Nov. 13, 2000; amended Feb. 12, 2010; amended Dec. 29, 2017.)

**109-6-3.** (Authorized by K.S.A. 2001 Supp. 65-6110, 65-6111; implementing K.S.A. 2001 Supp. 65-6129; effective, T-109-8-8-00, Aug. 8, 2000; effective Nov. 13, 2000; amended Aug. 30, 2002; revoked May 15, 2009.)

**Article 7.—FEES**

**109-7-1. Schedule of fees.** (a) Attendant, I-C, and ambulance service application fees shall be nonrefundable.

- (b) Emergency medical responder fees:
  - (1) Application for certification fee ..... \$15.00
  - (2) certification renewal application fee for a renewal that expires on a biennial basis if received before certificate expiration ..... 20.00
  - (3) certification renewal application fee if received within 31 calendar days after certificate expiration ..... 40.00
  - (4) certification renewal application fee if received on or after the 32nd calendar day after certificate expiration..... 80.00
- (c) Paramedic fees:
  - (1) Application for certification fee ..... 65.00
  - (2) certification renewal application fee if received before certificate expiration ..... 50.00
  - (3) certification renewal application fee if received within 31 calendar days after certificate expiration ..... 100.00
  - (4) certification renewal application fee if received on or after the 32nd calendar day after certificate expiration..... 200.00
- (d) EMT and AEMT fees:
  - (1) Application for certification fee ..... 50.00
  - (2) certification renewal application fee if received before certificate expiration ..... 30.00
  - (3) certification renewal application fee if received within 31 calendar days after certificate expiration ..... 60.00
  - (4) certification renewal application fee if received on or after the 32nd calendar day after certificate expiration..... 120.00
- (e) Instructor-coordinator fees:
  - (1) Application for certification fee ..... 65.00
  - (2) certification renewal application fee if received before certificate expiration ..... 30.00
  - (3) certification renewal application fee if received within 31 calendar days after certificate expiration ..... 60.00
  - (4) certification renewal application fee if received on or after the 32nd calendar day after certificate expiration..... 120.00

- (f) Ambulance service fees:
  - (1) Service permit application fee ..... 100.00
  - (2) service permit renewal fee if received on or before permit expiration ..... 100.00
  - (3) service permit renewal fee if received after permit expiration..... 200.00
  - (4) vehicle license application fee ..... 40.00
  - (5) temporary license for an ambulance..... 10.00

(g) Each application for certification shall include payment of the prescribed application for certification fee to the board.

(h) Payment of fees may be made by either of the following:

(1) An individual using a personal, certified, or cashier’s check, a money order, a credit card, or a debit card; or

(2) an ambulance service, fire department, or municipality using warrants, payment vouchers, purchase orders, credit cards, or debit cards.

(i) Payment submitted to the board for application for certification fee or renewal fee for more than one attendant or I-C shall not be accepted, unless the fee amount is correct. (Authorized by K.S.A. 2016 Supp. 65-6110, K.S.A. 2016 Supp. 65-6111, K.S.A. 65-6127, K.S.A. 2016 Supp. 65-6129, and K.S.A. 2016 Supp. 65-6129b; implementing K.S.A. 2016 Supp. 65-6111, K.S.A. 65-6127, K.S.A. 65-6128, K.S.A. 2016 Supp. 65-6129, and K.S.A. 2016 Supp. 65-6129b; effective July 1, 1990; amended Feb. 3, 1992; amended Nov. 1, 1996; amended, T-109-8-8-00, Aug. 8, 2000; amended Nov. 13, 2000; amended Oct. 31, 2003; amended March 9, 2012; amended April 29, 2016; amended Dec. 29, 2017.)

**Article 8.—EXAMINATIONS**

**109-8-1. Examination.** (a) The cognitive certification examination for emergency medical responders, emergency medical technicians, advanced emergency medical technicians, and paramedics shall be the national registry of emergency medical technicians’ cognitive examination.

(b) The cognitive certification examination for instructor-coordinator shall be the final cognitive examination developed by the sponsoring organization and approved by the board.

(c) Any instructor-coordinator who fails the examination may retake it a maximum of three times. An applicant who has failed the examination three times shall not submit a new application for examination until documentation of successful

completion of a new initial course has been received and reviewed by the executive director.

(d) Each emergency medical responder or emergency medical technician applicant shall be required to successfully complete the national registry of emergency medical technicians' cognitive examination and shall be required to demonstrate competency in psychomotor skills as evaluated by the psychomotor skills examination prescribed by the board.

(e) Each advanced emergency medical technician or paramedic applicant shall successfully complete the national registry of emergency medical technicians' cognitive examination and psychomotor skills evaluation.

(f) Any emergency medical responder or emergency medical technician applicant who is tested in psychomotor skills and who fails any psychomotor skill station may retest each failed station a maximum of three times.

(g) Each emergency medical responder, emergency medical technician, advanced emergency medical technician, and paramedic shall successfully complete both the cognitive examination and the psychomotor skills examination no later than 24 months after the last date of that individual's initial course of instruction.

Each individual specified in this subsection shall be required to successfully complete both the cognitive examination and the psychomotor skills examination within a 12-month period.

(h) Any examination for certification may be modified by the board as a pilot project to evaluate proposed changes to the psychomotor skills examination. (Authorized by K.S.A. 65-6110 and 65-6111; implementing K.S.A. 65-6111, 65-6129, 65-6129b; effective, T-109-1-19-89, Jan. 19, 1989; effective July 17, 1989; amended Aug. 27, 1990; amended Feb. 3, 1992; amended Dec. 19, 1994; amended Jan. 5, 1996; amended Nov. 8, 1996; amended May 16, 1997; amended, T-109-2-7-11, Feb. 7, 2011; amended June 3, 2011; amended Jan. 4, 2016; amended Dec. 29, 2017; amended March 1, 2019.)

**109-8-2. Scheduling examinations for certification.** (a) Each provider of initial courses of instruction for attendants shall ensure the provision of certification examinations for those students successfully completing the course.

(b) This subsection shall apply to the cognitive knowledge examination.

(1) For emergency medical responder, emergency medical technician, advanced emergency

medical technician, and paramedic, the following requirements shall apply:

(A) Each candidate shall register with the national registry of emergency medical technicians.

(B) Each candidate shall schedule examinations with the computer-adaptive testing vendor specified by the national registry of emergency medical technicians.

(2) Each sponsoring organization shall validate each candidate's successful course completion.

(c) The following scheduling requirements shall apply to the psychomotor skills examination:

(1) Each sponsoring organization shall schedule the examination for emergency medical responder and emergency medical technician with the board at least 60 days in advance of the desired examination date.

(2) Each sponsoring organization shall schedule the examination for advanced emergency medical technician and paramedic with the national registry of emergency medical technicians by performing the following:

(A) Negotiating a contractual agreement with a national registry representative to serve as facilitator;

(B) completing the examination host approval process and submitting the request for new examination with the national registry of emergency medical technicians;

(C) negotiating contractual agreements with examiners, as prescribed by the national registry representative, who have attained board approval following a review to ensure current certification, have no disciplinary actions taken or pending against their Kansas emergency medical services certification or certifications, and have held the current certification level for at least two years;

(D) negotiating contractual agreements with currently certified attendant assistants in numbers prescribed by the national registry representative;

(E) ensuring availability of a sufficient number of rooms to be used for examination stations, national registry representative room, candidate waiting area, and other facilities as prescribed by the national registry representative; and

(F) providing sufficient quantities of equipment and supplies as prescribed by the national registry representative.

(d) Each candidate not successfully completing the examinations during the initial examination attempts shall schedule reexamination as follows:

(1) Cognitive knowledge examination reexaminations. For emergency medical responder, emer-

gency medical technician, advanced emergency medical technician, and paramedic, the candidate shall schedule the examination with the national registry of emergency medical technicians.

(2) Psychomotor skills examination reexaminations.

(A) For emergency medical responder and emergency medical technician, the candidate shall schedule the examination by completing the board-approved application for the examination.

(B) For the psychomotor skills examination for advanced emergency medical technician or paramedic, the candidate shall schedule the examination with the national registry of emergency medical technicians. (Authorized by and implementing K.S.A. 65-6111; effective March 2, 2012; amended Dec. 29, 2017; amended March 1, 2019.)

## Article 9.—INSTRUCTOR-COORDINATOR

**109-9-1. Instructor-coordinator certification.** (a) Each applicant for certification as an I-C shall apply to the executive director using forms approved by the board and shall meet the following requirements:

(1) Validate current certification as an attendant or licensure as a physician or professional nurse;

(2) complete an approved I-C initial course of instruction, except as specified in subsection (b);

(3) attain a score of 70% or higher on the final cognitive examination developed by the educational program and approved by the board; and

(4) complete, with a satisfactory evaluation, an assistant teaching experience in one EMT initial course of instruction applied for, approved, and taught in its entirety within one year after the completion of the instructor-coordinator course. The assistant teaching experience shall include evaluation of the candidate's ability to organize, schedule, implement, and evaluate educational experiences in the classroom, laboratory, clinical, and field environments and shall have been directly supervised by a certified I-C approved by either the executive director or any person so authorized by any state or United States territory and shall be verified on forms approved by the board.

(b) An applicant shall not be required to complete the department of transportation national highway traffic safety administration "emergency medical services instructor training program: national standard curriculum" or modules 2 through 23 of the national guidelines for educating EMS

instructors, as specified in K.A.R. 109-10-1e, if the applicant establishes one of the following:

(1) Successful completion of a United States department of transportation EMS instructor training program national standard curriculum or a program that included the content from module 2 through 23 of the national guidelines for educating EMS instructors, as specified in K.A.R. 109-10-1;

(2) successful completion of a fire service instructor course approved by the national board on fire service professional qualifications or the international fire service accreditation;

(3) successful completion of any United States military instructor trainer course that is substantially equivalent to the United States department of transportation national highway traffic safety administration "emergency medical services instructor training program: national standard curriculum," or modules 2 through 23 of the national guidelines for educating EMS instructors as specified in K.A.R. 109-10-1; or

(4) attainment of a bachelor's, master's, or doctoral degree that focuses on the philosophy, scope, and nature of educating adults. This degree shall have been conferred by an accredited postsecondary education institution.

(c) If within two years following the date of expiration of an I-C's certificate, this person applies for renewal of the certificate, the certificate may be granted by the board if the applicant completes 40 contact hours in education theory and methodology approved by the board and successfully completes an educator conference approved by the board. (Authorized by K.S.A. 65-6110, K.S.A. 2010 Supp. 65-6111; implementing K.S.A. 65-6129b; effective, T-109-1-19-89, Jan. 19, 1989; effective July 17, 1989; amended Aug. 27, 1990; amended Feb. 3, 1992; amended Nov. 12, 1999; amended Nov. 9, 2001; amended Sept. 2, 2011.)

**109-9-4. Requirements for acceptance into an instructor-coordinator initial course of instruction.** (a) Each applicant shall successfully complete an evaluation of knowledge and skills as follows:

(1) The board-approved EMT cognitive assessment; and

(2) the board-approved psychomotor skills assessment at the EMT level.

(b) To be considered for acceptance into an instructor-coordinator initial course of instruction, each applicant shall achieve at least the following:

(1) A passing score in each area of the board-approved EMT cognitive assessment; and

(2) a passing score in each board-approved psychomotor skills assessment station described in paragraph (a)(2). (Authorized by K.S.A. 2016 Supp. 65-6110 and 65-6111; implementing K.S.A. 2016 Supp. 65-6110, 65-6111, and 65-6129b; effective, T-109-1-19-89, Jan. 19, 1989; effective July 17, 1989; amended Feb. 3, 1992; amended Jan. 31, 1994; amended Nov. 12, 1999; amended Nov. 9, 2001; amended Sept. 2, 2011; amended Dec. 29, 2017.)

### Article 10.—CURRICULA

**109-10-1.** (Authorized by and implementing K.S.A. 1999 Supp. 65-6110 and 65-6111; effective, T-109-1-19-89, Jan. 19, 1989; effective July 17, 1989; amended Aug. 27, 1990; amended April 10, 1995; amended Sept. 22, 1995; amended Nov. 1, 1996; amended Nov. 12, 1999; amended Nov. 13, 2000; amended Nov. 9, 2001; revoked May 1, 2015.)

**109-10-1a. Approved emergency medical responder education standards.** (a) The document titled “Kansas emergency medical services education standards: emergency medical responder,” dated July 2010, is hereby adopted by reference pursuant to K.S.A. 65-6144, and amendments thereto, for emergency medical responder initial courses of instruction.

(b) Proposed curricula or proposed curricular revisions may be approved by the board to be taught as a pilot project, for a maximum of three initial courses of instruction, so that the board can evaluate the proposed curricula or proposed curricular revisions and consider permanent adoption of the proposed curricula or proposed curricular revisions. Students of each approved pilot project course shall, upon successful completion of the approved pilot project course, be eligible to take the board-approved examination for certification at the attendant level for the approved pilot project course. All examination regulations shall be applicable to students successfully completing an approved pilot project course. (Authorized by K.S.A. 2016 Supp. 65-6110 and 65-6111; implementing K.S.A. 2016 Supp. 65-6144; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Dec. 29, 2017.)

**109-10-1b. Approved emergency medical technician education standards.** (a) The document titled “Kansas emergency medical ser-

vices education standards: emergency medical technician,” dated July 2010, is hereby adopted by reference pursuant to K.S.A. 65-6121, and amendments thereto, for emergency medical technician initial courses of instruction.

(b) Proposed curricula or proposed curricular revisions may be approved by the board to be taught as a pilot project, for a maximum of three initial courses of instruction, so that the board can evaluate the proposed curricula or proposed curricular revisions and consider permanent adoption of the proposed curricula or proposed curricular revisions. Students of each approved pilot project course shall, upon successful completion of the approved pilot project course, be eligible to take the board-approved examination for certification at the attendant level for the approved pilot project course. All examination regulations shall be applicable to students successfully completing an approved pilot project course. (Authorized by K.S.A. 2016 Supp. 65-6110 and 65-6111; implementing K.S.A. 2016 Supp. 65-6121; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Dec. 29, 2017.)

**109-10-1c. Approved advanced emergency medical technician education standards.** (a) The board’s document titled “Kansas emergency medical services education standards: advanced emergency medical technician,” dated October 2014, is hereby adopted by reference pursuant to K.S.A. 65-6120, and amendments thereto, for advanced emergency medical technician initial courses of instruction.

(b) Proposed curricula or proposed curricular revisions may be approved by the board to be taught as a pilot project, for a maximum of three initial courses of instruction, so that the board can evaluate the proposed curricula or proposed curricular revisions and consider permanent adoption of the proposed curricula or proposed curricular revisions. Students of each approved pilot project course shall, upon successful completion of the approved pilot project course, be eligible to take the board-approved examination for certification at the attendant level for the approved pilot project course. All examination regulations shall be applicable to students successfully completing an approved pilot project course. (Authorized by K.S.A. 2016 Supp. 65-6110 and 65-6111; implementing K.S.A. 2016 Supp. 65-6111; effective March 2, 2012; amended May 1, 2015; amended Dec. 29, 2017.)

**109-10-1d. Approved paramedic education standards.** (a) The document titled “Kansas emergency medical services education standards: paramedic,” dated July 2010, is hereby adopted by reference pursuant to K.S.A. 65-6119, and amendments thereto, for paramedic initial courses of instruction.

(b) Proposed curricula or proposed curricular revisions may be approved by the board to be taught as a pilot project, for a maximum of three initial courses of instruction, so that the board can evaluate the proposed curricula or proposed curricular revisions and consider permanent adoption of the proposed curricula or proposed curricular revisions. Students of each approved pilot project course shall, upon successful completion of the approved pilot project course, be eligible to take the board-approved examination for certification at the attendant level for the approved pilot project course. All examination regulations shall be applicable to students successfully completing an approved pilot project course. (Authorized by K.S.A. 2016 Supp. 65-6110 and 65-6111; implementing K.S.A. 2016 Supp. 65-6119; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Dec. 29, 2017.)

**109-10-1e. Approved instructor-coordinator standards.** (a) Each instructor-coordinator initial course of instruction shall teach modules 2 through 23 in the “2002 national guidelines for educating EMS instructors,” dated August 2002 and published by the United States department of transportation, United States department of health and human services, and national association of EMS educators, excluding bibliographical references, which are hereby adopted by reference for instructor-coordinator (IC) initial courses of instruction.

(b) Each instructor-coordinator initial course of instruction shall include an evaluated assistant teaching experience for each student as specified in K.A.R. 109-9-1.

(c) Each instructor-coordinator initial course of instruction shall teach and require the student to demonstrate competency in the psychomotor skills examined for certification as EMR and EMT.

(d) Proposed curricula or proposed curricular revisions may be approved by the board to be taught as a pilot project, for a maximum of three initial courses of instruction, so that the board can evaluate the proposed curricula or proposed curricular revisions and consider permanent

adoption of the proposed curricula or proposed curricular revisions. Students of each approved pilot project course shall, upon successful completion of the approved pilot project course, be eligible to take the board-approved examination for certification at the attendant level for the approved pilot project course. All examination regulations shall be applicable to students successfully completing an approved pilot project course. (Authorized by and implementing K.S.A. 2014 Supp. 65-6110 and 65-6111; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended May 1, 2015.)

**109-10-1f.** (Authorized by K.S.A. 65-6110 and K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing K.S.A. 65-6129c, as amended by L. 2010, ch. 119, sec. 9; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; revoked Dec. 29, 2017.)

**109-10-1g.** (Authorized by K.S.A. 65-6110 and K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing K.S.A. 65-6129c, as amended by L. 2010, ch. 119, sec. 9; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; revoked Dec. 29, 2017.)

**109-10-2.** (Authorized by and implementing K.S.A. 1998 Supp. 65-6110 and 65-6111; effective Aug. 30, 1993; amended Nov. 12, 1999; revoked May 1, 2015.)

**109-10-3. Late enrollment.** (a) Sponsoring organizations may allow students to enroll late in an initial course of instruction if the first 10 percent of the didactic and laboratory training sessions in the course as described in the course syllabus has not yet been completed. Once the first 10 percent of the didactic and laboratory training sessions of the course as described in the course syllabus has been completed, an individual shall not be allowed to enroll for the purpose of obtaining state certification.

(b) Sponsoring organizations that admit late enrollees into initial courses of instruction shall submit to the executive director, within 20 days of the student’s enrollment, a make-up schedule for each late enrollee. The make-up schedule shall include all classes that the late enrollee missed.

(c) The sponsoring organization shall also submit to the executive director, within 20 days after enrollment, an application for certification and an application fee for each late enrollee. (Authorized

by and implementing K.S.A. 2016 Supp. 65-6111; effective Jan. 31, 1994; amended Sept. 2, 2011; amended Dec. 29, 2017.)

**109-10-5.** (Authorized by K.S.A. 1993 Supp. 65-6110; implementing K.S.A. 65-6129; effective Dec. 19, 1994; revoked Sept. 2, 2011.)

**109-10-6. Required training equipment and supplies.** Each sponsoring organization approved to conduct initial courses of instruction shall ensure that EMS training equipment and supplies necessary to facilitate the teaching of all psychomotor skills for the level of course being provided are available for use with that course. The training equipment and supplies provided shall be functional, clean, serviceable, and in sufficient quantity to maintain a ratio of no more than six students practicing together on one piece of equipment. The pharmaceuticals necessary for training shall be either simulation models or actual empty pharmaceutical packages or containers, or both. Training equipment and supplies that are for the purpose of protecting the student from exposure to bloodborne and airborne pathogens shall be functional and clean and shall be provided in sufficient quantity to ensure that students have their own. (Authorized by and implementing K.S.A. 65-6110 and K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; effective Nov. 12, 1999; amended, T-109-2-7-11, Feb. 7, 2011; amended June 3, 2011.)

**109-10-7. Distance learning.** (a) Any EMS educational program accredited by the committee on accreditation of educational programs for the emergency medical services professions or offered by an accredited postsecondary institution may be granted approval to provide an initial course of instruction or continuing education programs in a distance learning format.

(b) Any sponsoring organization not affiliated with a program accredited by the committee on accreditation of educational programs for the emergency medical services professions or with an accredited postsecondary institution may be granted approval to offer an initial course of instruction or continuing education programs in a distance learning format if the course or program meets the requirements of this regulation.

(c) Each sponsoring organization not affiliated with a program specified in subsection (a) shall submit a request for initial course approval or an application for single-program provider to the ex-

ecutive director or the executive director's designee. The request or application shall include the following, in addition to meeting the requirements of K.A.R. 109-5-3, 109-5-6, 109-10-6, 109-11-1a, 109-11-3a, 109-11-4a, 109-11-6a, and 109-11-7:

(1) The procedures to be used for conducting progress counseling sessions for all students, including at those sites where distance learning is provided;

(2) the process by which students can access the instructor for an initial course of instruction or continuing education program;

(3) the procedures to be used for ensuring timely delivery of and feedback on written materials at all sites;

(4) the procedures to be followed for ensuring that students are participating in the course;

(5) the procedures to be used to ensure the competency of those completing didactic and psychomotor skills training;

(6) identification of the learning management system to be used during the course; and

(7) identification of each program's quality assurance plan that at a minimum shall include the following:

(A) An advisory committee that includes the program coordinator, program medical adviser, and representatives of the following:

(i) Current students;

(ii) former students;

(iii) graduates;

(iv) employees;

(v) faculty;

(vi) all communities of interest; and

(vii) local ambulance service;

(B) an advisory committee meeting schedule; and

(C) a copy of the evaluation tools to be completed by the students, employees, staff, faculty, medical adviser, and program coordinator.

(d) Any approved class may be monitored by the executive director or the executive director's designee. (Authorized by and implementing K.S.A. 2016 Supp. 65-6110 and 65-6111; effective Feb. 12, 2010; amended May 1, 2015; amended Dec. 29, 2017.)

## Article 11.—COURSE APPROVALS

**109-11-1.** (Authorized by K.S.A. 65-6110, K.S.A. 2009 Supp. 65-6111; implementing K.S.A. 65-6110, K.S.A. 2009 Supp. 65-6111, K.S.A. 2009 Supp. 65-6129; effective, T-109-1-19-89, Jan. 19,

1989; effective July 17, 1989; amended Jan. 31, 1994; amended Nov. 12, 1999; amended Sept. 10, 2010; revoked March 15, 2013.)

**109-11-1a. Emergency medical responder course approval.** (a) Emergency medical responder initial courses of instruction pursuant to K.S.A. 65-6144, and amendments thereto, may be approved by the executive director and shall be conducted only by sponsoring organizations.

(b) Each sponsoring organization requesting approval to conduct initial courses of instruction shall submit a complete application packet to the executive director, including all required signatures, and the following documents:

(1) A course syllabus that includes at least the following information:

(A) A summary of the course goals and objectives;  
 (B) instructional and any other materials required to be purchased by the student;  
 (C) student attendance policies;  
 (D) student requirements for successful course completion;

(E) a description of the clinical and field training requirements, if applicable;

(F) student discipline policies; and

(G) instructor information, which shall include the following:

(i) Instructor name;  
 (ii) office hours or hours available for consultation; and

(iii) instructor electronic-mail address;

(2) course policies that include at least the following information:

(A) Student evaluation of program policies;  
 (B) student and participant safety policies;  
 (C) Kansas requirements for certification;  
 (D) student dress and hygiene policies;  
 (E) student progress conferences; and  
 (F) equipment use policies;

(3) a course schedule that identifies the following:

(A) The date and time of each class session, unless stated in the syllabus;

(B) the title of the subject matter of each class session;

(C) the instructor of each class session; and

(D) the number of psychomotor skills laboratory hours for each session; and

(4) letters or contracts from the ambulance service director of the ambulance service that will provide field training to the students, if applicable, and the administrator of the medical facility

in which the clinical rotation is provided, if applicable, indicating their commitment to provide the support as defined in the curriculum.

(c) Each application shall be received in the board office not later than 30 calendar days before the first scheduled course session.

(d) Each approved initial course shall meet the following conditions:

(1) Meet or exceed the course requirements described in the board's regulations;

(2) be approved by the sponsoring organization's medical director; and

(3) maintain course records for at least three years. The following records shall be maintained:

(A) A copy of all documents required to be submitted with the application for course approval;

(B) student attendance;

(C) student grades;

(D) student conferences;

(E) course curriculum;

(F) lesson plans for all lessons;

(G) clinical training objectives, if applicable;

(H) field training objectives, if applicable;

(I) completed clinical and field training preceptor evaluations for each student;

(J) master copies and completed copies of the outcome assessment and outcome analyses tools used for the course that address at least the following:

(i) Each student's ability to perform competently in a simulated or actual field situation, or both; and

(ii) each student's ability to integrate cognitive and psychomotor skills to appropriately care for sick and injured patients;

(K) a copy of each student's psychomotor skills evaluations as specified in the course syllabus;

(L) completed copies of each student's evaluations of each course, all instructors for the course, and all lab instructors for the course; and

(M) a copy of the course syllabus.

(e) Each primary instructor shall provide the executive director with a student registration form from each student within 20 days of the date of the first class session.

(f) Each sponsoring organization shall provide any course documentation requested by the executive director.

(g) Any approved course may be monitored by the executive director.

(h) Program approval may be withdrawn by the board if the sponsoring organization fails to comply with or violates any regulation or statute that

governs sponsoring organizations. (Authorized by K.S.A. 65-6110, 65-6111; implementing K.S.A. 65-6110, 65-6111, 65-6129, and 65-6144; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Dec. 29, 2017; amended Jan. 24, 2020.)

**109-11-3.** (Authorized by K.S.A. 65-6110, K.S.A. 2008 Supp. 65-6111; implementing K.S.A. 2008 Supp. 65-6111, K.S.A. 2008 Supp. 65-6129; effective, T-109-1-19-89, Jan. 19, 1989; effective July 17, 1989; amended Nov. 12, 1999; amended Sept. 10, 2010; revoked March 15, 2013.)

**109-11-3a. Emergency medical technician (EMT) course approval.** (a) Emergency medical technician (EMT) initial courses of instruction pursuant to K.S.A. 65-6121, and amendments thereto, may be approved by the executive director and shall be conducted only by sponsoring organizations.

(b) Each sponsoring organization requesting approval to conduct initial courses of instruction shall meet the following requirements:

(1) Meet the course requirements specified in K.A.R. 109-11-1a (b)-(e); and

(2) in each initial course of instruction, include hospital clinical training and ambulance field training that provide the following:

(A) An orientation to the hospital and to the ambulance service; and

(B) supervised participation in patient care and assessment, including the performance of a complete patient assessment on at least one patient in compliance with K.S.A. 65-6129a and amendments thereto. In the absence of participatory clinical or field training, contrived experiences may be substituted.

(c) Each sponsoring organization shall ensure that the instructor-coordinator provides any course documentation requested by the executive director.

(d) Any approved course may be monitored by the executive director.

(e) Program approval may be withdrawn by the board if the sponsoring organization fails to comply with or violates any regulation or statute that governs sponsoring organizations. (Authorized by K.S.A. 2014 Supp. 65-6110 and 65-6111; implementing K.S.A. 2014 Supp. 65-6110, 65-6111, and 65-6121; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended May 1, 2015.)

**109-11-4.** (Authorized by K.S.A. 65-6110, K.S.A. 2008 Supp. 65-6111; implementing K.S.A.

2008 Supp. 65-6111, K.S.A. 2008 Supp. 65-6129; effective, T-109-1-19-89, Jan. 19, 1989; effective July 17, 1989; amended Aug. 16, 1993; amended Nov. 12, 1999; amended Sept. 10, 2010; revoked March 15, 2013.)

**109-11-4a. Advanced emergency medical technician (AEMT) course approval.** (a) AEMT initial courses of instruction pursuant to K.S.A. 65-6120, and amendments thereto, may be approved by the executive director to be conducted only by sponsoring organizations.

(b) Each sponsoring organization requesting approval to conduct AEMT initial courses of instruction shall meet the course requirements in K.A.R. 109-11-1a (b)-(e).

(c) Each approved AEMT course shall ensure, and shall establish in writing, how each student is provided with experiences, which shall include at a minimum the following:

(1) Successfully perform 20 venipunctures, of which 10 shall be for the purpose of initiating intravenous infusions;

(2) administer one nebulized breathing treatment during clinical training;

(3) successfully perform five intraosseous infusions;

(4) perform a complete patient assessment on each of 15 patients, of which at least 10 shall be accomplished during field internship training;

(5) while directly supervised by an AEMT, a paramedic, a physician, an advanced practice registered nurse, or a professional nurse, respond to 10 ambulance calls;

(6) perform 10 intramuscular or subcutaneous injection procedures;

(7) complete 10 patient charts or patient care reports, or both; and

(8) perform the application and interpretation of the electrocardiogram on eight patients during clinical training and field internship training.

(d) Any approved course may be monitored by the executive director.

(e) Each sponsoring organization shall ensure that the instructor-coordinator provides any course documentation requested by the executive director.

(f) Program approval may be withdrawn by the board if the sponsoring organization fails to comply with or violates any regulation or statute that governs sponsoring organizations. (Authorized by K.S.A. 2014 Supp. 65-6110 and 65-6111; implementing K.S.A. 2014 Supp. 65-6110 and 65-6111

and K.S.A. 65-6129a; effective March 2, 2012; amended May 1, 2015.)

**109-11-5.** (Authorized by K.S.A. 1998 Supp. 65-6110 and 65-6111; implementing K.S.A. 1998 Supp. 65-6111; effective, T-109-1-19-89, Jan. 19, 1989; effective July 17, 1989; amended Nov. 12, 1999; revoked March 15, 2013.)

**109-11-6.** (Authorized by K.S.A. 65-6110 and K.S.A. 2008 Supp. 65-6111; implementing K.S.A. 2008 Supp. 65-6111 and K.S.A. 2008 Supp. 65-6129; effective, T-109-1-19-89, Jan. 19, 1989; effective July 17, 1989; amended Feb. 3, 1992; amended Nov. 12, 1999; amended Nov. 13, 2000; amended Sept. 10, 2010; revoked March 15, 2013.)

**109-11-6a. Paramedic course approval.**

(a) Paramedic initial courses of instruction may be approved by the executive director and shall be conducted only by sponsoring organizations that are accredited postsecondary educational institutions.

(b) Each sponsoring organization requesting approval to conduct paramedic initial courses of instruction shall meet the following requirements:

(1) Meet the requirements in K.A.R. 109-11-1a (b)-(h);

(2)(A) Ensure, and establish in writing, how each student is provided with hospital clinical and field internship experiences; and

(B) provide evidence of agreement to participate in the paramedic education process as follows:

(i) Ambulance service provision of field training for students during the field internship component of the paramedic educational process; and

(ii) health facility provision of clinical training for students during the clinical component of the paramedic educational process;

(3) require that, on or before completion of the required paramedic course, each student provide confirmation of eligibility to be conferred, at a minimum, an associate degree in applied science by the postsecondary institution; and

(4)(A) Provide evidence that the sponsoring organization has completed the letter-of-review process with the committee on accreditation of educational programs for emergency medical services professions; or

(B) provide evidence of accreditation from the committee on accreditation of allied health education programs before the commencement of the third course.

(c) Each approved paramedic course shall meet the following requirements:

(1) Meet or exceed the curriculum requirements in K.A.R. 109-10-1d; and

(2) require completion of both clinical and field internship components that provide the students with experiences for integration of assessment findings to formulate a field impression and implement a comprehensive treatment or disposition plan for real patients presenting with any medical or traumatic ailment.

(d) Course approval may be withdrawn by the board if the sponsoring organization fails to comply with or violates any regulation or statute that governs sponsoring organizations. (Authorized by K.S.A. 65-6110 and 65-6111; implementing K.S.A. 65-6110, 65-6111, and 65-6129a; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended May 1, 2015; amended March 1, 2019.)

**109-11-9. Instructor qualifications.** (a) Each instructor-coordinator, sponsoring organization, and approved-program provider shall select qualified instructors as determined by training and knowledge of subject matter as follows:

(1) Each didactic instructor and each instructor for medical skills shall possess certification, registration, or licensure in the subject matter or medical skills being taught.

(2) Each instructor for nonmedical skills shall have technical training in and shall possess knowledge and expertise in the skill being taught.

(3) Each instructor of clinical training being conducted in a clinical health care facility shall be a licensed physician or a licensed professional nurse.

(4) Each instructor of field internship training being conducted with a prehospital emergency medical service shall be an attendant certified at or above the level of training being conducted.

(b) Each sponsoring organization shall maintain records of all instructors and lab assistants used to provide training. These records shall include the following:

(1) The individual's name and qualifications;

(2) the subject matter that the individual taught, assisted in teaching, or evaluated;

(3) the dates on which the individual instructed, assisted, or evaluated; and

(4) the students' evaluations of the instructors. (Authorized by and implementing K.S.A. 2016 Supp. 65-6110 and 65-6111; effective Feb. 3, 1992; amended Dec. 29, 2017.)

**109-11-10.** (Authorized by K.S.A. 2000 Supp. 65-6110, 65-6111; implementing K.S.A. 2000 Supp. 65-6111; effective Nov. 9, 2001; revoked May 1, 2015.)

### Article 13.—TRAINING OFFICERS

**109-13-1.** (Authorized by K.S.A. 65-6110, as amended by L. 2011, ch. 114, sec. 81, and K.S.A. 2010 Supp. 65-6111; implementing K.S.A. 2010 Supp. 65-6129c, as amended by L. 2011, ch. 114, sec. 65; effective Jan. 31, 1994; amended Nov. 12, 1999; amended Nov. 13, 2000; amended March 9, 2012; revoked Dec. 29, 2017.)

### Article 15.—CERTIFICATION

**109-15-1. Reinstating attendant certificate after expiration.** (a) The certificate of a person who applies for attendant certification after the person's certificate has expired may be reinstated by the board if the person meets the following requirements:

(1) Submits a completed application to the board on forms provided by the executive director;

(2) pays the applicable fee specified in K.A.R. 109-7-1;

(3) provides validation of completed education requirements; and

(4) if the applicant is either currently certified or licensed in another jurisdiction or has been certified or licensed in another jurisdiction, provides information adequate for the board to determine the applicant's current status of certification or licensure for the level of certification being sought and confirm that the applicant is in good standing with that jurisdiction.

(b) For the purposes of this regulation, the date of expiration for the certificate shall be one of the following:

(1) The expiration date of the person's Kansas attendant certificate;

(2) 31 calendar days after the expiration date of the person's certificate or license, if the person is currently certified or licensed in another jurisdiction; or

(3) the most recent expiration date of the person's certificate or license in another jurisdiction, if the person is not currently certified or licensed in another jurisdiction but previously held a certificate or license in that jurisdiction.

(c) Completion of education requirements shall be validated by submission of the following:

(1) Documentation of continuing education for the three years before the date of application

in sufficient quantity to meet or exceed the following:

(A) For applications submitted within 31 calendar days from the date of expiration, the number of clock-hours specified for renewal of a certificate in K.A.R. 109-5-1a for EMR, K.A.R. 109-5-1b for EMT, K.A.R. 109-5-1c for AEMT, or K.A.R. 109-5-1d for paramedic;

(B) for applications submitted more than 31 calendar days but less than two years from the date of expiration, two times the number of clock-hours specified for renewal of a certificate in K.A.R. 109-5-1a for EMR, K.A.R. 109-5-1b for EMT, K.A.R. 109-5-1c for AEMT, or K.A.R. 109-5-1d for paramedic;

(C) for applications submitted two or more years but less than four years from the date of expiration, three times the number of clock-hours specified for renewal of a certificate in K.A.R. 109-5-1a for EMR, K.A.R. 109-5-1b for EMT, K.A.R. 109-5-1c for AEMT, or K.A.R. 109-5-1d for paramedic;

(D) for applications submitted four or more years but less than six years from the date of expiration, four times the number of clock-hours specified for renewal of a certificate in K.A.R. 109-5-1a for EMR, K.A.R. 109-5-1b for EMT, K.A.R. 109-5-1c for AEMT, or K.A.R. 109-5-1d for paramedic;

(E) for applications submitted six or more years but less than eight years from the date of expiration, five times the number of clock-hours specified for renewal of a certificate in K.A.R. 109-5-1a for EMR, K.A.R. 109-5-1b for EMT, K.A.R. 109-5-1c for AEMT, or K.A.R. 109-5-1d for paramedic; and

(F) for applications submitted eight or more years from the date of expiration, six times the number of clock-hours specified for renewal of a certificate in K.A.R. 109-5-1a for EMR, K.A.R. 109-5-1b for EMT, K.A.R. 109-5-1c for AEMT, or K.A.R. 109-5-1d for paramedic;

(2) for applications submitted two or more years from the date of expiration, validation of cognitive and psychomotor competency by the following:

(A) Successful completion of a cognitive assessment for the level of certification being sought, within three attempts;

(B) successful completion of a psychomotor assessment for the level of certification being sought, within three attempts; and

(3) for applications submitted two or more years from the date of expiration, documentation

of successful completion of a cardiopulmonary resuscitation course for healthcare providers.

(d) Each person who applies for reinstatement of certification two or more years after the date of expiration shall take an entire initial course of instruction if the person is unable to provide validation of cognitive or psychomotor competency by one of the following, whichever occurs first:

(1) The person has exhausted the allowed attempts.

(2) One year has passed from the date of application. (Authorized by K.S.A. 2013 Supp. 65-6111; implementing K.S.A. 2013 Supp. 65-6129; effective May 15, 2009; amended Sept. 2, 2011; amended March 15, 2013; amended Jan. 2, 2015.)

**109-15-2. Recognition of non-Kansas credentials.** (a) Any individual who is currently licensed or certified as an attendant in another jurisdiction may apply for Kansas certification through recognition of non-Kansas credentials by submitting the following:

(1) A completed application for recognition of non-Kansas credentials on a form provided by the board;

(2) application for certification fee for the level of certification sought, as specified in K.A.R. 109-7-1;

(3) documentation from another state or jurisdiction verifying that the applicant is currently licensed or certified for the level of certification sought and is in good standing;

(4) documentation from another state or jurisdiction verifying that the applicant has successfully completed coursework that is substantially equivalent to the curriculum prescribed by the board for the level of certification sought, in accordance with subsection (b); and

(5) documentation from another state or jurisdiction verifying that the applicant has successfully completed an examination prescribed by the board for the level of certification sought, in accordance with subsection (b).

(b) Any applicant may validate successful completion of coursework in another state or jurisdiction that is substantially equivalent to the curriculum prescribed by the board for the level of certification sought by submitting one of the following:

(1) Documentation that the applicant is registered with the national registry of emergency medical technicians at the level for which certification is sought; or

(2) documentation that the applicant has successfully completed the following:

(A) The national registry of emergency medical technicians' cognitive assessment examination and the psychomotor skills examination prescribed by the national registry of emergency medical technicians or by the board; and

(B)(i) For emergency medical responder, coursework that included the United States department of transportation national highway traffic safety administration "emergency medical responder instructional guidelines," DOT HS 811 077B, dated January 2009, which is hereby adopted by reference;

(ii) for emergency medical technician, coursework that included the United States department of transportation national highway traffic safety administration "emergency medical technician instructional guidelines," DOT HS 811 077C, dated January 2009, which is hereby adopted by reference;

(iii) for advanced emergency medical technician, coursework that included the United States department of transportation national highway traffic safety administration "advanced emergency medical technician instructional guidelines," DOT HS 811 077D, dated January 2009, which is hereby adopted by reference; or

(iv) for paramedics, either coursework completed after December 31, 2008 that included the United States department of transportation national highway traffic safety administration "paramedic instructional guidelines," DOT HS 811 077E, dated January 2009, which is hereby adopted by reference, or coursework completed before January 1, 2009 that included the United States department of transportation national highway traffic safety administration "EMT-paramedic national standard curriculum," DOT HS 808 862, dated March 1999, which is hereby adopted by reference. (Authorized by K.S.A. 2012 Supp. 65-6111; implementing K.S.A. 2012 Supp. 65-6129, as amended by L. 2013, ch. 95, sec. 4; effective May 15, 2009; amended Sept. 2, 2011; amended Jan. 17, 2014.)

## Article 16.—GRADUATED SANCTIONS

**109-16-1. Graduated sanctions.** (a) The following documents of the Kansas board of emergency medical services, dated April 10, 2013, are hereby adopted by reference:

(1) "Graduated sanctions for attendants";

- (2) “graduated sanctions for I-Cs and T.O.s”; and
- (3) “graduated sanctions for operators.”
- (b) For purposes of applying the tables of graduated sanctions for attendants, instructor-coordinators, training officers, and operators, the following sanction levels shall apply:
- (1) “Sanction level 1” means that the local action taken by the operator of the ambulance service, or its designee, is approved and accepted by the board’s investigations committee.
- (2) “Sanction level 2” means the modification of a certificate or permit by the imposition of conditions.
- (3) “Sanction level 3” means the limitation of a certificate or permit.
- (4) “Sanction level 4” means the suspension of a certificate or permit for less than three months.
- (5) “Sanction level 5” means the suspension of a certificate or permit for three months or more.
- (6) “Sanction level 6” means the revocation of a certificate or permit.
- (c) When the investigations committee is determining the appropriate sanction level, the following mitigating and aggravating circumstances, if applicable, shall be taken into consideration:
- (1) The number of violations involved in the current situation;
- (2) the degree of harm inflicted or the potential harm that could have been inflicted;
- (3) any previous violations or the absence of previous violations;
- (4) the degree of cooperation with the board’s investigation;
- (5) evidence that the violation was a minor or technical violation, or a serious or substantive violation;
- (6) evidence that the conduct was intentional, knowing, or purposeful or was inadvertent or accidental;
- (7) evidence that the conduct was the result of a dishonest, selfish, or criminal motive;
- (8) evidence that the attendant, instructor-coordinator, training officer, or operator refused to acknowledge or was willing to acknowledge the wrongful nature of that person’s conduct;
- (9) the length of experience as an attendant, instructor-coordinator, training officer, or operator; and
- (10) evidence that any personal or emotional problems contributed to the conduct. (Authorized by K.S.A. 2012 Supp. 65-6110, 65-6111, and 65-6129, as amended by L. 2013, ch. 95, sec. 4; implementing K.S.A. 2012 Supp. 65-6129, as amended by L. 2013, ch. 95, sec. 4; effective Jan. 17, 2014.)



# Agency 110

## Department of Commerce

### Editor's Note:

Effective July 1, 2003, Executive Reorganization Order No. 30 separated the Department of Commerce and Housing into the Kansas Department of Commerce and the Kansas Department of Housing. Except with respect to the powers, duties, and functions that are transferred by this order to the Kansas Development Finance Authority or to the Division of Housing within the Kansas Development Finance Authority, the Department of Commerce established by this order shall be the successor in every way to the powers, duties and functions of the Department of Commerce and Housing in which such powers, duties and functions were vested prior to the effective date of this order.

### Articles

- 110-4. INVESTMENTS IN MAJOR PROJECTS AND COMPREHENSIVE TRAINING (IMPACT) ACT.
- 110-6. HIGH PERFORMANCE INCENTIVE PROGRAM.
- 110-12. AGRITOURISM PROMOTION ACT.
- 110-21. PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK) PROGRAM.
- 110-22. STUDENT LOAN REPAYMENT PROGRAM.

### Article 4.—INVESTMENTS IN MAJOR PROJECTS AND COMPREHENSIVE TRAINING (IMPACT) ACT

**110-4-1. Definitions.** As used in these regulations and for purposes of administering the IMPACT act, the following terms shall have the following meanings: (a) "Department" means department of commerce.

(b) "Existing job" means a job of an employer meeting the following criteria:

(1) Has the same or similar description, or involves performing the same or a similar function as that for a job being created by that employer; and

(2) was filled or in use within the 18 months before the date of filing an application with the secretary for funding from the IMPACT program services fund, unless the job was lost due to an act of God and the secretary finds that the IMPACT program or project will be a major factor for the Kansas basic enterprise to remain in Kansas.

(c) "Maximum funding amount" means the maximum dollar amount for which a qualified project would be eligible under the IMPACT act, assuming that sufficient funds exist to fund the maximum dollar amount permitted for all qualified projects as determined by the secretary according to K.A.R. 110-4-2(c).

(d) "MPI" means major project investment as defined in K.S.A. 74-50,103 and amendments thereto.

(e) "Project cost" for a qualified project means the total of program costs and the cost of program services as these terms are defined by K.S.A. 74-50,103 and amendments thereto.

(f) "Qualified project" means any project described in an application that has been determined by the secretary to be complete, in compliance with the funding limitations set forth in the IMPACT act, and qualified for funding from the IMPACT program services fund. (Authorized by and implementing K.S.A. 2009 Supp. 74-50,104; effective, T-110-3-27-92, March 27, 1992; effective, T-110-7-23-92, July 23, 1992; effective Sept. 8, 1992; amended Aug. 29, 1997; amended, T-110-5-31-01, May 31, 2001; amended Sept. 21, 2001; amended Jan. 28, 2011.)

### **110-4-2. Review standards and priorities for approval of proposed agreements; limits on program costs and on project and program size.**

(a) Each proposal for an agreement concerning a SKILL project or a combined SKILL project and financial assistance through an MPI shall be submitted by an employer to the secretary. Each proposal for an agreement concerning only financial assistance through an MPI shall be submitted by an employer to the secretary. Each proposal shall be submitted as an application on a form provided by the secretary. Each proposal shall include the following, as applicable:

- (1) General information, as follows:
  - (A) The project start and end dates;

- (B) the employer's legal name;
- (C) the employer's code designation according to the "North American industry classification system" (NAICS), as established by the executive office of the president, office of management and budget, dated 2007;
- (D) a description of the employer's business operation or industry;
- (E) the employer's federal taxpayer identification number;
- (F) the name and title of the employer's designated contact person;
- (G) the electronic mail address of the employer's contact person;
- (H) the employer's mailing address;
- (I) the address of the project facility;
- (J) the phone number and fax number of the contact person;
- (K) the total number of existing jobs in the state, including annual average wage;
- (L) the estimated capital investment;
- (M) the projected number of new jobs and retrained jobs, including annual average wage;
- (N) the performance percentage of the new and retrained jobs;
- (O) a description of the type of training;
- (P) a summary of the benefits package offered by a company; and
- (Q) the anticipated hiring schedule for all positions;
- (2) a description of the company's business operations, including the following:
  - (A) A company overview, including a brief company history and current information;
  - (B) a summary of the financial condition of the company; and
  - (C) a description of type of products or services;
- (3) if a company will be using a Kansas educational institution for direct services, the following information for each participating institution:
  - (A) The name of the educational institution;
  - (B) the educational institution's address;
  - (C) the name and title of the contact person;
  - (D) the phone number and fax number of the contact person;
  - (E) the electronic mail address of the contact person;
  - (F) the federal identification number;
- (4) for any proposal that includes a SKILL project, information relating to the new jobs or retrained jobs, as follows:
  - (A) A summary of the type of training or instruction to be provided to each trainee;
  - (B) the number of hours of instruction for each trainee by course area or title;
  - (C) the salaries of instructors, including the number of hours of instruction and hourly rates;
  - (D) the costs of adult basic education and job-related instruction;
  - (E) the costs of vocational and skill-assessment services and testing;
  - (F) the costs for lease of training equipment, including the costs of installation;
  - (G) the costs to the educational institution for purchase of training equipment, including the costs of installation;
  - (H) the costs of training materials and supplies;
  - (I) the costs of services with educational institutions, federal, state, or local agencies, vendors, or consultants;
  - (J) the costs of contractual or professional services;
  - (K) the training curriculum planning and development costs;
  - (L) the costs of textbooks, manuals, audiovisual materials, or other training aids;
  - (M) the travel expenses of trainers or trainees;
  - (N) the costs of temporary training facilities;
  - (O) the amount, if any, of tuition, student fees, or special charges included in the project costs;
  - (P) the total estimated project costs;
  - (Q) the amount of project costs proposed to be paid by the employer, by the educational institution, and by federal, state, or other public or private grants;
  - (R) the amount of project costs requested to be paid from the IMPACT program services fund; and
- (5) for any proposal that includes a request for financial assistance through an MPI, information relating to the financial assistance requested as follows:
  - (A) An itemization of the business costs to be paid through an MPI, and the estimates of these business costs;
  - (B) background information relating to the undertaking and an explanation of how the financial assistance provided through an MPI will contribute to the relocation of the employer in the state; and
  - (C) if the proposal includes only a request for financial assistance through an MPI, an explanation of the training or education programs to be undertaken or funded by the employer for its employees each year during the term of the agreement, with evidence demonstrating that the employer

will meet the minimum training and education requirement in K.S.A. 74-50,106(d)(1), and amendments thereto; and

(D) for all proposals, any other information deemed necessary by the secretary.

(b) Each application shall be reviewed by the secretary for completeness and compliance with the funding limitations in the IMPACT act. Additional data may be requested by the secretary to verify the accuracy and completeness of the information in an application. The review of each application shall be completed by the secretary within 30 days of the date a complete application is filed.

(c)(1) The best method of funding the qualified projects shall be determined by the secretary and the funding requirements of part or all of two or more qualified projects may be pooled to facilitate the issuance of bonds by the Kansas development finance authority. One or more qualified projects may be funded from amounts on deposit or anticipated to be on deposit in the IMPACT program services fund that are not required to be used to pay program costs for other qualified projects.

(2) The maximum funding amount for any qualified project may be funded in more than one increment as may be necessary to accommodate the needs, funding resources, and limitations of the IMPACT program. However, the sum of these increments shall not exceed the maximum funding amount for the qualified project. The determinations by the secretary as to whether a qualified project will be funded in increments and the amount of these increments shall be made on the basis of the considerations listed in subsection (d).

(d) The following factors shall be used to determine whether a qualified project should be funded and the amount of the funding. If two or more qualified projects compete for limited funds, these same factors shall be applied to determine the level of funding for each project:

(1) The per capita cost of training expenses to be funded from the IMPACT program services fund;

(2) the amount of funds used to pay project costs from sources other than funds from the IMPACT program services fund;

(3) the local economic needs and the impact of the project, including current local employment conditions, resultant new economic activity, the project schedule, leveraging of other resources, beneficial impact on the tax base and project fea-

sibility, as well as the probability that the project will accomplish the projected benefits;

(4) the quality of jobs to be created, with priority given to those full-time jobs that have a higher wage scale, higher benefit levels, a low turnover rate, an opportunity for career development or advancement, or other related factors;

(5) the extent to which the project is being coordinated with other projects of that applicant or other applicants to be funded from the IMPACT program services fund. Priority shall be given to projects that are able to share training facilities, instructors, training equipment, and other program services;

(6) the extent to which the project or components of the project do not duplicate existing training resources;

(7) the extent to which the project utilizes funds in the most efficient and effective manner to train employees. Each proposal that includes a SKILL project shall demonstrate that a reasonable effort has been made to investigate alternate training methods and has selected the most efficient and effective method of training;

(8) the extent to which funding from the IMPACT program services fund is essential to the training of the employees, the creation of the new jobs, or both;

(9) the extent to which the employer requesting assistance can continue in business at the levels necessary to retain the new jobs created for the periods indicated in its application if provided with the requested assistance;

(10) the extent to which the employer intends to continue its operations in Kansas for the periods indicated in its application;

(11) if an MPI is requested, the extent to which the project utilizes funds in the most efficient and effective manner to defray business costs;

(12) the extent to which the business costs to be defrayed and paid through an MPI are directly related to the creation of new jobs in Kansas; and

(13) the extent to which the financial assistance provided through an MPI will confer benefits on the state, the community, local educational institutions or other persons or entities in addition to the benefits it will confer on the employer. (Authorized by K.S.A. 2009 Supp. 74-50,104, 74-50,106; implementing K.S.A. 2009 Supp. 74-50,104, 74-50,105, 74-50,106; effective, T-110-3-27-92, March 27, 1992; effective, T-110-7-23-92, July 23, 1992; effective Sept. 8, 1992; amended Aug. 29, 1997; amended Jan. 28, 2011.)

**110-4-3. Limit on maximum funding amount.** The limitation on program costs specified in K.S.A. 74-50,104(b), and amendments thereto, of the IMPACT act shall limit only the maximum funding amount for each qualified project and shall not limit the amount of project costs that are to be paid from sources other than the IMPACT program services fund. (Authorized by K.S.A. 2009 Supp. 74-50,104; implementing K.S.A. 2009 Supp. 74-50,104, 74-50,105; effective, T-110-3-27-92, March 27, 1992; effective, T-110-7-23-92, July 23, 1992; effective Sept. 8, 1992; amended Aug. 29, 1997; amended Jan. 28, 2011.)

**110-4-4. Enforcement of agreements by the secretary.** Each agreement, as defined by K.S.A. 74-50,103 and amendments thereto, shall be enforced by the secretary. In order to facilitate enforcement by the secretary, each agreement shall include the department as a party to the agreement with enforcement rights. (Authorized by K.S.A. 2009 Supp. 74-50,104; implementing K.S.A. 2009 Supp. 74-50,104, 74-50,105; effective, T-110-3-27-92, March 27, 1992; effective, T-110-7-23-92, July 23, 1992; effective Sept. 8, 1992; amended Aug. 29, 1997; amended Jan. 28, 2011.)

**110-4-5. Compliance with K.S.A. 74-50,106(d), and amendments thereto.** (a) Each employer receiving financial assistance through an MPI shall comply with K.S.A. 74-50,106(d) and amendments thereto. For purposes of complying with K.S.A. 74-50,106(d)(1) and amendments thereto, the employer shall make an investment in training and education of the employer's employees in each of the employer's fiscal years during the term of the agreement.

(b) Training and education expenditures that qualify for compliance with K.S.A. 74-50,106(d)(1), and amendments thereto, shall include those expenditures made for all necessary and incidental costs of providing the following:

- (1) New jobs training, including training development costs;
- (2) adult basic education and job-related instruction;
- (3) vocational and skill-assessment services and testing;
- (4) training materials and supplies;
- (5) subcontracted services with educational institutions, private colleges or universities, or federal, state, or local agencies;
- (6) contractual or professional services; and

(7) wages paid to persons receiving education or training, but only for the periods during which the person is receiving classroom training. (Authorized by and implementing K.S.A. 2009 Supp. 74-50,104 and 74-50,106; effective Aug. 29, 1997; amended Jan. 28, 2011.)

#### **Article 6.—HIGH PERFORMANCE INCENTIVE PROGRAM**

**110-6-1.** (Authorized by and implementing K.S.A. 1999 Supp. 74-50,131, as amended by L. 2000, ch. 157, sec. 8; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000; amended Feb. 23, 2001; revoked Sept. 13, 2013.)

**110-6-1a.** (Authorized by K.S.A. 1999 Supp. 74-50,115, as amended by L. 2000, ch. 157, sec. 6 and K.S.A. 74-50,131, as amended by L. 2000, ch. 157, sec. 8; implementing K.S.A. 1999 Supp. 74-50,115, as amended by L. 2000, ch. 157, sec. 6, K.S.A. 74-50,131, as amended by L. 2000, ch. 157, sec. 8, and K.S.A. 1999 Supp. 74-50,132; effective, T-110-4-25-00, April 25, 2000; effective Feb. 23, 2001; revoked Sept. 13, 2013.)

**110-6-2.** (Authorized by and implementing K.S.A. 1999 Supp. 74-30,131, as amended by L. 2000, ch. 157, sec. 8; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000; amended Feb. 23, 2001; revoked Sept. 13, 2013.)

**110-6-3.** (Authorized by K.S.A. 1999 Supp. 74-50,131, as amended by L. 2000, ch. 157, sec. 8; implementing K.S.A. 1999 Supp. 74-50,131, as amended by L. 2000, ch. 157, sec. 8 and K.S.A. 1999 Supp. 74-50,132; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000; amended Feb. 23, 2001; revoked Sept. 13, 2013.)

**110-6-4.** (Authorized by K.S.A. 1999 Supp. 74-50,131, as amended by L. 2000, ch. 157, sec. 8; implementing K.S.A. 1999 Supp. 74-50,131, as amended by L. 2000, ch. 157, sec. 8 and K.S.A. 1999 Supp. 74-50,133; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000; amended Feb. 23, 2001; revoked Sept. 13, 2013.)

**110-6-5.** (Authorized by and implementing K.S.A. 1999 Supp. 74-50,131, as amended by L. 2000, ch. 157, sec. 8; effective, T-110-8-17-93,

Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000; amended Feb. 23, 2001; revoked Sept. 13, 2013.)

**110-6-6.** (Authorized by and implementing 1993 SB 73, section 1 (b); effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; revoked Sept. 13, 2013.)

**110-6-7.** (Authorized by and implementing L. 1993, Chap. 172, Sec. 1; effective Nov. 15, 1993; revoked Sept. 13, 2013.)

**110-6-8. Definitions.** As used in this article and for purposes of administering HPIP, the following terms shall have the following meanings:

(a) “Alternative wage standard” means one and one-half times the state average wage and is updated annually on the department’s web site, based on data maintained by the Kansas secretary of labor. An alternative wage standard may be used only after subtracting all employees with five percent equity in the business from all internal wage calculations, as provided by K.S.A. 74-50,131(e) and amendments thereto.

(b) “Applicant” means a legal entity seeking to certify a qualified firm through the HPIP application process.

(c) “Average internal wage” means the wage computed for the employees attached to a worksite and shall be calculated by one of the following methods:

(1) Dividing the average headcount of part-time plus full-time employees at the worksite as reported on the “quarterly wage report and unemployment tax return” or “multiple worksite report” for the measurement period into total payroll costs that have been paid over the same measurement period; or

(2) dividing the number of FTE employees into total payroll costs that have been paid over the same measurement period.

(d) “Back-office operation” means a wholly owned company worksite location that meets all of the following criteria:

(1) The main activities are functions that support the core focus of the business.

(2) Support activities are performed for other company-owned worksites in which the company has more than 50 percent equity.

(3) The worksite could have been geographically located anywhere.

(e) “Certificate of intent to invest” means a project description form.

(f) “Certification period” means the interval during which a worksite is eligible to receive HPIP benefits according to K.A.R. 110-6-11.

(g) “Combined worksite” means two or more worksites referenced on the same application according to K.A.R. 110-6-11.

(h) “Commence investment” means to make a formal commitment and to invest, with both actions being directly connected to the project description form previously submitted to the department.

(i) “Commercial customer” means an organized entity that engages in the manufacture or sale of products or the provision of services to other entities or individuals.

(j) “Core focus” means an activity that is designated by the NAICS code number assigned to a company and produces more than 50 percent of a company’s revenue.

(k) “Department” means Kansas department of commerce.

(l) “Formal commitment to invest,” for a company, means one or both of the following:

(1) The company relocates assets that it already owns to Kansas from an out-of-state location.

(2) The company enters into a written agreement that provides either party with legally enforceable remedies if the agreement is breached.

(m) “Fully operational,” when used to describe a new worksite, means that the worksite is performing substantially all major core focus functions.

(n) “Full-time-equivalent employees” and “FTE employees,” for purposes of calculating internal average wage during a measurement period, shall include leased employees and shall be computed by the following method:

(1) The number of hours worked by any permanent employees who normally work fewer than 40 hours per week shall be totaled and then divided by 2,080 hours, dropping any fractions.

(2) The result of paragraph (n)(1) then shall be added to the average number of employees who normally worked 40 or more hours per week during the measurement period.

(o) “Government customer,” as used in the act, means an organization that is not a related taxpayer, as defined by K.S.A. 79-32,154(h) and amendments thereto, and meets one of the following conditions:

(1) Is classified in major NAICS code sections 922 through 928; or

(2) is a customer that is funded primarily with tax dollars and is not classified as a for-profit or a not-for-profit organization.

(p) “Gross revenues,” as used in K.S.A. 74-50,131 and amendments thereto, means that term as commonly used in financial and accounting applications under generally accepted accounting principles (G.A.A.P) in the United States.

(q) “Headquarters,” as used in K.S.A. 74-50,131(g)(6) and amendments thereto, means a worksite that meets all of the following conditions:

(1) The main activity at the worksite is providing direction, management, or administrative support for the operation of multiple company-owned worksites in which the applicant company has an ownership interest greater than 50 percent.

(2) The worksite is capable of being geographically located anywhere.

(r) “High-performance incentive program” and “HPIP” mean the department’s incentive program that may provide tax benefits to a worksite pursuant to K.S.A. 74-50,131 and amendments thereto.

(s)(1) “HPIP source-of-revenue requirement” means the requirement for the types of businesses listed in K.S.A. 74-50,131(b), and amendments thereto, that more than 50 percent of total revenue at the worksite shall be generated from sales to any of the following:

(A) Kansas manufacturers assigned to major NAICS categories 311 through 339;

(B) out-of-state government customers;

(C) out-of-state commercial customers; or

(D) any combination of paragraphs (s)(1)(A) through (C).

(2) Revenues that shall be specifically excluded as eligible revenues under the HPIP source-of-revenue requirement are the following:

(A) Revenues generated as payment for medical services from Medicare, Medicaid, or any related administrative organizations; and

(B) revenues generated from medical services or products delivered to or used by individual patients, regardless of the source of payment.

(t) “KIT” means Kansas industrial training, as defined in K.S.A. 74-5065(a) and amendments thereto.

(u) “KIR” means Kansas industrial retraining, as defined in K.S.A. 74-5065(b) and amendments thereto.

(v) “Leased employees” shall include employees who meet the following criteria:

(1) Are engaged at the worksite pursuant to an agreement with a third party;

(2) are filling positions that are one year or longer in duration; and

(3) receive wages and benefits that are paid either directly or indirectly by the worksite where the leased employees are engaged.

(w) “Main activity” means an activity that utilizes more than 50 percent of the total square feet at a worksite or more than 50 percent of the total number of employees at a worksite.

(x) “Measurement period” and “MP” mean the four consecutive calendar quarters that a company shall use to meet and document satisfaction of the HPIP eligibility requirements.

(1) For a worksite expansion with an existing workforce, the MP shall be the four calendar quarters that immediately precede the selected certification period.

(2) For a new worksite with a new workforce, the MP shall be the first full four consecutive calendar quarters of operation at the new worksite.

(y) “Multinational corporation” and “multinational firm” mean a legal entity with at least one permanent worksite in the United States and one or more additional permanent worksites established in one or more other countries, with attendant personnel and owned or leased facilities, equipment, and infrastructure.

(z) “NAICS designation” means a six-digit designation in the North American industry classification system that identifies the main activities performed at a worksite. The NAICS designation is initially assigned to a worksite by the Kansas department of labor. At the request of the applicant, the Kansas department of labor’s NAICS designation may be reviewed and adjusted by the secretary, if deemed appropriate, based upon the actual activity at the worksite.

(aa) “National corporation” and “national firm” mean a legal entity that has operations covering a broad geographical area within the U.S., with multiple permanent worksites wholly owned or affiliated with other legal entities, with attendant personnel and owned or leased facilities, equipment, and infrastructure.

(bb) “Nonmanufacturing business” means any commercial enterprise other than a manufacturing business assigned to major NAICS categories 311 through 339.

(cc) “On-the-job training” and “OJT” mean training situations during which a product or service that can be sold or used in internal operations is generated.

(dd) “Project description form” and “PD form” mean a form required as the first step to be able to access HPIP benefits. This form provides proof of

foreknowledge of the HPIP program and shall be completed, signed, and submitted to the department before any formal commitment to invest.

(ee) “Qualified business facility investment” has the meaning specified in K.S.A. 79-32,154, and amendments thereto.

(ff) “Related taxpayer” has the meaning specified in K.S.A. 79-32,154, and amendments thereto.

(gg) “Sales to Kansas manufacturers,” as used in the act, means sales to organizations that are not related taxpayers, in which the purchased goods or services are paid for by the purchasing organization or its designated agent and the purchased goods or services are delivered within Kansas to a worksite assigned to major NAICS categories 311 through 339 by the Kansas department of labor. Sales orders and payments may originate from either inside or outside Kansas.

(hh) “Secretary” means secretary of commerce.

(ii) “Total payroll cost” means the payroll amount defined by the Kansas department of labor as “total wages” on line 12 of the “quarterly wage report and unemployment tax return” or the “multiple worksite report.” For a worksite, total payroll cost during the appropriate measurement period may be combined with any pretax earnings in which an employee has elected to direct to one of the following:

(1) A flexible-spending plan;

(2) a deferred compensation plan; or

(3) a retirement plan that includes earnings the employee would otherwise have received in the form of taxable wages had it not been for the voluntary deferral.

This term shall not include company-paid costs for health insurance, dental insurance, and any other employee benefits that are not reported to the Kansas department of labor on the employer’s quarterly wage report or the multiple worksite report.

(jj) “Training and education eligible expense” means the amount actually paid for training and education of the group of employees, or portion thereof, that is used to determine the average wage at the worksite location, and from which the worksite expects to derive increased productivity or quality. The determination of expenditures that constitute training and education eligible expenses shall include the following:

(1) Eligible training and education expenditures shall include instructor salaries, curriculum planning and development, travel, materials and supplies, textbooks, manuals, minor training

equipment, certain training facility costs, and any other expenditure that is eligible under KIT or KIR.

(2) The following other expenditures shall be allowable but shall be subject to maximum caps:

(A) Wages of employees during eligible training, up to a maximum of 400 percent of the applicable HPIP alternative wage standard hourly wage;

(B) employee instructors’ salaries, subject to a maximum of 400 percent of the applicable HPIP alternative wage standard hourly wage; and

(C) training-related travel expenses, with a maximum meals allowance of \$120 per day and lodging costs of \$300 per night.

(3) Expenditures for the following shall be excluded as training and education eligible expenses:

(A) Compensation paid to an employee trainee who is receiving on-the-job training;

(B) compensation paid to an employee during self-training, except for time in which the employee is involved in activities related to an approved computerized course of study;

(C) bonus pay received as compensation related to the company’s financial performance or the employee’s job performance, or both;

(D) overtime pay, unless the employee is being paid at an overtime rate while participating in eligible training;

(E) operations manuals and reference manuals. However, training-specific manuals shall be allowable; and

(F) training and education costs covered by monies or grants obtained from state, federal, or other government-sponsored workforce training programs.

(kk) “Wage standard” means the average wage information developed for the department for the appropriate NAICS designation using all worksites located within a geographical area as defined by the secretary that are required to provide the Kansas department of labor with a “quarterly wage report and unemployment tax return” or a “multiple worksite report.”

(ll) “Worksite” has the same meaning as that specified for “qualified business facility” in K.S.A. 79-32,154, and amendments thereto. (Authorized by and implementing K.S.A. 2012 Supp. 74-50,131; effective Sept. 13, 2013.)

**110-6-9. Application.** (a) After the measurement period for a worksite has been established, the applicant may submit an application to the department for certification of the worksite,

on a form prescribed by the secretary, together with all supplemental forms and documentation necessary to demonstrate satisfaction of the program requirements. Sufficiency of all submitted documentation shall be determined by the secretary, who may request additional information. A worksite shall not be certified until all program requirements are satisfied.

(b) Certification of the worksite in which the applicant is planning to make a qualified business facility investment, as defined by K.S.A. 79-32,154(e) and amendments thereto, shall be contingent on documentation submitted by the applicant to the department that the worksite has met all statutory criteria during the measurement period, except as specified in K.A.R. 110-6-12(b). However, a determination may be made by the secretary that it is in the best economic interests of the state to allow initial certification or recertification based on a promise of future performance, rather than historical accomplishments, if certification is deemed justified by the magnitude of potential job creation and investment and by other considerations deemed appropriate by the secretary. (Authorized by and implementing K.S.A. 2012 Supp. 74-50,131; effective Sept. 13, 2013.)

**110-6-10. Certification of a worksite.**

Each applicant shall meet the following requirements:

(a) (1) The NAICS designation assigned to the worksite shall be under an appropriate NAICS designation, as specified in K.S.A. 74-50,131 and amendments thereto;

(2) the worksite, regardless of its NAICS designation, shall be determined by the secretary to be a headquarters or back-office operation of a national firm or multinational firm pursuant to this article; or

(3) the worksite, regardless of its NAICS designation, had been certified as a headquarters or back-office operation of a national firm or multinational firm by the secretary before the effective date of this regulation. The worksite shall retain its certification as a headquarters or back-office operation of a national firm or multinational firm unless the worksite would no longer qualify using the criteria in effect for the original worksite certification.

(b) Before any formal commitment to invest, the applicant shall demonstrate knowledge of the HPIP program by submitting a certificate of intent to invest, on the PD form prescribed by the

secretary. The worksite information provided on the PD form shall include the following:

- (1) Estimated investment amounts;
- (2) a projected starting date;
- (3) information regarding current and anticipated net new job creation and retention with associated payroll levels;
- (4) revenue and sales projections; and
- (5) any other relevant information if requested by the secretary.

(c) Certification of a worksite for the sole purpose of utilizing an HPIP tax credit that has been carried forward shall not require the submission of an additional project description form and may be applied for with a sworn statement using a form prescribed by the department.

(d) If the main activity at a worksite is not related to the headquarters or back-office operation but all other program requirements are satisfied, the applicant may seek certification only for that portion of the worksite's area that houses the headquarters or back-office operation of that worksite if the company's accounting system has the capability to allow a segment of the worksite to independently track the various elements that support satisfaction of HPIP requirements.

HPIP benefits shall be calculated by determining the portion of a qualified business facility investment used solely for that portion of the worksite housing the headquarters or back-office operation.

(e) After meeting all HPIP requirements, the worksite shall be certified by the secretary to the department of revenue. Before a worksite may be certified, all records used to support HPIP certification shall be subject to verification by the department. (Authorized by and implementing K.S.A. 2012 Supp. 74-50,131; effective Sept. 13, 2013.)

**110-6-11. Certification period (CP).**

(a) After establishing the measurement period at the worksite, the applicant shall establish a certification period as follows:

(1) For a worksite that has been fully operational for at least four calendar quarters, a 12-month certification period shall begin, at the option of the applicant, on any date during the calendar quarter following the end of the MP.

(2) For a new worksite with a new workforce, the certification period shall begin at the onset of the eligible qualified capital investment to establish this worksite and shall continue for 12 months

after the end of the MP. There may be two exceptions as follows:

(A) If, at the commencement of full operations, the new worksite is staffed with a workforce comprised of at least 85 percent of employees who have been relocated from other Kansas worksites of the company and if compliance with all other HPIP requirements is documented to the satisfaction of the secretary for the four calendar quarters immediately preceding the start of full operations, the applicant shall have the option to use the four calendar quarters before the start of full operations at the new location as its measurement period with a certification period starting at the onset of qualified capital investment to establish this new worksite. The certification period shall continue through the first four quarters of operations.

(B) A firm that is relocating from outside of Kansas shall have the option to use the four previous quarters before the start of full operations at the new worksite as its measurement period with a certification period starting at the onset of eligible capital investment to establish this new worksite and shall continue through the first four quarters of operations, if all of the following conditions are met:

(i) The new worksite is not subject to the HPIP source-of-revenue requirement and is using participation in KIT or KIR to satisfy the HPIP training requirement.

(ii) At the commencement of full operations, the new worksite is staffed with a workforce comprised of at least 85 percent of employees who have been relocated from non-Kansas facilities of the firm or from a combination of Kansas and non-Kansas facilities.

(iii) Wage costs for those relocated employees are documented to the satisfaction of the secretary for the four calendar quarters immediately preceding the start of full operations.

(b) If a company chooses to combine worksites for HPIP certification, then each worksite shall establish as its measurement period four combined calendar quarters of operations that do not overlap any other measurement period for any participating worksites. Certification shall begin on any date of the applicant's choosing during the quarter that follows the end of the measurement period and shall extend for a 12-month period.

(c) If worksites are combined in a single application to receive aggregate HPIP certification, then the applicable set of requirements shall consist of the most restrictive requirement for any of the

individual worksites that are participating in the combined application, according to the following requirements:

(1) If any individual participating worksite is subject to the HPIP source-of-revenue requirement, then the combined worksite application as a whole shall be subject to the HPIP source-of-revenue requirement.

(2) If participating worksites come from more than one HPIP wage region, then the highest wage threshold from those wage regions shall apply for the participating worksites.

(3) If a headquarters or back-office operation is not required to satisfy the HPIP source-of-revenue requirement while another worksite is so required, then each participating worksite shall be required to satisfy this requirement.

(4) If worksites in the same wage area fall into different size categories, the most restrictive wage standard shall apply to each of the combined worksites.

(5) If each of the combined worksites has 500 or fewer employees but in aggregate the number of employees is greater than 500, then the higher wage threshold shall apply.

(d) Certification of a worksite for the sole purpose of obtaining training and education tax credits or a sales tax exemption certificate shall be allowed if both of the following conditions are met:

(1) All other program requirements are satisfied.

(2) The applicant demonstrates prior knowledge of the program by submitting the project description form. This form shall be received by the department before the start of the certification period. (Authorized by and implementing K.S.A. 2012 Supp. 74-50,115 and K.S.A. 2012 Supp. 74-50,131; effective Sept. 13, 2013.)

**110-6-12. Training and education requirement.** After a worksite has met the requirements of K.A.R. 110-6-10, that worksite shall meet the requirements of subsection (a) or (b) before the applicant obtains certification of the worksite:

(a) The applicant shall participate in a KIT or KIR workforce training project at the worksite to enhance employee skills. If this method is to be utilized in satisfaction of the HPIP training and education requirement, the timing of the project shall be one of the following:

(1) If a KIT or KIR project terminates during the applicant's chosen measurement period, at least three months of the training project shall have occurred during the measurement period.

(2) A KIT or KIR project of at least three months in duration commences any time during the applicant's chosen measurement period or during the following calendar quarter but shall not commence after the start of the certification period except as provided by K.A.R. 110-6-11(a)(2).

(b) The applicant shall make a cash investment of at least two percent of its total payroll costs at the worksite in eligible training and education expenses during the measurement period, except that costs incurred to train employees needed to staff a start-up worksite, before operations begin at the worksite, shall be counted as part of training costs during the first four quarters of operations for those employees who have been hired into permanent positions before the start of operations. Prepayment for training may be counted in a measurement period apportioned according to the extent that the related training has been completed during the measurement period. (Authorized by and implementing K.S.A. 2012 Supp. 74-50,131; effective Sept. 13, 2013.)

#### **Article 12.—AGRITOURISM PROMOTION ACT**

**110-12-1.** (Authorized by K.S.A. 2004 Supp. 74-50,173 and K.S.A. 2004 Supp. 74-5002r; implementing K.S.A. 2004 Supp. 74-50,165, 74-50,166, 74-50,167, 74-50,168, 74-50,169, 74-50,170, 74-50,171 and 74-50,172, and 74-50,173; effective April 8, 2005; revoked July 26, 2013.)

**110-12-2.** (Authorized by K.S.A. 2004 Supp. 74-50,173 and K.S.A. 2004 Supp. 74-5002r; implementing K.S.A. 2004 Supp. 74-50,168; effective April 8, 2005; revoked July 26, 2013.)

**110-12-3.** (Authorized by and implementing K.S.A. 2004 Supp. 74-50,173; effective April 8, 2005; revoked July 26, 2013.)

**110-12-4.** (Authorized by and implementing K.S.A. 2004 Supp. 74-50,173; effective April 8, 2005; revoked July 26, 2013.)

**110-12-5.** (Authorized by K.S.A. 2004 Supp. 74-50,173 and K.S.A. 2004 Supp. 74-5002r; implementing K.S.A. 2004 Supp. 74-50,168; effective April 8, 2005; revoked July 26, 2013.)

**110-12-6.** (Authorized by K.S.A. 2004 Supp. 74-50,173 and K.S.A. 2004 Supp. 74-5002r; implementing K.S.A. 2004 Supp. 74-50,169; effective April 8, 2005; revoked July 26, 2013.)

#### **Article 21.—PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK) PROGRAM**

**110-21-1. Definitions.** For the purposes of these regulations and the act, the following terms and definitions shall apply:

(a) "Adequate health insurance coverage" means health insurance that is offered by a company to all full-time employees within the first 180 days of their employment and provides for the following:

(1) At least 50 percent of the premium paid by the employer;

(2) coverage of basic hospital care and procedures;

(3) coverage of physician care;

(4) coverage for mental health care;

(5) coverage for substance abuse treatment;

(6) coverage for prescription drugs; and

(7) coverage for prenatal and postnatal care.

(b) "Administrative or back office" means a business facility that meets the following requirements:

(1) Is operated by a company;

(2) provides ancillary support services to the company, but is not directly engaged in the company's primary function;

(3) generates only de minimis outside revenue at the facility; and

(4) is capable of being located anywhere geographically.

(c) "Agreement" means an agreement entered into between the secretary and a qualified company as authorized by the act.

(d) "Agreement date" means the date the department of commerce receives a company's application.

(e) "Applicant" means a company that has submitted an application to the secretary for determination of eligibility under the act.

(f) "Base employment level" means the average number of full-time employees in addition to any part-time employees calculated as full-time equivalent positions working 2,080 hours annually that existed in Kansas in the 12 months before the agreement date.

(g) "Benefit period" means the period of time during which a qualified company shall be authorized to retain withholding taxes for PEAK-eligible jobs.

(h) "Business facility" means each physical location in Kansas where any located, relocated, or expanded functions will be performed.

(i) "Effective date" means the date the benefit period commences. The effective date shall meet the following requirements:

(1) Be established by the qualified company in writing;

(2) be within one year of the date of the agreement; and

(3) begin on the first day of a calendar quarter.

(j) "Full-time employment" means an average of at least 35 hours per week for 52 consecutive weeks.

(k) "Functions" means the activities of a business facility, office, department, or other operation, including a unit or production line.

(l) "Headquarters" means the location of a business facility that meets the following requirements:

(1) Physically houses principal officers of the business;

(2) is where primary direction, management, and administrative support for company operations are provided;

(3) serves multiple company work sites internationally, nationally, or regionally within the United States;

(4) generates only de minimis outside revenue; and

(5) is capable of being located anywhere geographically.

(m) "Located or relocated functions" means functions that are being initially located or relocated to Kansas.

(n) "PEAK" means promoting employment across Kansas.

(o) "PEAK benefits" means the payroll withholding taxes authorized to be retained by a qualified company.

(p) "PEAK-eligible jobs" means PEAK jobs that are being paid at least the county median wage for the county in which the business facility is located and for which PEAK benefits are received.

(q) "PEAK job" means an employee-occupied job performing a located, relocated, or expanded function. PEAK jobs are used to satisfy program eligibility requirements including minimum jobs and wage standard comparison.

(r) "PEAK jobs' median wage" means the midline wage of the total number of wages that divides the PEAK jobs into two equal groups, half having wages above the median wage and half having wages below the median wage. This term is used to determine initial eligibility for benefits, continued eligibility, and extended benefit periods.

(s) "Wages" has the meaning specified in K.S.A. 79-3295 and amendments thereto. (Authorized by K.S.A. 2010 Supp. 74-5002r and K.S.A. 2010 Supp. 74-50,213; implementing K.S.A. 2010 Supp. 74-50,211; effective April 29, 2011.)

**110-21-2. Eligibility and application requirements.** (a) Companies shall submit applications and any supporting documentation to the secretary to determine eligibility for benefits. In addition to meeting the requirements in the act, each applicant shall meet the following requirements:

(1) The application shall be submitted before any position for which PEAK benefits are requested may be filled.

(2) The PEAK jobs' median wage shall meet or exceed the annual county median wage as reported by the department of labor in its annual report for the previous year for the county in which the business facility is located on the date the department receives the application.

(3) The company shall locate, relocate, or expand the minimum number of required jobs within two years from the agreement date.

(4) If an applicant applies as a headquarters, the business facility shall meet the definition of a headquarters.

(5) If applicant is applying as an administrative or back office, the business facility shall meet the definition of an administrative or back office.

(b) The application shall include the following:

(1) The applicant's legal name and address;

(2) The applicant's North American industry classification system (NAICS) category;

(3) the federal employer identification number (FEIN);

(4) the physical address, contact information, NAICS category, and FEIN for all related entities, including the following:

(A) The corporate headquarters;

(B) the parent company;

(C) the business facility; and

(D) any existing Kansas work sites;

(5) the type of ownership structure for the business facility;

(6) a description of the function to be located, relocated, or expanded, including evidence of relocation satisfactory to the secretary;

(7) a description of the company's products or services and its customers;

(8) the hire or start date in Kansas for PEAK jobs;

(9) the identification of any third-party legal employer;

(10) the projected total number of PEAK jobs, including how many of those jobs are PEAK eligible jobs;

(11) the projected hiring schedule of PEAK jobs over five years;

(12) the median wage of the PEAK jobs;

(13) the total project capital investment, including leases;

(14) the base employment level if relocating to or expanding at an existing Kansas company or work site;

(15) the job title, description, number of positions, Kansas start or hire date, wages per hour, number of hours worked per week, and total annual wages for PEAK jobs;

(16) if applicable, information regarding whether the applicant is performing either of the following:

(A) Locating, relocating, or expanding a company's headquarters; or

(B) locating, relocating, or expanding an administrative or back office;

(17) certification that the applicant is "for-profit" unless applying as a headquarters or an administrative or back office;

(18) certification that the applicant will provide adequate health insurance coverage;

(19) certification that the applicant is not under the protection of the federal bankruptcy code;

(20) certification that the applicant is not delinquent on any federal, state, or local taxes;

(21) if applicable, payroll service company information as requested;

(22) an ownership disclosure and signature statement;

(23) the written authorization to inspect company records for verification of employment and wages;

(24) the certification by a company officer that the information provided in the application is true and accurate; and

(25) any other relevant information that the secretary deems necessary.

(c) If the application is approved by the secretary, the qualified company shall enter into an agreement with the secretary before receiving benefits. (Authorized by K.S.A. 2010 Supp. 74-5002r and K.S.A. 2010 Supp. 74-50,213; implementing K.S.A. 2010 Supp. 74-50,213; effective April 29, 2011.)

### **110-21-3. Reconsideration of application.**

(a) If an application is not approved, the reasons for the denial shall be provided to the applicant by the secretary. The applicant may ask the secretary for reconsideration of the decision within 30 days of the date of denial of the application.

(b) Decisions on reconsideration shall be the final agency action and subject to review under the Kansas judicial review act, K.S.A. 77-601 et seq. and amendments thereto. (Authorized by K.S.A. 2010 Supp. 74-5002r and K.S.A. 2010 Supp. 74-50,213; implementing K.S.A. 2010 Supp. 74-50,213; effective April 29, 2011.)

### **110-21-4. Agreement.**

(a) If an applicant meets the eligibility requirements and is approved by the secretary, the applicant shall be considered to be a qualified company. An agreement may be entered into by the secretary as to the terms and conditions by which the qualified company may receive benefits.

(b) The agreement shall be on a form prescribed by the department and, in addition to the requirements of the act, shall include the following:

(1) A description of the project;

(2) the length of the benefit period;

(3) the number of PEAK jobs, including projected PEAK jobs' median wage;

(4) the quarterly and annual reporting requirements;

(5) the agreement date;

(6) the county median wage for the business facility on the date the application is received by the department;

(7) an acknowledgement that the qualified company is ineligible to participate in other economic programs as listed in the act;

(8) the terms of default and conditions of repayment;

(9) a condition that the qualified company has one year from the agreement date to establish in writing an effective date;

(10) a condition that the qualified company shall satisfy program eligibility requirements and pay an average annual PEAK jobs' median wage greater than the county median wage in order to remain eligible for program benefits;

(11) a condition that the qualified company has two years from the agreement date to fill the minimum number of PEAK jobs necessary for program eligibility;

(12) a condition that the benefit period may be extended if the qualified company pays an average

annual PEAK jobs' median wage of at least 110 percent as compared to the county median wage on the agreement date for each year that the company is in the program; and

(13) an acknowledgement that the qualified company receiving high-impact benefits that fails to create 100 or more jobs within two years of the agreement date shall have its benefit period reduced accordingly. (Authorized by K.S.A. 2010 Supp. 74-5002r and K.S.A. 2010 Supp. 74-50,213; implementing K.S.A. 2010 Supp. 74-50,213; effective April 29, 2011.)

**110-21-5. Reporting requirements.** (a) Each qualified company shall file quarterly and annual reports for the term of the agreement. The quarterly reports shall be due within 30 days from the end of each calendar quarter following the effective date. One year after the effective date, the qualified company shall provide an annual report summarizing the quarterly report data. The annual report shall be due within 30 days of each subsequent effective date.

(b) Each quarterly report and each annual report shall include the following:

- (1) The company name, address, and federal employer identification number;
- (2) the PEAK agreement number;
- (3) the effective date;
- (4) the reporting period; and
- (5) the PEAK jobs' median wage for the period.

(c) Each quarterly report shall include the following for each employee:

- (1) The job title;
- (2) the employee's name;
- (3) the last four digits of the social security number or position number;
- (4) the date hired in Kansas and, if applicable, the date terminated;
- (5) the wages paid per hour;
- (6) the number of hours worked per week; and
- (7) the total wages for the quarter.

(d) Each quarterly report shall include the following for all PEAK jobs:

- (1) The individual amount of payroll withholding tax retained and the amount remitted to the department of revenue for each PEAK job;
- (2) the total amount of payroll withholding tax retained and remitted to department of revenue for all PEAK jobs during the period; and
- (3) any other relevant information as deemed necessary by the secretary, including the following:

(A) A copy of the qualified company's Kansas department of labor quarterly wage report and unemployment return, form K-CNS 100, for the period; and

(B) a copy of the qualified company's department of revenue monthly Kansas withholding tax deposit reports, form KW-5, for the period.

(e) Each annual report shall include the following:

- (1) Total wages of PEAK jobs and PEAK-eligible jobs;
- (2) the annual average number of PEAK jobs and how many of those jobs are PEAK-eligible jobs;
- (3) the total payroll withholding taxes remitted to the department of revenue for the PEAK jobs and a separate total of five percent remitted for PEAK-eligible jobs;
- (4) the total PEAK benefits for PEAK-eligible jobs for the period;
- (5) the total capital investment for the period;
- (6) the qualified company's certification that it continues to meet program eligibility requirements, including supplying requested documentation; and
- (7) a copy of the company's department of revenue annual withholding tax deposit report, KW-3 form, as filed during the period. (Authorized by K.S.A. 2010 Supp. 74-5002r and K.S.A. 2010 Supp. 74-50,213; implementing K.S.A. 2010 Supp. 74-50,213; effective April 29, 2011.)

## **Article 22.—STUDENT LOAN REPAYMENT PROGRAM**

**110-22-1. Definitions.** As used in these regulations and for purposes of administering the act, the following terms shall have the meanings specified in this regulation: (a) "Act" means the rural opportunity zone act, L. 2011, ch. 22 and amendments thereto.

(b) "County" means a county listed as a "rural opportunity zone" in L. 2011, ch. 22, sec. 1(b), and amendments thereto.

(c) "Department" means the Kansas department of commerce.

(d) "Domicile" means the physical location where an individual intends to permanently reside. The following factors may be considered in determining whether or not an individual meets the eligibility requirements of the act, although none of these factors by itself shall be a determinant of domicile:

(1) Acceptance or an offer of permanent employment;

(2) admission to a licensed practicing profession in Kansas;

(3) registration of a vehicle in a county designated by the act;

(4) the location at which the individual votes or is registered to vote;

(5) a Kansas driver's license; and

(6) lease of living quarters or ownership of a home in a county designated by the act.

(e) "Eligible participant" means an individual who has met all eligibility requirements of the act.

(f) "Participating county" means a county, as defined in this regulation, that has enacted a resolution to participate in the student loan repayment program as specified in L. 2011, ch. 22, sec. 3, and amendments thereto.

(g) "Student loan repayment program" means the program specified in L. 2011, ch. 22, sec. 3, and amendments thereto. (Authorized by L. 2011, ch. 22, sec. 3 and K.S.A. 2010 Supp. 74-5002r; implementing L. 2011, ch. 22, secs. 1 and 3; effective, T-110-7-5-11, July 5, 2011; effective Oct. 28, 2011.)

**110-22-2. Application for student loan repayment program.** (a) Each applicant shall submit the application and any supporting documentation to the secretary to determine eligibility for the student loan repayment program.

(b) Each application shall contain the following for each applicant:

(1) Name;

(2) telephone and electronic mail address;

(3) current address and, if different, intended address;

(4) social security number;

(5) county of current residence or future intended domicile;

(6) list of all addresses where the applicant has resided during the five years immediately preceding the date of application;

(7) list of previous employers' names and addresses for the five years immediately preceding the date of application;

(8) prospective employer's name, address, and county;

(9) if applicable, proof of degree earned;

(10) anticipated date for moving to the county;

(11) a short description of why the individual intends to move to the county;

(12) if applicable, proof of a Kansas professional license;

(13) if applicable, the balance of each student loan on the date of submission of the application and the name and address of each loan institution; and

(14) any other relevant information that the secretary deems necessary.

(c) Notification that the applicant has applied for the student loan repayment program shall be electronically forwarded by the department to the county designated in that application.

(d) The county may, within 15 days of the department's electronic notification, provide any supplementary information regarding the applicant to the department for consideration. (Authorized by L. 2011, ch. 22, sec. 3 and K.S.A. 2010 Supp. 74-5002r; implementing L. 2011, ch. 22, sec. 3; effective, T-110-7-5-11, July 5, 2011; effective Oct. 28, 2011.)

**110-22-3. Determination of eligibility.** (a)

A preliminary determination of whether each applicant is eligible to participate in student loan repayment program shall be made by the secretary.

(b) For each preliminary determination of eligibility, the applicant and the county shall be notified by the department.

(c) If the applicant is initially approved as eligible, the applicant and the county shall be provided by the secretary with a preliminary determination setting forth the conditions for final program eligibility.

(d) Final program eligibility shall be conditioned upon applicant's submission of all requested documentation to the department, including the following:

(1) Student loan documents;

(2) transcript for an associate, bachelor's, or postgraduate degree; and

(3) proof of having established domicile in the participating county.

(e) If the applicant meets the requirements for preliminary determination, a determination of final eligibility for the resident individual to participate in the student loan repayment program shall be issued by the secretary.

(f) Any applicant or county may appeal a preliminary or final determination of eligibility by the secretary as specified in these regulations. (Authorized by L. 2011, ch. 22, sec. 3 and K.S.A. 2010 Supp. 74-5002r; implementing L. 2011, ch. 22, sec. 3; effective, T-110-7-5-11, July 5, 2011; effective Oct. 28, 2011.)

**110-22-4. Appeal process.** (a) If an application for preliminary determination is not approved or if final eligibility determination is denied, each reason for the denial shall be provided in writing to the applicant by the secretary. The applicant may ask for reconsideration of either the preliminary determination or final eligibility determination within 30 calendar days after the date of the decision. If the applicant does not ask for reconsideration within 30 calendar days of the date of the decision, the decision shall become a final agency action. The county shall be notified of any application denied by the secretary.

(b) The county may ask for reconsideration of the decision of the secretary within 30 calendar days after the date of either the preliminary determination or final eligibility determination. If the county does not ask for reconsideration within 30 calendar days of the date of the secretary's decision, the decision shall become a final agency action. (c) Each decision on reconsideration shall be the final agency action and shall be subject to review under the Kansas judicial review act, K.S.A. 77-601 et seq. and amendments thereto. (Authorized by L. 2011, ch. 22, sec. 3 and K.S.A. 2010 Supp. 74-5002r; implementing L. 2011, ch. 22, sec. 3; effective, T-110-7-5-11, July 5, 2011; effective Oct. 28, 2011.)

**110-22-5. Resolution by county; intent to participate in student loan repayment program.** (a) As required by the act, each county intending to participate in the student loan repayment program shall provide the department with a copy of the county resolution. The county resolution shall contain the following statements:

(1) The county is listed as a rural opportunity zone, as defined by L. 2011, ch. 22, sec. 1 and amendments thereto.

(2) The county is obligated to participate in the student loan repayment program for an enrollment period of five years.

(3) The county obligation to each eligible participant is for a repayment period of five years.

(4) The county agrees to pay, with the state of Kansas, equal shares of the outstanding student loan balance of any eligible participant.

(5) The student loan balance for each eligible participant, in an amount not to exceed \$15,000, will be repaid jointly by the county and the state of Kansas for a period of five years.

(6) The county will allocate monies for the purpose of matching payments from the state of Kansas to eligible participants.

(7) The county will revise its student loan repayment budget on an annual basis and inform the department of any changes to the annual allocation.

(b) Each resolution shall be published once in the official county newspaper and shall be in effect from the date of its publication. (Authorized by L. 2011, ch. 22, sec. 3 and K.S.A. 2010 Supp. 74-5002r; implementing L. 2011, ch. 22, sec. 3; effective, T-110-7-5-11, July 5, 2011; effective Oct. 28, 2011.)

**110-22-6. Repayment of outstanding student loan balance.** (a) Each participating county shall transmit funds to the department for repayment of the student loan within 30 calendar days after the end of each calendar year. Each participating county and each eligible participant shall be notified by the department of receipt of the funds.

(b) The following shall be performed by the department:

(1) Transmission of the state funds and participating county funds to the lending institution for repayment of each eligible participant's student loan;

(2) payment to the lending institution of the student loan repayment funds, which shall be within 30 calendar days of receipt of funds from the participating county; and

(3) notification to each participating county and eligible participant of the transmitted student loan payment.

(c) Repayment of student loan funds may be made directly to the eligible participant if both of the following conditions are met:

(1) The student loan has been paid in full during the preceding 12 months.

(2) The eligible participant has no other student loan debt. (Authorized by L. 2011, ch. 22, sec. 3 and K.S.A. 2010 Supp. 74-5002r; implementing L. 2011, ch. 22, sec. 3; effective Oct. 28, 2011.)



## Agency 112

# Kansas Racing and Gaming Commission

### Articles

- 112-12. KANSAS HORSE BREEDING DEVELOPMENT FUND.
- 112-13. KANSAS WHELPED PROGRAM.
- 112-100. GENERAL PROVISIONS AND DEFINITIONS.
- 112-101. FACILITY MANAGER CERTIFICATION.
- 112-102. GAMING SUPPLIER AND NON-GAMING SUPPLIER CERTIFICATION.
- 112-103. EMPLOYEE LICENSING.
- 112-104. MINIMUM INTERNAL CONTROL SYSTEM.
- 112-105. SECURITY.
- 112-106. SURVEILLANCE.
- 112-107. ELECTRONIC GAMING MACHINES.
- 112-108. TABLE GAMES.
- 112-110. TECHNICAL STANDARDS.
- 112-111. INVOLUNTARY EXCLUSIONS.
- 112-112. RESPONSIBLE GAMBLING.
- 112-113. SANCTIONS.
- 112-114. RULES OF HEARINGS.

### **Article 12.—KANSAS HORSE BREEDING DEVELOPMENT FUND**

**112-12-15. Live horse racing purse supplement fund.** (a) The balance of the money credited to the live horse racing purse supplement fund that is subject to distribution pursuant to K.S.A. 74-8767(a)(3), and amendments thereto, shall be apportioned by the commission to purses for the various horse breeds according to the following formula:

(1) One-third based on the average percentage of each breed's Kansas-bred horse starters at Kansas racetracks for the previous three calendar years;

(2) one-third based on the average percentage of each breed's Kansas-certified horses for the previous three calendar years; and

(3) one-third based on average percentage of each breed's non-Kansas-bred starters at Kansas racetracks for the previous three calendar years.

(b) The official registering agency pursuant to K.S.A. 74-8830, and amendments thereto, shall submit a recommendation to the commission for approval of the amount of all proposed payments pursuant to K.S.A. 74-8767(a)(3), and amendments thereto, based on the contribution to the Kansas horse racing and breeding industries and recommendations by each respective breed

group. The commission's staff may also submit a recommendation to the commission under this subsection.

(c) The proposed amount of the distribution shall be submitted to the commission for approval no later than March 1 of each distribution year. (Authorized by and implementing K.S.A. 2008 Supp. 74-8767 and 74-8830; effective June 12, 2009.)

### **Article 13.—KANSAS WHELPED PROGRAM**

**112-13-6. Kansas greyhound breeding development fund.** (a) The balance of the money credited to the live greyhound racing purse supplement fund under K.S.A. 74-8747(a)(3), and amendments thereto, shall be apportioned as follows, unless otherwise specified:

(1) 80 percent to the Kansas-bred purse supplements to be paid monthly to owners of Kansas-bred greyhounds, with the registering agency specifying the following:

(A) A procedure for calculating purse supplement payments to owners of Kansas-bred greyhounds on a point basis, as specified in K.A.R. 112-13-5(c), ensuring that payments will be made each month during a fiscal year; and

(B) a procedure for issuing Kansas-bred purse supplements on a monthly basis; and

(2) 20 percent to supplement stakes races at all Kansas racetrack facilities offering greyhound races and to create special stakes races designed to promote and develop the Kansas greyhound industry, with the registering agency specifying the following:

(A) A procedure for the distribution of funds to supplement stakes races at all Kansas racetrack facilities offering greyhound racing; and

(B) a procedure for the administration of special stakes races created to promote and develop the Kansas greyhound industry, including plans for promotion and operation of the races in a manner that includes opportunities for the participation of all racetrack facilities in Kansas.

(b) The official greyhound breed registering agency shall submit the amount of all proposed payments specified in subsection (a) to the commission for approval.

(c) The proposed amount of the distribution shall be submitted to the commission for approval no later than March 1 of each distribution year based on the recommendations of the registering agency. (Authorized by K.S.A. 2007 Supp. 74-8767; implementing K.S.A. 2007 Supp. 74-8767(b) and 74-8831; effective April 17, 2009.)

#### **Article 100.—GENERAL PROVISIONS AND DEFINITIONS**

**112-100-2. Duty to disclose material and complete information.** (a) An applicant for a certificate, certificate renewal, license, or license renewal shall not provide false information on any application form or to commission staff.

(b) Each applicant for a certificate, certificate renewal, license, or license renewal shall disclose any material fact required on any application form.

(c) Unless otherwise provided in these regulations, each applicant for a certificate, certificate renewal, license, or license renewal and each holder of one of those documents shall report any change in the application or renewal information. The applicant or holder shall notify the commission in writing within 11 days of each change.

(d) Each licensee and each certificate holder shall report any suspected illegal activity or regulatory violations that impact Kansas to the commission security staff within 24 hours of becoming aware of the matter. (Authorized by and imple-

menting K.S.A. 2010 Supp. 74-8751 and 74-8772; effective Sept. 26, 2008; amended Dec. 9, 2011.)

#### **Article 101.—FACILITY MANAGER CERTIFICATION**

**112-101-1. Prohibition against uncertified management of a gaming facility.** No person may manage a gaming facility unless that person is a lottery gaming facility manager or racetrack gaming facility manager certified by the commission with a current facility manager's certificate. (Authorized by K.S.A. 2007 Supp. 74-8751 and 74-8772; implementing K.S.A. 2007 Supp. 74-8751; effective April 17, 2009.)

**112-101-2. Facility manager application procedure.** Each lottery gaming facility manager and each racetrack gaming facility manager that seeks to be certified as a facility manager shall submit the following to the commission staff:

(a) A completed application for the certificate on a commission-approved form;

(b) any supporting documents;

(c) all plans required by these regulations, including the internal controls system plan, surveillance system plan, security plan, responsible gaming plan, and, if applicable, the plan for compliance with the requirements for live racing and purse supplements established pursuant to the act;

(d) a background investigation deposit as specified in K.A.R. 112-101-5;

(e) prospective financial statements, including a one-year forecast and a three-year projection, that have been audited by an independent certified public accountant or independent registered certified public accounting firm as to whether the prospective financial information is properly prepared on the basis of the assumptions and is presented in accordance with the relevant financial reporting framework; and

(f) any other information that the commission deems necessary for investigating or certifying the applicant and its officers, directors, and key employees and any persons directly or indirectly owning an interest of at least 0.5% in the applicant. (Authorized by K.S.A. 2007 Supp. 74-8751 and 74-8772; implementing K.S.A. 2007 Supp. 74-8734, 74-8741, 74-8751 and 74-8772; effective April 17, 2009.)

**112-101-3. Background investigations.** (a) Each applicant for a facility manager's certificate and each person whom the executive direc-

tor deems to have a material relationship to the applicant, including the applicant's officers, directors, and key gaming employees and any persons known to directly or indirectly own an interest of at least 0.5% in the applicant, shall submit to a background investigation conducted by the commission's director of security or other person designated by the executive director. For purposes of this regulation, a material relationship shall mean a relationship in which the person has an influence on the applicant or facility manager or its business and shall be determined according to the criteria in paragraphs (b)(1) through (3).

(b) In determining the level of background investigation that a person shall undergo, all relevant information, including the following, may be considered by the executive director:

- (1) The person's relationship to the applicant;
- (2) the person's interest in the management of the applicant;
- (3) the person's participation with the applicant;
- (4) if applicable, identification of the person as a shareholder in a publicly traded company; and
- (5) the extent to which the person has been investigated in another jurisdiction or by other governmental agencies.

(c) Each person subject to a background investigation shall submit a complete personal disclosure to the commission on a commission-approved form and shall submit any supporting documentation that the commission staff requests.

(d) Each person that is subject to investigation shall have a duty to fully cooperate with the commission during any investigation and to provide any information that the commission requests. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective April 17, 2009.)

**112-101-4. Affirmative duty to demonstrate qualifications.** Each applicant for a facility manager's certificate shall have an affirmative duty to the commission to demonstrate that the applicant, including the applicant's directors, officers, owners, and key employees, is qualified for certification. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective April 17, 2009.)

**112-101-5. Fees and costs.** (a) Each applicant for a facility manager's certificate and each applicant for a certificate as a racetrack gaming facility manager shall provide a background inves-

tigation deposit to the commission. That deposit shall be assessed for all fees and costs incurred by the commission in performing the background investigation of the applicant, its officers, directors, and key gaming employees, any persons known to directly or indirectly own an interest of at least 0.5% in the applicant, and any other person as the executive director deems necessary, including any person specified in article 102 or 103.

(b) Any facility manager that wishes to renew its certificate may be required to provide a background investigation deposit. The facility manager shall be assessed for all fees and costs incurred by the commission in performing the background investigation of the applicant, its officers, directors, and key gaming employees, any persons known to directly or indirectly own an interest of at least 0.5% in the applicant, and any other person as the executive director deems necessary, including any person specified in article 102 or 103.

(c) All fees paid to the commission shall be non-refundable. (Authorized by K.S.A. 2007 Supp. 74-8751 and 74-8772; implementing K.S.A. 2007 Supp. 74-8734, 74-8741, 74-8751, and 74-8772; effective April 17, 2009.)

**112-101-6. Disqualification criteria.** (a) A facility manager's certificate shall be denied or revoked by the commission if the applicant or certificate holder itself has been convicted of any felony, crime involving gambling, or crime of moral turpitude.

(b) A certificate may be denied, suspended, or revoked by the commission, and a certificate holder may be otherwise sanctioned by the commission as specified in K.A.R. 112-113-1 if the certificate holder or its officers, directors, key gaming employees, or any person directly or indirectly owning an interest of at least 0.5% in the applicant meets any of the following conditions:

(1) Has any employees who have knowingly or negligently provided false or misleading material information to the commission or its staff;

(2) fails to notify the commission staff about a material change in the applicant's or certificate holder's application within seven days;

(3) is delinquent in paying for the cost of regulation, oversight, or background investigations required under the act or any regulations adopted under the act;

(4) has violated any provision of the act or any regulation adopted under the act;

(5) has failed to meet any monetary or tax obligation to the federal government or to any state or local government;

(6) is financially delinquent to any third party;

(7) has failed to provide information or documentation requested in writing by the commission in a timely manner;

(8) does not consent to or cooperate with investigations, inspections, searches, or having photographs and fingerprints taken for investigative purposes;

(9) has failed to meet the requirements of K.A.R. 112-101-4;

(10) has officers, directors, key gaming employees, or persons directly or indirectly owning an interest of at least 0.5% that have any present or prior activities, criminal records, reputation, habits, or associations meeting either of the following criteria:

(A) Pose a threat to the public interest or to the effective regulation of gaming; or

(B) create or enhance the dangers of unfair or illegal practices in the conduct of gaming; or

(11) has violated any contract provision with the Kansas lottery. (Authorized by and implementing K.S.A. 2009 Supp. 74-8751 and 74-8772; effective April 17, 2009; amended April 1, 2011.)

**112-101-7. Certificate duration.** Each certificate for a gaming manager shall be issued by the commission for no longer than two years and one month. Each certificate shall expire on the last day of the month of the anniversary date of issue. (Authorized by K.S.A. 2007 Supp. 74-8751 and 74-8772; implementing K.S.A. 2007 Supp. 74-8751; effective April 17, 2009.)

**112-101-8. Certificate renewal.** (a) Each renewal application for a facility manager's certificate shall be submitted to the commission staff at least 120 days before the expiration of the current certificate. Each certificate holder shall submit the renewal application on a commission-approved form along with any supporting documents.

(b) Each person seeking to renew its gaming certificate shall be required to meet all requirements for an initial gaming certificate.

(c) An applicant's timely submission of a renewal application shall suspend the expiration of the certificate until the commission has taken action on the application. This suspended expiration shall not exceed six months. (Authorized by K.S.A. 2010 Supp. 74-8751 and 74-8772; implementing

K.S.A. 2010 Supp. 74-8751; effective April 17, 2009; amended Dec. 9, 2011.)

**112-101-9. Notice of anticipated or actual change.** (a) Each facility manager or applicant shall notify the commission in writing of any reasonably anticipated or actual change in its directors, officers, or key employees or persons directly or indirectly owning an interest of at least 0.5% in the facility manager or applicant.

(b) Each new director, officer, key employee, or person directly or indirectly owning an interest of at least 0.5% in the facility manager shall submit to a background investigation as specified in K.A.R. 112-101-3 before acting in the person's new capacity.

(c) Failure to comply with this regulation may result in a sanction as specified in K.A.R. 112-113-1. (Authorized by K.S.A. 2007 Supp. 74-8751 and 74-8772; implementing K.S.A. 2007 Supp. 74-8751; effective April 17, 2009.)

**112-101-10. Advertising; promotion of responsible gaming.** (a) As used in this regulation, the term "advertisement" shall mean any notice or communication to the public of any information concerning the gaming-related business of an applicant or facility manager through broadcasting, publication or any other means of dissemination. The following notices and communications shall be considered advertisements for purposes of this regulation:

(1) Any sign, notice, or other information required to be provided by the act or by regulation, including the following:

(A) Notices regarding the rules of the games;

(B) information about rules of the games, pay-offs of winning wagers, and odds;

(C) gaming guides;

(D) information imprinted upon gaming table layouts; and

(E) information imprinted, affixed, or engraved on slot machines or bill changers;

(2) any signs or other directional devices contained in a gaming facility for the purpose of identifying the location of authorized games; and

(3) press releases.

(b) Each facility manager and each applicant shall provide to the executive director any proposed advertisement that references the Kansas lottery at least seven business days in advance of its anticipated publication, broadcast, or other use. The advertisement may be inspected and ap-

proved by the executive director before its publication, broadcast, or use.

(c) Advertisements shall be based on fact and shall not be false, deceptive, or misleading. No advertisement may use any type, size, location, lighting, illustration, graphic depiction, or color resulting in the obscuring of any material fact or fail to specifically designate any material conditions or limiting factors. Each advertisement that the executive director finds to reflect negatively on the state of Kansas or upon the integrity of gaming shall be deemed to be in violation of this regulation, and the facility manager or applicant may be subject to sanction.

(d) Each applicant or facility manager shall be responsible for all advertisements that are made by its employees or agents regardless of whether the applicant or facility manager participated directly in its preparation, placement, or dissemination.

(e) Each on-site advertisement of a facility manager's business shall comply with the facility manager's responsible gaming plan that has been approved by the commission pursuant to article 112. Each advertisement shall reference the Kansas toll-free problem gambling help line in a manner approved by the executive director.

(f) Each applicant and each facility manager shall submit all proposed text and planned signage informing patrons of the toll-free number regarding compulsive or problem gambling to the executive director with its responsible gaming plan required in article 112.

(g) Each advertisement shall be maintained by the facility manager or applicant for at least one year from the date of broadcast, publication, or use, whether that advertisement was placed by, for, or on behalf of the facility manager or applicant. Each advertisement required to be maintained by this subsection shall be maintained at the principal place of business of the facility manager or applicant and shall be made available or produced for inspection upon the request of the commission.

(h) Each gaming facility manager and each applicant shall maintain a file containing samples of the types and forms of promotional materials not directly related to gaming activity for at least six months from the date of placement of the promotional materials. The promotional materials shall be maintained at the principal place of business of the facility manager or applicant and shall be made available or produced for inspection upon the request of the executive director. (Authorized

by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8752 and 74-8772; effective April 17, 2009.)

**112-101-11. Material debt transaction.**

(a)(1) No facility manager shall consummate a material debt transaction that involves either of the following without the prior approval of the commission:

(A) Any agreement that provides for any borrowing for a purpose other than capital and maintenance expenditures; or

(B) a guarantee of debt of an affiliate, whether signing a note or otherwise, an assumption of the debt of an affiliate, or an agreement to impose a lien on the approved gaming facility to secure the debts of an affiliate.

(2) A transaction not specified in this subsection shall not require the approval of the commission.

(b) In reviewing any material debt transaction specified in paragraph (a)(1), whether the transaction would deprive the facility manager of financial stability shall be considered by the commission, taking into account the financial condition of the affiliate and the potential impact of any default on the gaming facility manager. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective April 17, 2009.)

**112-101-12. Notice of bankruptcy or liquidation.** Each facility manager shall notify the commission within one hour following the filing of bankruptcy or an agreement to liquidate any of the following:

(a) The facility manager;

(b) any parent company of the facility manager; or

(c) any subsidiary of the facility manager's parent company. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective April 17, 2009.)

**112-101-13. Access to gaming facility and information.** (a) Each applicant and each facility manager, including their intermediary companies and holding companies, shall consent to inspections of the gaming facility by commission staff.

(b) Each applicant and each facility manager shall provide all information requested by the commission. The access to information shall be granted upon the commission's request. The applicant or facility manager shall deliver any requested copies of the information within seven

calendar days, at the commission's request. (Authorized by K.S.A. 2008 Supp. 74-8772; implementing K.S.A. 2008 Supp. 74-8752 and 74-8772; effective April 17, 2009.)

**112-101-14. Certification of employees.**

(a) Each employee, contractor, and agent of an applicant or facility manager shall be certified by the commission with a current occupation license before performing any tasks or duties or assuming any responsibilities for matters regulated by the commission for the applicant or facility manager pursuant to article 103.

(b) Each applicant and each facility manager shall coordinate the submission of all occupation license applications and background costs and expenses to the commission. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective April 17, 2009.)

**112-101-15. Reporting requirements.**

(a) Each facility manager shall submit a monthly report to the commission listing all contracts the facility manager has had with gaming and non-gaming suppliers for the previous month and cumulatively for the past 12 months.

(b) Each facility manager shall submit a monthly report to the commission listing all persons working in the gaming facility and any ancillary facilities and each person's department, job duty, and function.

(c) At the end of its tax year, each facility manager shall submit to the commission a copy of its certified financial statements, along with an opinion from a certified public accountant or independent registered certified public accounting firm certifying the total revenue from all lottery facility games.

(d) Each facility manager and each applicant for a gaming certificate shall disclose in writing within 11 days any material change in any information provided in the application forms and requested materials submitted to the commission. Each change in information that is not material shall be disclosed to the commission during the facility manager's subsequent application for renewal. For the purpose of this regulation, a change shall be deemed material if the change includes any of the following:

(1) The personal identification or residence information;

(2) the officers, directors, or key employees or any persons owning an interest of at least 0.5% in

a lottery gaming facility or racetrack gaming facility manager; or

(3) other information that might affect an applicant's or facility manager's suitability to hold a gaming certificate, including any of the following occurrences that happen to the applicant, facility manager, or its material people as determined by the executive director pursuant to K.A.R. 112-101-3:

(A) Arrests;

(B) convictions or guilty pleas;

(C) disciplinary actions or license denials in other jurisdictions;

(D) significant changes in financial condition, including any incurrence of debt equal to or exceeding \$1,000,000; or

(E) relationships or associations with persons having criminal records or criminal reputations. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective April 17, 2009.)

**112-101-16. Prohibitions.** Each facility manager shall be prohibited from and subject to sanctions as specified in K.A.R. 112-113-1 for the following:

(a) Failing to exercise discretion and judgment to prevent any incident that might adversely reflect on the reputation of the state of Kansas or act as a detriment to the development of the lottery industry, including allowing lewd entertainment at a gaming facility;

(b) failing to conduct advertising and public relations activities in accordance with honest and fair representation;

(c) knowingly or negligently catering to, assisting, employing, or associating with, either socially or in business affairs, persons who have a criminal reputation or who have felony police records, or employing either directly through a contract or other means, any firm or individual in any capacity in which the reputability of the state of Kansas or the lottery industry is liable to be damaged because of the unsuitability of the firm or the individual;

(d) failing to conduct gaming in accordance with the act and these regulations or permitting conduct that could reflect negatively on the reputation of the state of Kansas or act as a detriment to the lottery industry;

(e) failing to report to the commission any known or suspected violations of commission regulations and applicable law;

(f) failing to comply with any regulation or order of the commission or its employees relating to gaming; and

(g) receiving goods or services from a person or business that does not hold a certificate under article 103 but is required to do so. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective April 17, 2009.)

**Article 102.—GAMING SUPPLIER  
AND NON-GAMING SUPPLIER  
CERTIFICATION**

**112-102-1. Prohibition against un-certified business.** No person identified in K.A.R. 112-102-2 as a gaming or non-gaming supplier may provide any equipment or services to a gaming facility or manager unless the person is certified by the commission with a current gaming supplier certificate, non-gaming supplier certificate, or temporary supplier permit. (Authorized by and implementing K.S.A. 2008 Supp. 74-8751 and 74-8772; effective Aug. 14, 2009.)

**112-102-2. Gaming supplier and non-gaming supplier defined.** (a) Each person that performs one or more of the following shall be considered a gaming supplier:

(1) Manufactures, sells, leases, supplies, or distributes devices, machines, equipment, accessories, or items that meet at least one of the following conditions:

- (A) Are designed for use in a gaming facility;
  - (B) are needed to carry out a lottery facility game;
  - (C) have the capacity to affect the result of the play of a lottery facility game; or
  - (D) have the capacity to affect the calculation, storage, collection, or control of the revenues from a gaming facility;
- (2) provides maintenance services or repairs gaming equipment, including slot machines;
- (3) provides services directly related to the management or administration of a gaming facility;
- (4) provides junket services; or
- (5) provides items or services that the commission has determined are used in or are incidental to gaming or to an activity of a gaming facility.

(b)(1) Any person that is not a gaming supplier but otherwise meets one or more of the following may be considered a non-gaming supplier:

- (A) Acts as a manager of an ancillary lottery gaming facility;
- (B) is not a public utility and provides goods or services to a facility manager or ancillary lottery

gaming facility in an amount of \$250,000 or more within a one-year period; or

(C) provides goods or services to a gaming facility and could present a security, integrity, or safety concern to the gaming operations as determined by the executive director.

(2) A person that is any of following shall not be considered a non-gaming supplier:

(A) Regulated insurance company providing insurance to a facility manager, an ancillary lottery gaming facility, or the employees of either;

(B) employee benefit or retirement plan provider, including the administrator;

(C) regulated bank or savings and loan association that provides financing to a facility manager or ancillary lottery gaming facility; or

(D) professional service provider, including an accountant, architect, attorney, and engineer. (Authorized by and implementing K.S.A. 2015 Supp. 74-8751 and 74-8772; effective Aug. 14, 2009; amended Dec. 9, 2011; amended July 15, 2016.)

**112-102-3. Gaming and non-gaming supplier employees.** Any employee or agent of a gaming or non-gaming supplier may be required by the commission to be separately investigated or licensed. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Aug. 14, 2009.)

**112-102-4. Application for a certificate.** Each person that does not qualify for reciprocal certification under K.S.A. 74-8751(b), and amendments thereto, and any directives of the executive director and is seeking a gaming supplier certificate or a non-gaming supplier certificate shall submit the following to the commission staff:

(a) A completed application for the certificate on a commission-approved form;

(b) any supporting documents;

(c) a copy of the applicant's contractual agreement or statement of intent with a facility manager that the applicant expects to be supplying its goods or services. As a part of that contract or statement of intent, the applicant shall describe any arrangement it has made with the facility manager to cover the fees and costs incurred by the commission in performing the background investigation of the applicant pursuant to K.A.R. 112-102-7; and

(d) any other information that the commission deems necessary for investigating or considering the applicant. (Authorized by and implementing K.S.A. 2008 Supp. 74-8751; effective Aug. 14, 2009.)

**112-102-5. Temporary supplier permit.**

(a) The commission staff may issue a temporary supplier permit if all of the following conditions are met:

(1) The commission staff determines that the applicant has filed a completed application for a gaming or non-gaming supplier certificate.

(2) The applicant has no immediately known present or prior activities, criminal records, reputation, habits, or associations that meet either of these conditions:

(A) Pose a threat to the public interest or to the effective regulation of gaming; or

(B) create or enhance the dangers of unfair or illegal practices in the conduct of gaming.

(3) The applicant has completed a supplier-sponsored agreement with each gaming facility that the applicant proposes to conduct business with.

(b) A temporary supplier permit may be issued for a period not to exceed 90 days. Any temporary supplier permit may be extended by the commission's licensing staff for an additional 90 days.

(c) The issuance of a temporary supplier permit shall not extend the duration of the gaming or non-gaming supplier certificate for which the applicant has applied. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective Aug. 14, 2009.)

**112-102-6. Affirmative duty to demonstrate qualifications.** Each applicant for a certificate as a gaming supplier or non-gaming supplier shall have an affirmative duty to the commission to demonstrate that the applicant, including the applicant's directors, officers, stockholders, and principal employees and any persons deemed necessary by the executive director because of that person's relationship to the applicant, is qualified for certification. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective Aug. 14, 2009.)

**112-102-7. Background investigations.** (a) Each applicant and each person whom the executive director deems to have a material relationship to the applicant, including officers, directors, key gaming employees, and any persons known to directly or indirectly own an interest of at least 0.5% in the applicant, shall submit to a background investigation conducted by the commission's director of security or other person designated by the executive director.

For purposes of this regulation, a material relationship shall mean a relationship in which a person participates in the business decisions or finances of the applicant or can exhibit control over the applicant, as determined by the executive director.

(b) To determine the known owners as required in subsection (a), each applicant or certificate holder that is a publicly traded company or is owned by a publicly traded company shall rely on the publicly traded company's most recent annual certified shareholder list.

(c) Each applicant or certificate holder shall identify any passive investing company that owns between 0.5% and 10% as a candidate for completing a commission-approved institutional investor background form. (Authorized by and implementing K.S.A. 2008 Supp. 74-8751 and 74-8772; effective Aug. 14, 2009.)

**112-102-8. Disqualification criteria.** (a) A certificate shall be denied or revoked by the commission if the applicant or certificate holder has been convicted of any felony, crime involving gambling, or crime of moral turpitude.

(b) A certificate may be denied, suspended, or revoked by the commission, and a certificate holder may be sanctioned by the commission under K.A.R. 112-113-1 if the certificate holder or its officers, directors, key gaming employees, or any person known to directly or indirectly own an interest of at least 0.5% in the applicant meets any of the following conditions:

(1) Has knowingly provided false or misleading material information through its employees to the commission or commission staff;

(2) fails to notify the commission staff about a material change in the application within seven days;

(3) has violated any provision of the act or any regulation adopted under the act;

(4) has failed to meet any monetary or tax obligation to the federal government or to any state or local government;

(5) is financially delinquent to any third party;

(6) has failed to provide information or documentation requested in writing by the commission in a timely manner;

(7) does not consent to or cooperate with investigations, interviews, inspections, searches, or having photographs and fingerprints taken for investigative purposes;

(8) has failed to meet the requirements of K.A.R. 112-102-6;

(9) has any officers, directors, key gaming employees, or any person known to directly or indirectly own an interest of at least 0.5% in the applicant that has any present or prior activities, criminal records, reputation, habits, or associations meeting either of the following criteria:

(A) Pose a threat to the public interest or to the effective regulation of gaming; or

(B) create or enhance the dangers of unfair or illegal practices in the conduct of gaming; or

(10) has violated any contract with the Kansas lottery. (Authorized by and implementing K.S.A. 2009 Supp. 74-8751 and 74-8772; effective Aug. 14, 2009; amended April 1, 2011.)

**112-102-9. Certificate duration.** Each certificate for a gaming supplier or non-gaming supplier shall be issued by the commission for no longer than two years and one month. Each certificate shall expire on the last day of the month of the anniversary date of issue. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751; effective Aug. 14, 2009.)

**112-102-10. Certificate renewal application.** Each renewal application for a gaming or non-gaming supplier certificate shall be filed with the commission staff at least 120 days before the expiration date of the license. Each certificate holder shall submit the renewal application on a commission-approved form along with any supporting documents. An applicant's timely submission of a renewal application shall suspend the expiration of the certificate until the commission has taken action on the application. This suspended expiration shall not exceed six months. (Authorized by and implementing K.S.A. 2010 Supp. 74-8751; effective Aug. 14, 2009; amended Dec. 9, 2011.)

**112-102-11. Change in ownership.** (a) Each change in either of the following shall be sufficient cause for revoking any certificate or temporary permit granted by the commission:

(1) The ownership of the applicant or the holder of a gaming supplier or non-gaming supplier certificate; or

(2) the ownership of any holding or intermediary company of the applicant or certificate holder, unless the holding or intermediary company is a publicly traded corporation.

(b) Each proposed new owner shall submit to the commission an application for initial certification as a gaming supplier or non-gaming supplier

and all supporting material. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective Aug. 14, 2009.)

**112-102-12. Certificates, temporary supplier permits, and badges to be commission property.** (a) Each gaming supplier certificate, non-gaming supplier certificate, temporary supplier permit, and badge issued by the commission shall be the property of the commission.

(b) Possession of a certificate, temporary supplier permit, or badge shall not confer any right upon the certificate holder or temporary permittee to contract with or work for a gaming facility.

(c) Each certificate holder or temporary permittee shall return that person's certificate or temporary supplier permit and each badge in that person's possession to commission staff no later than one day after the certificate holder's or temporary supplier permit holder's business is terminated. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective Aug. 14, 2009.)

**112-102-13. Records.** (a) Each gaming supplier and each non-gaming supplier certified by the commission shall maintain that supplier's business records in a place secure against loss and destruction. Each certificate holder shall make these records available to the commission upon the commission's request. The records shall include the following:

(1) Any correspondence with the commission and any other governmental agencies;

(2) any correspondence related to the business with a gaming facility, whether proposed or existing;

(3) a copy of any publicity and promotional materials;

(4) the personnel files for every employee of the certified gaming supplier or non-gaming supplier, including sales representatives; and

(5) the financial records for all the transactions related to the certificate holder's business with a gaming facility, whether proposed or existing.

(b) Each certificate holder shall keep the records listed in subsection (a) for at least five years from the date of creation. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective Aug. 14, 2009.)

## Article 103.—EMPLOYEE LICENSING

**112-103-1. Prohibition of unlicensed employment with a facility manager.** No person may work as an employee or independent con-

tractor of a facility manager unless the person is certified to do so with a current occupation license or temporary work permit issued by the commission for the actual job, duty, or position that the person is seeking to perform. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective April 17, 2009.)

**112-103-2. License levels.** (a) Each of the following persons who will be employed by or working for a facility manager in a position that includes the responsibility or authority specified in this subsection, regardless of job title, shall be considered key employees and shall be required to hold a current and valid temporary work permit or level I occupation license issued in accordance with the act and these regulations:

(1) Any person who has authority to perform any of the following:

(A) Hire or fire employees of a facility manager;  
(B) establish working policies for a facility manager;

(C) act as the chief financial officer or have financial management responsibility for a facility manager;

(D) manage all or part of a gaming facility; or  
(E) direct, control, manage, or engage in discretionary decision making over a facility manager;

(2) any person who has the authority to develop or administer policy or long-term plans or to make discretionary decisions about the management of a gaming facility or ancillary lottery gaming facility, including any of the following persons:

(A) General manager or chief executive officer;  
(B) electronic gaming machine director;  
(C) director of surveillance;  
(D) director of security;  
(E) controller;  
(F) director of internal audit;

(G) manager of the management information systems section or of any information system of a similar nature;

(H) marketing department manager;  
(I) administrative operations manager;

(J) hotel general manager; or  
(K) restaurant or bar general manager; or

(3) any other person designated as a key employee by the executive director.

(b) Each person whose responsibilities predominantly involve the maintenance of gaming equipment or assets associated with gaming activities or whose responsibilities predominantly involve conducting gaming activities shall obtain

a temporary work permit or a level II occupation license. Each person who will be employed by or working for a facility manager in a position that includes any of the following responsibilities shall obtain a temporary work permit or a level II occupation license:

(1) Supervising the pit area;  
(2) functioning as a dealer or croupier;  
(3) conducting or supervising any table game;  
(4) repairing and maintaining gaming equipment, including slot machines and bill validators;  
(5) functioning as a gaming cashier or change person;

(6) assisting in the operation of electronic gaming machines and bill validators, including any person who participates in the payment of jackpots and in the process of filling hoppers, or supervising those persons;

(7) identifying patrons for the purpose of offering them complimentary, authorizing the complimentary, or determining the amount of complimentary;

(8) analyzing facility manager operations data and making recommendations to key personnel of the facility manager relating to facility manager marketing, complimentary, gaming, special events and player ratings, and other similar items;

(9) entering data into the gaming-related computer systems or developing, maintaining, installing, or operating gaming-related computer software systems;

(10) collecting and recording patron checks and personal checks that are dishonored and returned by a bank;

(11) developing marketing programs to promote gaming in the gaming facility;

(12) processing coins, currency, chips, or cash equivalents of the facility manager;

(13) controlling or maintaining the electronic gaming machine inventory, including replacement parts, equipment, and tools used to maintain electronic gaming machines;

(14) having responsibilities associated with the installation, maintenance, or operation of computer hardware for the facility manager computer system;

(15) providing surveillance in a gaming facility;

(16) providing security in a gaming facility;

(17) supervising areas, tasks, or staff within a gaming facility or ancillary lottery gaming facility operations; or

(18) any other person designated by the executive director.

(c) Each person who will be employed by or working for a facility manager or with an ancillary lottery gaming facility operator and who is not required under the act or these regulations to obtain a level I or level II occupation license shall obtain a temporary work permit or a level III occupation license. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective April 17, 2009; amended April 1, 2011.)

**112-103-3. Temporary work permit.** (a) The commission staff may issue a temporary work permit to an applicant if both of the following conditions are met:

(1) The commission staff determines that the applicant has filed a completed application for a level I, level II, or level III occupation license.

(2) The applicant has no immediately known present or prior activities, criminal records, reputation, habits, or associations that meet either of these conditions:

(A) Pose a threat to the public interest or to the effective regulation of gaming; or

(B) create or enhance the dangers of unfair or illegal practices in the conduct of gaming.

(b) A temporary work permit may be issued for an initial period not to exceed 90 days. Any temporary work permit may be extended by the commission's licensing staff for an additional 90 days.

(c) The issuance of a temporary work permit shall not extend the duration of the level I, level II, or level III license for which the applicant has applied. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective April 17, 2009.)

**112-103-4. Application for a license.** Each applicant for a level I, level II, or level III occupation license shall submit a completed application on a commission-approved form to the human resources department of the facility manager with which the applicant seeks employment. The human resources staff shall ensure the form's completeness and shall submit the form to the commission's licensing staff. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective April 17, 2009; amended April 1, 2011.)

**112-103-5. Applicant identification.** (a) Each applicant shall have the responsibility to provide identification when submitting an application by presenting one of the following:

(1) A current and valid state-issued driver's license that has a photograph of the applicant on the license;

(2) documentation for American citizens or persons born in the United States that includes one or more of the following:

(A) A certified United States birth certificate;

(B) a certified birth certificate from a United States territory;

(C) a current and valid United States passport or passport card;

(D) a current and valid United States military card;

(E) a certified order of adoption that is an original United States document;

(F) a certificate of naturalization with intact photo or a certificate of United States citizenship;

(G) a United States military common access card with photo, date of birth, and name and branch of service; or

(H) a United States government-issued consular report of birth abroad;

(3) documentation for persons not born in the United States or persons who are not American citizens that includes one or more of the following:

(A) A valid foreign passport with a form I-94 or valid "processed for I-551" stamp with a mandated departure date more than 60 days in the future. This shall exclude border-crossing cards;

(B) a form I-94 with refugee status;

(C) a valid form I-551 green card or alien registration; or

(D) a valid photo employment authorization issued by the United States department of justice; or

(4) documentation for proof of name change that includes one or more of the following:

(A) A certified United States marriage certificate indicating the city, county, and state where issued;

(B) a certified United States divorce decree containing an official signature;

(C) a certified United States court order of name change;

(D) a certified court order of adoption; or

(E) a marriage certificate from a foreign country. If the marriage certificate from a foreign county is not in English, the certificate shall be translated into English.

(b) The facility manager shall review the identification documents, ensure to the best of that person's ability the authenticity of the documents, and ensure that the applicant is legally in the United States.

(c) Each applicant shall have the responsibility to identify that person to the commission en-

forcement agents by submitting the applicable documents listed in this regulation, upon request. (Authorized by and implementing K.S.A. 2010 Supp. 74-8772; effective April 17, 2009; amended April 1, 2011.)

**112-103-6. Affirmative duty to demonstrate qualifications.** Each applicant for an occupation license shall have an affirmative duty to the commission to demonstrate that the applicant is qualified for licensure. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective April 17, 2009.)

**112-103-7. Background investigation.** Each applicant shall submit to a background investigation conducted by the commission's director of security or other person designated by the executive director. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective April 17, 2009.)

**112-103-8. Disqualification criteria for a level I, level II, or level III license.** (a) A level I license shall be denied or revoked by the commission if the applicant or licensee is or has been convicted of any felony, crime involving gambling, or crime of moral turpitude.

(b) Any license may be denied, suspended, or revoked by the commission, and any licensee may be sanctioned by the commission if the applicant or licensee meets any of the following conditions:

- (1) Has knowingly provided false or misleading material information to the commission or its staff;
- (2) fails to notify the commission staff about a material change in the applicant's or licensee's application within seven days;
- (3) has violated any provision of the act or any regulation adopted under the act;
- (4) is unqualified to perform the duties required;
- (5) has failed to meet any monetary or tax obligation to the federal government or to any state or local government;
- (6) is financially delinquent to any third party;
- (7) has failed to provide information or documentation requested in writing by the commission in a timely manner;
- (8) does not consent to or cooperate with investigations, interviews, inspections, searches, or having photographs and fingerprints taken for investigative purposes;
- (9) has failed to meet the requirements of K.A.R. 112-103-6; or

(10) has any present or prior activities, criminal records, reputation, habits, or associations that meet either of the following criteria:

- (A) Pose a threat to the public interest or to the effective regulation of gaming; or
- (B) create or enhance the dangers of unfair or illegal practices in the conduct of gaming. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective April 17, 2009; amended April 1, 2011.)

**112-103-9. Examinations.** (a) Any applicant for an occupation license may be required to demonstrate knowledge, qualifications, and proficiency related to the license for which application is made through an examination approved by the commission or its designee.

(b) Any applicant who fails the examination may be retested no earlier than 30 days following the first failure and no earlier than six months following the second failure. Each applicant failing the examination on the third attempt shall be ineligible to retake the examination for one year from the date of the third failure. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective April 17, 2009.)

**112-103-10. License duration.** Each occupation license shall be issued for a period of no longer than two years and one month. Each license shall expire on the last day of the month in which the licensee was born. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective April 17, 2009.)

**112-103-11. License renewal.** Each occupation licensee wanting to renew the license shall file an application for occupation license renewal with the commission staff. Each application shall be submitted on a form approved by the commission. The completed renewal application shall be filed with the commission staff at least 90 days before expiration of the license. An applicant's failure to timely file the renewal application may result in expiration of the license and an inability to work with or for the facility manager. An applicant's timely submission of a renewal application shall suspend the expiration of the license until the commission has taken action on the application. This suspended expiration shall not exceed six months. (Authorized by and implementing K.S.A. 2010 Supp. 74-8772; effective April 17, 2009; amended Dec. 9, 2011.)

**112-103-12. Reapplication after license denial or revocation.** A person who is denied licensure or whose license is revoked shall not reapply for the same or higher level of license for at least one year from the date of the denial or revocation. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective April 17, 2009.)

**112-103-15. License mobility; limitations.** (a) Any licensee may work in any other position at or below that license level. If a licensee changes positions for more than one shift in a seven-day period, the facility manager shall request approval from the commission's licensing staff about the change.

(b) If the commission's licensing staff determines that the person's license no longer reflects that person's actual position, the person shall be required to reapply for the appropriate occupation license.

(c) Each licensee who wants to work for a different lottery gaming facility shall request approval from the commission's licensing staff before commencing employment at the other lottery gaming facility. That employee shall submit an updated license application and a personal disclosure form. (Authorized by and implementing K.S.A. 2010 Supp. 74-8772; effective April 17, 2009; amended April 1, 2011.)

**112-103-16. Licenses, temporary work permits, and badges to be commission property.** (a) Each license, temporary work permit, and badge issued by the commission shall be the property of the commission.

(b) Possession of a license, temporary permit, or badge shall not confer any right upon the temporary permittee or licensee to employment with a facility manager.

(c) Each licensee or temporary permittee shall return the license or temporary work permit and each badge in that person's possession to commission staff within one day if the temporary permittee's or licensee's employment or contract is terminated. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective April 17, 2009.)

#### Article 104.—MINIMUM INTERNAL CONTROL SYSTEM

**112-104-1. Definitions; internal control system.** (a) The following words and terms, when used in this article, shall have the following meanings unless the context indicates otherwise:

(1) "Accounting department" means a facility manager's internal department that is responsible for the management of the financial and accounting activities relating to electronic gaming machines being utilized on an approved gaming floor.

(2) "Asset number" means a unique number assigned to an electronic gaming machine by a facility manager for the purpose of tracking the electronic gaming machine.

(3) "Bill validator" means an electronic device designed to interface with an electronic gaming machine for the purpose of accepting and validating any combination of United States currency, gaming tickets, coupons, or other instruments authorized by the commission for incrementing credits on an electronic gaming machine.

(4) "Bill validator canister" means a mechanical or electronic device designed to interface with an electronic gaming machine for the purpose of storing any combination of United States currency, gaming tickets, coupons, or other instruments authorized by the commission for recording credits on an electronic gaming machine.

(5) "Blind count" means the counting of currency or gaming chips by a person who does not know the inventory balance.

(6) "Cash equivalents" means instruments with a value equal to United States currency or coin, including certified checks, cashier's checks, traveler's checks, money orders, gaming tickets, and coupons.

(7) "Cashier's booth" means an area from which a cashier conducts transactions associated with gaming cashiers or window cashiers.

(8) "Change person" means a person who exchanges coins, currency, and coupons with patrons.

(9) "Complimentary" means any lodging, service, or item that is provided directly or indirectly to an individual at no cost or at a reduced cost and that is not generally available to the public. This term shall include lodging provided to a person at a reduced price due to the anticipated or actual gaming activities of that person. Group rates, including convention and government rates, shall be deemed generally available to the public.

(10) "Count room" means a room secured by keys controlled by two separate facility manager departments with limited access, where the contents, including currency, gaming tickets, and coupons, of bill validator canisters are counted by the count team.

(11) "Currency counters" means a device that counts currency and tickets.

(12) “Critical program storage media” and “CPSM” mean any media storage device that contains data, files, or programs and is determined by the commission to be capable of affecting the integrity of gaming.

(13) “Drop” means the total amount of money, tickets, and coupons removed from any lottery facility game or kiosk.

(14) “Drop team” means the group of employees of a facility manager who participate in the transportation of the drop.

(15) “EGM” means electronic gaming machine.

(16) “Gaming day” means a period not to exceed 24 hours corresponding to the beginning and ending times of gaming activities for the purpose of accounting reports and determination by the central computer system of net lottery facility game income.

(17) “Generally accepted accounting principles” and “GAAP” have the meaning specified in K.A.R. 74-5-2.

(18) “Imprest” means the basis on which the operating funds of general cashiers and gaming cashiers are maintained. The opening and closing values shall be equal, and any difference shall result in a variance. The funds may be replenished as needed in exactly the value of the net of expenditures made from the funds for value received.

(19) “Incompatible functions” means functions or duties that place a person or department in a position to perpetuate and conceal errors, fraudulent or otherwise.

(20) “LFG” means lottery facility game.

(21) “Main bank” means the central location in the gaming facility where acts that include the following are performed:

(A) Transactions for recording currency, coin, tokens, cash equivalents, and negotiable instruments;

(B) preparation of bank deposits;

(C) acceptance of currency from the count room; and

(D) reconciliation of all cage transactions.

(22) “Trolley” means a wheeled apparatus used for the secured transport of electronic gaming cash storage boxes and drop boxes.

(23) “Unclaimed winnings” means gaming winnings that are held by the facility manager as a liability to a patron until that patron is paid.

(24) “Unredeemed ticket” means a ticket issued from an LFG containing value in U.S. dollars that has not been presented for payment or accepted by a bill acceptor at a gaming machine and has not been marked as paid in the ticket file.

(25) “Weigh scale” means a scale that is used to weigh coins and tokens and that converts the weight to dollar values in the count process.

(b) Each applicant for a facility manager certificate shall submit to the commission and the Kansas lottery a written plan of the applicant’s initial system of administrative and accounting procedures, including its internal controls and audit protocols, at least 180 days before opening a gaming facility, unless the executive director finds good cause for a shorter deadline. This plan shall be called the internal control system and shall include the following:

(1) Organization charts depicting segregation of functions and responsibilities;

(2) a description of the duties and responsibilities of each licensed or permitted position shown on the organization charts and the lines of authority;

(3) a detailed narrative description of the administrative and accounting procedures designed to satisfy the requirements of this article;

(4) a record retention policy in accordance with K.A.R. 112-104-8;

(5) procedures to ensure that assets are safeguarded and counted in conformance with effective count procedures;

(6) the following controls and procedures:

(A) Administrative controls that include the procedures and records that relate to the decision making processes leading to management’s authorization of transactions;

(B) accounting controls that have as their primary objectives the safeguarding of assets and revenues and the reliability of financial records. The accounting controls shall be designed to provide reasonable assurance that all of the following conditions are met:

(i) The transactions or financial events that occur in the operation of an LFG are executed in accordance with management’s general and specific authorization;

(ii) the transactions or financial events that occur in the operation of an LFG are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles, the act, and this article;

(iii) the transactions or financial events that occur in the operation of an LFG are recorded in a manner that provides reliable records, accounts and reports, including the recording of cash and evidence of indebtedness, for use in the preparation of reports to the commission related to LFGs;

(iv) the transactions or financial events that occur in the operation of an LFG are recorded to permit proper and timely reporting and calculation of net LFG income and fees to maintain accountability for assets;

(v) access to assets is permitted only in accordance with management's general and specific authorization; and

(vi) the recorded accountability for assets is compared with existing physical assets at reasonable intervals, and appropriate action is taken with respect to any discrepancies;

(C) procedures and controls for ensuring that all functions, duties, and responsibilities are segregated and performed in accordance with legitimate financial practices by trained personnel;

(D) procedures and controls for ensuring all applicable technical standards as adopted by the commission under article 110 are followed;

(7) a completed internal control checklist; and

(8) any other items that the commission may require to be included in the internal controls.

(c) The internal control system shall be accompanied by the following:

(1) An attestation by the chief executive officer or other competent person with a direct reporting relationship to the chief executive officer attesting that the officer believes in good faith that the submitted internal controls conform to the requirements of the act and this article; and

(2) an attestation by the chief financial officer or other competent person with a direct reporting relationship to the chief financial officer attesting that the officer believes in good faith that the submitted internal controls are designed to provide reasonable assurance that the financial reporting conforms to generally accepted accounting principles and complies with all applicable laws and regulations, including the act and this article.

(d) Each internal control system shall be reviewed by the commission in consultation with the Kansas lottery to determine whether the system conforms to the requirements of the act and this article and provides adequate and effective controls to ensure the integrity of the operation of LFGs at a gaming facility. If the commission determines that the system is deficient, a written notice of the deficiency shall be provided by the executive director to the applicant or facility manager. The applicant or facility manager shall be allowed to submit a revision to its submission. Each facility manager shall be prohibited from

commencing gaming operations until its internal control system is approved by the commission.

(e) If a facility manager intends to update, change, or amend its internal control system, the facility manager shall submit to the commission for approval and to the Kansas lottery a written description of the change or amendment and the two original, signed certifications described in subsection (c).

(f) A current version of the internal control system of a facility manager shall be maintained in or made available in electronic form through secure computer access to the accounting and surveillance departments of the facility manager and the commission's on-site facilities. The facility manager shall also maintain a copy, in either paper or electronic form, of any superseded internal control procedures, along with the two certifications required to be submitted with these procedures, for at least seven years. Each page of the internal control system shall indicate the date on which the page was approved by the commission. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

**112-104-5. Standard financial reports.** (a)

Each facility manager's internal control system shall include internal controls for standard financial reports. The internal controls shall be submitted to and approved by the commission under K.A.R. 112-104-1. A facility manager shall file the following financial data reports:

(1) A balance sheet submitted monthly, quarterly, and annually;

(2) an income statement submitted monthly, quarterly, and annually;

(3) a cash flow statement submitted monthly, quarterly, and annually;

(4) daily net EGM income submitted daily, monthly, quarterly, and annually; and

(5) a comparison of net EGM income to projected net EGM income submitted monthly, quarterly, and annually.

(b) Standard reporting forms and corresponding filing instructions may be prescribed by the executive director to be used by a facility manager in filing the monthly reports specified in subsection (a).

(c) The annual reports shall be based on a fiscal year beginning July 1 and ending June 30, unless otherwise approved by the executive director. The quarterly reports shall be based on the quarters

ending September 30, December 31, March 31, and June 30, unless otherwise approved by the executive director. The monthly reports shall be based on calendar months. Interim reports shall contain a cumulative year-to-date column.

(d) The annual financial statements shall be prepared on a comparative basis for the current and prior years and shall present financial position, results of operations, and cash flows in conformity with GAAP.

(e) The electronically transmitted reports or hard copy reports required to be filed pursuant to this regulation shall be authorized by individuals designated by the facility manager. In addition, the facility manager shall submit a letter attesting to the completeness and accuracy of the reports. The letter shall be signed by the facility manager's chief financial officer or controller.

(f) The reports required to be filed pursuant to this regulation shall be addressed as prescribed by the executive director and received no later than the required filing date. The required filing dates shall be the following:

(1) Monthly reports shall be due on the last calendar day of the following month or the next business day if the day falls on a weekend or legal holiday.

(2) Quarterly reports for the first three quarters shall be due on the last calendar day of the second month following the end of the facility manager's quarter. Quarterly reports for the fourth quarter shall be due on the last calendar day of the third month following the end of the facility manager's fourth quarter.

(3) Annual reports shall be due on the last calendar day of the third month following the end of the facility manager's year or 10 days after form 10-K is filed with the securities and exchange commission, whichever comes first.

(g) In the event of a license termination, change in business entity, or a change in ownership of at least 20%, the facility manager shall file with the commission the required financial and statistical reports listed in paragraphs (a)(1) through (3) for the previous month through the date of occurrence. The facility manager shall file the reports within 30 calendar days of the occurrence.

(h) All significant adjustments resulting from the annual audit required in K.A.R. 112-104-6 shall be recorded in the accounting records of the year to which the adjustment relates. If the adjustments were not reflected in any annual report and the commission concludes that the ad-

justments are significant, the facility manager may be required by the executive director to file a revised annual report. The revised filing shall be due within 30 calendar days after written notification to the facility manager, unless the facility manager submits a written request for an extension before the required filing date and the extension is granted by the executive director.

(i) Additional financial reports may be requested in writing by the executive director to determine compliance by the facility manager with the act and this article. (Authorized by and implementing K.S.A. 2010 Supp. 74-8772; effective Sept. 26, 2008; amended Dec. 9, 2011.)

**112-104-6. Annual audit; other reports; currency transaction reporting; suspicious transaction reporting.**

(a) Each facility manager's internal control system shall include internal controls for annual and other audit reports. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1. Each facility manager shall cause its annual financial statements to be audited by an independent certified public accountant or, when appropriate, an independent registered certified public accounting firm licensed to practice in this state. The audit shall be in accordance with generally accepted auditing standards and, when applicable, the standards of the public company accounting oversight board. The independent certified public accountant or, when appropriate, independent registered certified public accounting firm shall be approved by the executive director before the audit engagement.

(b) Independent certified public accountants and independent registered certified public accounting firms performing annual audits or special reports shall not perform internal audit services for the same facility manager.

(c) The annual financial statements audit shall be prepared on a comparative basis for the current and prior fiscal years and present financial position and results of operations in conformity with generally accepted accounting principles.

(d) The financial audit required by this regulation shall include a footnote reconciling and explaining any differences between the financial statements included in any annual report filed in conformity with K.A.R. 112-104-5 and the audited financial statements. The footnote shall disclose the effect of adjustments on the following:

(1) Revenue from the operation of EGMs;

(2) EGM revenue minus expenses for complementaries;

(3) total costs and expenses;

(4) income before extraordinary items, as that term is used within GAAP; and

(5) net income.

(e) The facility manager shall require the independent certified public accountant or independent registered certified public accounting firm auditing the facility manager's financial statements to render the following additional reports:

(1) A report on the prospective financial statements, including a one-year forecast and three-year projection, expressing an opinion as to whether the prospective financial information is properly prepared on the basis of the assumptions and is presented in accordance with the relevant financial reporting framework; and

(2) any additional relevant reports if required by the executive director.

(f) At any time a special audit of a facility manager may be required by the commission to be conducted by commission personnel, an independent certified public accountant, or an independent registered certified public accounting firm licensed to practice in the state of Kansas. The scope, procedures, and reporting requirements of any special audit shall be established by the executive director.

(g) Copies of the audited financial statements in an amount determined by the executive director, together with any management letter or report prepared regarding that statement by the facility manager's independent certified public accountant or independent registered certified public accounting firm, shall be filed with the commission not later than 120 days after the end of the facility manager's fiscal year.

(h) The facility manager shall prepare a written response to the independent certified public accountant's or independent registered certified public accounting firm's reports required by subsection (e). The response shall indicate, in detail, any corrective actions taken. The facility manager shall submit a copy of the response to the commission within 90 days of receipt of the reports.

(i) The facility manager shall file with the commission copies of the reports required by subsection (e) in an amount determined by the executive director and copies in an amount determined by the executive director of any other reports on internal controls, administrative controls, or other matters relative to the facility manager's account-

ing or operating procedures rendered by the facility manager's independent certified public accountant or independent registered certified public accounting firm within 120 days following the end of the facility manager's fiscal year or upon receipt, whichever is earlier.

(j) The facility manager shall submit to the commission three copies of any report that is filed, or required to be filed, with the securities and exchange commission (SEC) or other securities regulatory agency. The reports shall include any S-1, 8-K, 10-Q, 10-K, proxy or information statements, and registration statements. The reports shall be filed with the commission within 10 days of whichever of the following occurs first:

(1) The filing of the report with the SEC or other securities regulatory agency; or

(2) the due date prescribed by the SEC or other securities regulatory agency.

(k) If an independent certified public accountant or independent registered certified public accounting firm previously engaged as the principal accountant to audit the facility manager's financial statements resigns or is dismissed as the facility manager's principal accountant or if another independent certified public accountant or independent registered certified public accounting firm is engaged as principal accountant, the facility manager shall file a report with the commission within 10 days following the end of the month in which the event occurs, setting forth the following:

(1) The date of the resignation, dismissal, or engagement;

(2) an indication of whether in connection with the audits of the two most recent years preceding a resignation, dismissal, or engagement there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, including a description of each disagreement. The disagreements to be reported shall include those resolved and those not resolved; and

(3) an indication of whether the principal accountant's report on the financial statements for either of the past two years contained an adverse opinion or disclaimer of opinion or was qualified. The nature of the adverse opinion, disclaimer of opinion, or qualification shall be described.

(l) The facility manager shall request the former accountant to furnish to the facility manager a letter addressed to the commission stating whether that accountant agrees with the statements made

by the facility manager in response to paragraph (k)(2). The letter shall be filed with the commission as an exhibit to the report required by paragraph (k)(2).

(m) All of the audits and reports required by this regulation that are performed by independent certified public accountants or independent registered certified public accounting firms shall be prepared at the sole expense of the facility manager.

(n) Each facility manager's internal control system shall include internal controls to meet the requirements of 31 C.F.R. Part 103 for the reporting of certain currency transactions. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1.

(1) The facility manager shall file with the commission a copy of any suspicious activity report-casino (SARC) that the facility manager is required to file under 31 C.F.R. §103.21. Each SARC shall be filed with the commission concurrently with the federal filing.

(2) A facility manager, director, officer, employee, or agent who reports a suspicious activity under paragraph (n)(1) shall not notify any person involved in the suspicious activity that the suspicious activity has been reported.

(3) The facility manager shall file with the commission a copy of any currency transaction report by casino (CTRC) that the facility manager is required to file under 31 C.F.R. §103.22. Each CTRC shall be filed with the commission concurrently with the federal filing.

(o) An annual audit of the facility manager's compliance with commission regulations may be required by the executive director to be conducted in accordance with generally accepted auditing standards and the standards for financial audits under government auditing standards. The audit report shall require the expression of an opinion on compliance. The audit shall be conducted by either commission staff or an independent certified public accountant firm selected by the commission. (Authorized by and implementing K.S.A. 2010 Supp. 74-8772; effective Sept. 26, 2008; amended Dec. 9, 2011.)

**112-104-8. Retention, storage, and destruction of books, records, and documents.**

(a) Each facility manager's internal control system shall include internal controls for retention, storage, and destruction of books, records, and documents.

(b) For the purposes of this regulation, "books, records, and documents" shall mean any book, record, or document pertaining to, prepared in, or generated by the operation of the gaming facility, including all forms, reports, accounting records, ledgers, subsidiary records, computer-generated data, internal audit records, correspondence, and personnel records required by this article to be generated and maintained by this article. This definition shall apply without regard to the medium through which the record is generated or maintained, including, paper, magnetic media, and encoded disk.

(c) The facility manager shall ensure that all original books, records, and documents pertaining to the operation of a gaming facility meet the following requirements:

(1) Are prepared and maintained in a complete, accurate, and legible form. Electronic data shall be stored in a format that ensures readability, regardless of whether the technology or software that created or maintained the data has become obsolete;

(2) are retained at the site of the gaming facility or at another secure location approved under subsection (e);

(3) are kept available for inspection by agents of the commission and the Kansas lottery during all hours of operation;

(4) are organized and indexed in a manner to provide accessibility upon request to agents of the commission and the Kansas lottery; and

(5) are destroyed only after expiration of the minimum retention period specified in subsection (d). However, upon the written request of a facility manager and for good cause shown, the destruction at an earlier date may be permitted by the executive director.

(d) Each facility manager shall retain the original books, records, and documents for at least seven years, with the following exceptions:

(1) Gaming tickets reported to the commission as possibly counterfeit, altered, or tampered with shall be retained for at least two years.

(2) Coupons entitling patrons to cash or LFG credits, whether unused, voided, or redeemed, shall be retained for at least six months.

(3) Voided gaming tickets and gaming tickets redeemed at a location other than an LFG or a kiosk shall be retained for at least six months.

(4) Gaming tickets redeemed at an LFG or a kiosk shall be retained for at least 30 days.

(e) Any facility manager may request, in writing, that the executive director approve a location out-

side the gaming facility to store original books, records, and documents. The request shall include the following:

(1) A detailed description of the proposed off-site facility, including security and fire safety systems; and

(2) the procedures under which the commission and the Kansas lottery will be able to gain access to the original books, records, and documents retained at the off-site facility.

(f) Any facility manager may request in writing that the executive director approve an unalterable media system for the copying and storage of original books, records, and documents. The request shall include a description of the following:

(1) The processing, preservation, and maintenance methods that will be employed to ensure that the books, records, and documents are available in a format that makes them readily available for review and copying;

(2) the inspection and quality control methods that will be employed to ensure that the media, when displayed on a viewing machine or reproduced on paper, exhibit a high degree of legibility and readability;

(3) the accessibility by the commission and the Kansas lottery at the gaming facility or other location approved by the executive director and the readiness with which the books, records, or documents being stored on media can be located, read, and reproduced; and

(4) the availability of a detailed index of all stored data maintained and arranged in a manner to permit the location of any particular book, record, or document, upon request.

(g) Nothing in this regulation shall be construed as relieving a facility manager from meeting any obligation to prepare or maintain any book, record, or document required by any other federal, state, or local governmental body, authority, or agency. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

**112-104-13. Patron deposits.** (a) Each facility manager's internal control system shall include internal controls for the receipt and withdrawal of patron deposits. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1.

(b) At the request of a patron, a facility manager may hold cash, funds accepted by means of wire transfer in accordance with K.A.R. 112-104-11,

or cash equivalents accepted in accordance with K.A.R. 112-104-12 for a patron's subsequent use for gaming purposes. For the purposes of this regulation, non-cash items shall be considered converted to cash and deposited as cash for credit to the patron in a patron deposit account maintained in the cage.

(c) The internal controls developed and implemented by the facility manager under subsection (a) shall include the following:

(1) A requirement that patron deposits be accepted at the cage according to the following requirements:

(A) A file for each patron shall be prepared manually or by computer before the acceptance of a cash deposit from a patron by a gaming cashier, and the file shall include the following:

(i) The name of the patron;

(ii) a unique identifying number obtained from a United States government-issued photo identification card or a government-issued passport;

(iii) the date and amount of each cash deposit initially accepted from the patron;

(iv) the date and amount of each request accepted from the patron, as a draw against a cash deposit; and

(v) the date and amount of each cash deposit redemption;

(B) the gaming cashier accepting a deposit shall prepare a patron deposit form and other necessary documentation evidencing the receipt;

(C) patron deposit forms shall be serially pre-numbered, each series of patron deposit forms shall be used in sequential order, and the series number of all patron deposit forms shall be accounted for by employees with no incompatible function. All original and duplicate void patron deposit forms shall be marked void and shall require the signature of the preparer;

(D) for establishments in which patron deposit forms are manually prepared, a prenumbered two-part form shall be used;

(E) for establishments in which patron deposit forms are computer-prepared, each series of patron deposit forms shall be a two-part form and shall be inserted in a printer that will simultaneously print an original and duplicate and store, in machine-readable form, all information printed on the original and duplicate. The stored data shall not be susceptible to change or removal by any personnel after preparation of a patron deposit form;

(F) on the original and duplicate of the patron deposit form, or in stored data, the gaming cashier shall record the following information:

(i) The name of the patron making the deposit;  
 (ii) a unique identifying number obtained from a United States government-issued photo identification card or a government-issued passport;  
 (iii) the total amount being deposited;  
 (iv) the date of deposit;  
 (v) the signature of the gaming cashier or, if computer-prepared, the identification code of the gaming cashier; and

(vi) nature of the amount received, including cash, cash equivalents, wire transfer, or electronic fund transfer; and

(G) after preparation of the patron deposit form, the gaming cashier shall obtain the patron's signature on the duplicate copy and shall distribute the copies in the following manner:

(i) If an original, give a copy to the patron as evidence of the amount placed on deposit with the facility manager; and

(ii) if a duplicate copy, forward the copy along with any other necessary documentation to the main bank cashier, who shall maintain the documents;

(2) a requirement that patron deposits be withdrawn by the patron at the cage or upon receipt by the facility manager of a written request for withdrawal whose validity has been established:

(A) A patron shall be allowed to use the deposit by supplying information as required by K.A.R. 112-104-10 to verify the patron's identification:

(i) The gaming cashier shall ascertain, from the cage, the amount of the patron deposit available and request the amount the patron wishes to use against this balance. The gaming cashier shall prepare a patron deposit withdrawal form, which shall include the signature of the patron; and

(ii) the gaming cashier shall verify the signature on the patron deposit withdrawal form with the signature on the patron deposit form and sign the patron deposit withdrawal form to indicate verification;

(B) the patron's deposit balance shall be reduced by an amount equal to that on the patron deposit withdrawal form issued at the cage;

(C) a patron may obtain a refund of any unused portion of the patron's funds on deposit by performing either of the following:

(i) Sending the facility manager a signed, written request for a refund together with a signed, original patron deposit form; or

(ii) appearing personally at the cage, requesting the refund, and returning the original patron deposit form;

(D) once the original patron deposit form is presented at a cage, a gaming cashier shall perform the following:

(i) Verify the unused balance with the main bank gaming cashier;

(ii) require the patron to sign the original of the patron deposit form;

(iii) prepare necessary documentation evidencing the refund, including a patron deposit withdrawal form or any other similar document that evidences the date and shift of preparation, the amount refunded, the nature of the refund made, the patron's name, and the signature of the gaming cashier preparing the documentation; and

(iv) verify the patron's identity with a United States government-issued photo identification card or a government-issued passport;

(E) the gaming cashier shall forward each original patron deposit form tendered by the patron pursuant to paragraph (c)(2)(D), along with any other necessary documentation, to the main bank gaming cashier, who shall compare the patron's signature on the original patron deposit form and any attached written, signed request required by paragraph (c)(2)(A)(i) to the patron's signature on the duplicate patron deposit form and on the original patron deposit withdrawal form. The main bank gaming cashier shall sign the original patron deposit form if the signatures are in agreement, notify the gaming cashier of the results of the comparison, and maintain the original patron deposit form and the documentation supporting the signature verification; and

(F) if the patron has requested the return of the patron's original deposit, the main bank gaming cashier shall return the patron's original patron deposit form to the gaming cashier. After the main bank gaming cashier has notified the gaming cashier that the signatures contained in paragraph (c)(2)(E) are a match, the gaming cashier shall then refund the unused balance of the deposit to the patron and, if applicable, return the original patron deposit form to the patron. The gaming cashier shall maintain any necessary documentation to support the signature verification and to evidence the refund;

(3) a requirement that the patron receive a receipt for any patron deposit accepted reflecting the total amount deposited, the date of the deposit, and the signature of the cage employee accepting the patron deposit; and

(4) procedures for verifying the identity of the patron at the time of withdrawal. Signature ver-

ification shall be accomplished in accordance with the signature verification procedures under K.A.R. 112-104-10. The facility manager shall maintain adequate documentation evidencing the patron identification process and the procedure for signature verification:

(A) A log of all patron deposits received and returned shall be prepared manually or by a computer on a daily basis by main bank gaming cashiers. The log shall include the following:

(i) The balance of the patron deposits on hand in the cage at the beginning of each shift;

(ii) for patron deposits received and refunded, the date of the patron deposit or refund, the patron deposit number, the name of the patron, and the amount of the patron deposit or refund; and

(iii) the balance of the patron deposits on hand in the cage at the end of each shift; and

(B) the balance of the patron deposits on hand in the cage at the end of each shift shall be recorded as an outstanding liability and accounted for by the main bank gaming cashier. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

**112-104-14. Cage and main bank.** (a) Each facility manager's internal control system shall include internal controls for the cage and the main bank. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1. Each gaming facility shall have, adjacent to the gaming floor, a physical structure known as a cage. The cage shall house the cashiers and serve as the central location in the gaming facility for functions normally associated with the cage and the main bank, including the following:

(1) The custody of the cage inventory comprised of cash, cash equivalents, gaming chips, and the forms, documents, and records normally associated with the functions of a cage;

(2) the issuance, receipt, and reconciliation of imprest funds used by gaming cashiers, parimutuel tellers, and change persons in the acceptance of currency and coupons from patrons in exchange for currency;

(3) the exchange of currency, coin, gaming chips, and coupons for supporting documentation;

(4) the responsibility for the overall reconciliation of all documentation generated by gaming cashiers, parimutuel tellers, and change persons; and

(5) the receipt of currency, coupons, and tickets from the count room.

(b) The cage and the main bank shall provide maximum security for the materials housed, the employees located, and the activities performed in the cage and the main bank. The cage and the main bank shall meet all of the following requirements, at a minimum:

(1) The cage and the main bank shall be fully enclosed except for openings through which materials, including cash, records, and documents, can be passed to patrons, gaming cashiers, parimutuel tellers, and change persons.

(2) The cage and the main bank shall have manually triggered silent alarm systems located at the cashiers' window, vault, and in adjacent office space. The systems shall be connected directly to the monitoring room of the surveillance department and to the security department.

(3) The cage shall have a double-door entry and exit system that does not permit a person to pass through the second door until the first door is securely locked. In addition, all of the following requirements shall apply:

(A) The first door leading from the gaming floor of the double-door entry and exit system shall be controlled by the surveillance department through a commission-approved electronic access system designed and administered to provide a record of each entry authorization, including the authorizing employee's name and license number and the date and time of the authorization.

(B) The second door of the double-door entry and exit system shall be controlled by the cage through a commission-approved electronic access system designed and administered to provide a record of each entry authorization, including the authorizing employee's name and license number and the date and time of authorization.

(C) The double-door entry and exit system shall have surveillance coverage, which shall be monitored by the surveillance department.

(D) An entrance to the cage that is not a double-door entry and exit system shall be an alarmed emergency exit door only.

(4) Each door of the double-door entry and exit system shall have two separate commission-approved locking mechanisms.

(c) Any gaming facility may have one or more satellite cages separate and apart from the cage, established to maximize security, efficient operations, or patron convenience. The employees in a satellite cage may perform all of the functions of the employees in the cage. Each satellite cage shall be equipped with an alarm system in compli-

ance with paragraph (b)(2). The functions that are conducted in a satellite cage shall be subject to the accounting controls applicable to a cage specified in K.A.R. 112-104-16.

(d) Each facility manager shall maintain and make available to the commission, upon request, a detailed and current list of the name of each employee meeting either of the following conditions:

(1) Possessing the combination to the locks securing the double-door entry and exit system restricting access to the cage and the main bank, any satellite cage, and the vault; or

(2) possessing the ability to activate or deactivate alarm systems for the cage, the main bank, any satellite cage, and the vault. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

**112-104-15. Count room and main bank requirements.** (a) Each facility manager shall have a count room and a main bank. The count room and the main bank shall be adjacent to the cage.

(b) Each count room and main bank shall meet both of the following requirements:

(1) Both rooms shall have a metal door for each entrance and exit. Each of these doors shall be equipped with an alarm device that audibly signals the surveillance department monitoring room and the security department whenever the door is opened at times other than those times for which the facility manager has provided prior notice according to K.A.R. 112-104-20.

(2) Each entrance and exit door shall be equipped with two separate commission-approved locking mechanisms. The combinations shall be maintained and controlled as follows:

(A) One of the commission-approved locking mechanisms shall be controlled by the surveillance department.

(B) Each entry shall be maintained in a log indicating the name and license number of each employee who entered the count room or the main bank and the date and time of the entry.

(c) The following shall be located within the count room:

(1) A table constructed of clear glass or similar material for the emptying, counting, and recording of the contents of bill validator canisters; and

(2) surveillance cameras capable of video monitoring the following:

(A) The entire count process; and

(B) the interior of the count room, including any storage cabinets or trolleys used to store bill

validator canisters, and any commission-approved trolley storage area located adjacent to the count room.

(d) The following shall be located within the main bank:

(1) A vault or locking cabinets, or both, for the storage of currency and gaming chips; and

(2) surveillance cameras capable of video monitoring the following:

(A) Interior of the vault room, including unobstructed views of counting surfaces;

(B) the exchange of currency, gaming chips, and documentation through any openings; and

(3) a secure opening through which only currency, gaming chips, and documentation can be passed to gaming cashiers, parimutuel tellers, and change persons. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

**112-104-16. Accounting controls for the cage and main bank.** (a) Each facility manager's internal control system shall include internal controls for cage and main bank accounting. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1. If the facility manager elects to use a satellite cage, the same requirements shall apply.

(b) The facility manager shall provide the commission with the start and end times of each cage and main bank shift.

(c) The assets for which gaming cashiers are responsible shall be maintained on an imprest basis and protected from unauthorized access. Gaming cashiers shall lock and secure any assets that are outside of their direct physical control.

(1) Before redeemed tickets are transferred from a cage window to the main bank, the gaming cashier shall prepare an automated system report of the total number and value of the tickets redeemed at that window and compare that report to physical tickets being transferred to ensure that they match. Before reimbursing the cashier, the main bank cashier shall total the tickets received to verify that the dollar amount matches the amount on the gaming cashier's report or shall compare the tickets to the report to ensure that all tickets are present.

(2) Only tickets redeemed in the system shall be forwarded to accounting. If the online validation system ceases to function through the end of the gaming day and the cage is unable to redeem in the system any tickets received in the cage that

day, these unredeemed tickets shall have the bar code manually canceled by completely filling in one space of the bar code with a black permanent marker before being forwarded to accounting to prevent subsequent automated redemption.

(3) At the end of each shift, the outgoing gaming cashier shall count all assigned assets and prepare and sign a bank count sheet listing the inventory. A reconciliation of the opening imprest amount to the closing inventory total shall be performed. Any variance shall be documented on the count sheet.

(4) The incoming gaming cashier shall verify by blind count the closing inventory and sign the count sheet in the presence of the outgoing gaming cashier, attesting to accuracy of the information recorded on the sheet. If there is no incoming gaming cashier, a gaming cashier supervisor or the most senior supervisor in the department shall verify by blind count the closing inventory and sign the count sheet in the presence of the outgoing gaming cashier, attesting to accuracy of the information recorded on the sheet. At the completion of each shift, the cashier count sheets shall be forwarded to the main bank cashier.

(d) If an imprest bank has not been opened for use, a main bank cashier or supervisor shall count and verify the imprest bank and complete a count sheet at least once every seven days.

(e) At the opening of every shift, in addition to the imprest funds normally maintained by gaming cashiers, each facility manager shall have in the cage a reserve cash bankroll sufficient to pay winning patrons.

(f) The cage, any satellite cage, and the main bank shall be physically segregated by personnel and function as follows:

(1) Gaming cashiers shall operate with individual imprest inventories of cash, and their functions shall include the following:

(A) The receipt of cash and cash equivalents from patrons in exchange for cash according to K.A.R. 112-104-12;

(B) the receipt of personal checks for gaming and non-gaming purposes from patrons in exchange for cash, subject to any limitations on amount required by the commission according to K.A.R. 112-104-10;

(C) the receipt of cash, cash equivalents, checks issued by the facility manager, annuity jackpot checks, wire transfers, and cashless fund transfers from patrons to establish a patron deposit according to K.A.R. 112-104-13;

(D) the receipt of patron deposit forms from patrons in exchange for cash according to K.A.R. 112-104-13;

(E) the preparation of jackpot payout slips in accordance with this regulation and K.A.R. 112-104-21;

(F) the receipt of gaming tickets from patrons or from authorized employees who received gaming tickets as gratuities, in exchange for cash; and

(G) the issuance of cash to automated bill breaker, gaming ticket, coupon redemption, and jackpot payout machines in exchange for proper documentation.

(2) The main bank cashier functions shall include the following:

(A) The receipt of cash, cash equivalents, gaming tickets, jackpot payout slips, and personal checks received for gaming and non-gaming purposes from gaming cashiers in exchange for cash;

(B) the receipt of cash from the count rooms;

(C) the receipt of personal checks accepted for gaming and non-gaming purposes from gaming cashiers for deposit;

(D) the preparation of the overall cage reconciliation and accounting records. All transactions that are processed through the main bank shall be summarized on a vault accountability form and be supported by documentation according to the following:

(i) At the end of each shift, the outgoing main bank cashier shall count the inventory and record the inventory detail and the total inventory on a vault accountability form. The main bank cashier shall also record the amount of each type of accountability transaction, the opening balance, the closing balance, and any variance between the counted inventory and the closing balance. If there is more than one main bank cashier working during a shift, each cashier shall participate in the incoming count and the outgoing count for that shift; and

(ii) a blind count of the inventory shall be performed by the incoming main bank cashier. The incoming main bank cashier shall sign the completed vault accountability form attesting to the accuracy of the information in the presence of the outgoing main bank cashier. If there is no incoming main bank cashier, a cage supervisor shall conduct the blind count and verification and sign the completed vault accountability form in the presence of the outgoing main bank cashier;

(E) the preparation of the daily bank deposit for cash, cash equivalents, and personal checks;

(F) the issuance, receipt, and reconciliation of imprest funds used by gaming cashiers, parimutuel tellers, and change persons;

(G) the collection of documentation that is required by these regulations to establish the segregation of functions in the cage;

(H) the responsibility for the reserve cash bankroll;

(I) the receipt of unsecured currency and unsecured gaming tickets and preparation of related reports; and

(J) the issuance, receipt, and reconciliation of imprest funds used by any redemption kiosk, which shall be done according to the following requirements:

(i) Redemption kiosks shall be maintained on an imprest basis on the main bank accountability form and shall be counted down and reconciled within 24 hours of adding funds to or removing funds from the redemption kiosk. In order to reconcile the redemption kiosk, all currency, tickets, and coupons remaining in the redemption kiosk shall be removed, counted, and compared to the redemption kiosk report that lists the amount of each item that should have been in the redemption kiosk. Each redemption kiosk shall be reconciled at least once every three days regardless of activity at that kiosk. If redemption kiosks are used for any other type of transaction, including providing automated teller machine functions, corresponding reports shall be printed and reconciled during the kiosk reconciliation. The internal controls shall include a record of the name of each person who performs the count and reconciliation. All kiosk counts shall be performed under dedicated surveillance coverage in the count room or main bank and shall be documented. The reconciliation of the redemption kiosk shall be documented and signed by the employee performing the reconciliation;

(ii) the main bank shall have a designated area for the preparation of currency cassettes and a designated storage area for cassettes that contain cash. Both locations shall be described in the internal controls. The designated preparation area shall have overhead, dedicated surveillance coverage. The storage area of the cassettes shall have dedicated surveillance coverage to record the storage and retrieval of currency cassettes. The storage area shall be locked when cassettes are not being removed or added to the area. Empty currency cassettes shall not be stored with the currency cassettes containing cash;

(iii) all currency cassettes used in kiosks shall be filled with currency by a main bank cashier. The amount of currency to be placed in the cassettes shall be counted by the main bank cashier and placed in the cassette. A prenumbered tamper-resistant seal that secures the cash in each cassette shall be immediately placed on the cassette. The type of seal shall be submitted to the commission director of security for prior approval. All cassettes that contain currency and are not immediately placed in a kiosk shall be stored in the designated storage area;

(iv) a currency cassette log shall be maintained and updated each time currency cassettes are sealed. The log shall contain the following information: date, time, seal number, cassette number, amount of currency in the cassette, denomination of currency in the cassette, and signature of the main bank cashier who prepared the cassette;

(v) each cassette shall be labeled with the required dollar denomination for that cassette and a unique cassette number. The label shall be clearly visible to surveillance during the fill process;

(vi) each individual transporting currency cassettes outside of the cage shall be escorted by security;

(vii) only cassettes properly prepared and sealed in the main bank shall be used to place currency in the redemption kiosk. A seal may be broken before the count and reconciliation only if there is a machine malfunction. If a seal must be broken before the redemption kiosk is reconciled due to a malfunction, the cassette shall be brought to the main bank with security escort before the seal is broken. The seal shall be broken under surveillance coverage. Once the cassette is repaired, the funds shall be recounted and resealed by the main bank cashier;

(viii) the individual who removed the seal on the cassette in order to perform the count of the cassettes shall record the seal number of all cassettes used in the kiosk since the last reconciliation on the count and reconciliation documentation;

(ix) the individual who reconciles the redemption kiosk shall not be one of the individuals who initially prepared the currency in any of the cassettes used in the kiosk since the last reconciliation; and

(x) if cassettes need to be replaced during the gaming day before the redemption kiosk is dropped and reconciled, the individual cassettes that are replaced and that still contain currency shall be locked in a storage area designated in the

internal controls. This storage area shall be separate from the storage area of filled cassettes.

(g)(1) Whenever a gaming cashier, parimutuel teller, or change person exchanges funds with the main bank cashier, the cashier shall prepare a two-part even exchange form. The form shall include the following, at a minimum:

- (A) The date of preparation;
- (B) the window location;
- (C) a designation of which items are being sent to or received from the main bank;
- (D) the type of items exchanged;
- (E) the total of the items being exchanged;
- (F) the signature of the cashier preparing the form requesting the exchange; and
- (G) the signature of the cashier completing the exchange.

(2) If the exchange is not physically between a gaming cashier, parimutuel teller, or change person and the main bank, the exchange shall be transported by a representative of the security department, who shall sign the form upon receipt of the items to be transported.

(h) Overages and shortages per employee shall be documented on a cage or bank variance slip, which shall be signed by the responsible cashier and that person's supervisor. Each variance in excess of \$50 shall be investigated and the result of the investigation shall be documented. If there is a variance of \$500 or more, the commission agent on duty shall be informed within 24 hours. Repeated shortages by an employee totaling \$500 or more over any seven-day period shall be reported to the commission agent on duty within 24 hours.

(i) All cashier's paperwork shall include the date, shift of preparation, and location for which the paperwork was prepared.

(j) At the end of each gaming day, the cashiers' original bank count sheet, vault accountability form, and related documentation shall be forwarded to the accounting department for verification of agreement of the opening and closing inventories, agreement of amounts on the sheets with other forms, records, and documents required by this article, and recording transactions.

(k) Each facility manager shall establish a training program for gaming cashiers and main bank cashiers, which shall include written standard operating procedures. No cashier shall be allowed to individually perform gaming cashier duties until the cashier has completed at least 40 hours of training. No cashier shall be allowed to individual-

ly perform main bank cashier duties until the cashier has completed at least 80 hours of training.

(l) Each gaming facility employee shall clear that individual's hands in view of all persons in the immediate area and surveillance immediately after the handling of any currency or gaming chips within the cage, main bank, or count room.

(m) No employee shall be permitted to carry a pocketbook or other personal container into any cashiering area unless the container is transparent. All trash shall be placed in a transparent container or bag and inspected by security when removed from the cashiering area. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

**112-104-32. Unclaimed winnings.** (a)

Each facility manager's internal control system shall include internal controls for unclaimed winnings. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1.

(b) All winnings, whether property or cash, that are due and payable to a known patron and remain unclaimed shall be held in safekeeping for the benefit of the known patron.

(c)(1) If winnings have not been provided to a known patron, the facility manager shall prepare a winner receipt form. The form shall be a two-part, serially prenumbered form and shall contain the following:

- (A) The name and address of the patron;
- (B) a unique identifying number obtained from a United States government-issued photo identification card or a government-issued passport;
- (C) the date and time the winning occurred; and
- (D) the LFG upon which the win occurred, including the following:

- (i) The LFG asset number;
- (ii) the location; and
- (iii) the winning combination.

(2) The two-part receipt form shall be distributed as follows:

(A) The preparer of the original shall send the original to the gaming cashier responsible for maintaining safekeeping balances.

(B) The duplicate shall be presented to the winning patron, who shall be required to present the duplicate receipt before being paid the winning amount due.

(d) Each facility manager shall be required to use its best efforts to deliver the winnings to the patron. The facility manager shall maintain doc-

umentation of all efforts to provide the patron with the unclaimed winnings. Documentation shall consist of letters of correspondence or notation of telephone calls or other means of communication used in the attempt to provide the winnings to the patron.

(e) Each winning patron shall collect that patron's winnings by presenting to a gaming cashier the duplicate copy of the winner receipt form signed in the presence of the gaming cashier. The gaming cashier shall obtain the original winner receipt form from safekeeping and compare the signature on the original to the signature on the duplicate receipt form. The gaming cashier shall sign the original winner receipt form, attesting that the signatures on the original and duplicate receipt forms agree, and then distribute the winnings to the patron.

(f) The gaming cashier shall retain the original receipt form as evidence of the disbursement from the gaming cashier's funds. The duplicate receipt form shall be placed in a box for distribution to accounting by security or someone who did not participate in the transaction.

(g) Undistributed winnings of any known patron held in safekeeping for 12 months or longer shall revert to the Kansas state treasurer's office in accordance with unclaimed property laws after reasonable efforts to distribute the winnings to the known patron, as determined from review of the documentation maintained.

(h)(1) If the identity of any patron who wins more than \$1,200 is not known, the facility manager shall be required to make a good faith effort to learn the identity of the patron. If the identity of the patron is determined, the facility manager shall comply with subsections (b) through (g).

(2) If a patron's identity cannot be determined after 180 days from the time the patron's winnings were payable, the winnings shall be distributed according to the formula contained in the gaming facility's management contract. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

**112-104-34. Physical key controls; automated key controls.** (a) "Sensitive keys" shall mean those unlocking devices designated by the Kansas lottery, a facility manager, or the commission as important to preserving the security of the facility manager's business. Each facility manager shall control the storage, duplication, custody, issuance, and return of sensitive keys. The sensitive

key box may be stored in each facility manager's accounting department. At a minimum, the following keys shall be deemed sensitive keys:

- (1) The EGM belly glass key;
- (2) the tip box key, sometimes called a "toke box" key; and
- (3) the accounting or audit box key.

(b) Sensitive keys may be further designated as "critical." Critical keys shall mean those unlocking devices that shall be maintained in a dual-lock box. If a critical key is lost or becomes missing, all locks that the key fits shall be changed within 24 hours. At a minimum, the following keys shall be deemed critical keys:

- (1) The EGM central processing unit key;
  - (2) the EGM main door key;
  - (3) the EGM drop door key;
  - (4) the bill validator door and box release key;
  - (5) the bill validator contents key;
  - (6) the jackpot or EGM reimpressionment kiosk keys;
  - (7) the self-redemption or bill breaker kiosk keys;
  - (8) the change cart key;
  - (9) the key for each table game's drop box;
  - (10) the key for the table game drop box release;
  - (11) the keys for the bill validator and table drop storage cart;
  - (12) the key for each table game's chip bank cover;
  - (13) the key for each table game's chip tray;
  - (14) the key for each progressive game's controller;
  - (15) the key for each progressive game's reset switch;
  - (16) the keys for the reserve chip storage;
  - (17) the keys for the card and dice storage area;
  - (18) the keys for the secondary chip storage area;
  - (19) the access door key to any cage, EGM bank, or redemption booth;
  - (20) the window key to any cage, EGM bank, or redemption booth;
  - (21) the keys to the vault;
  - (22) the keys to the soft count room; and
  - (23) any key not listed in this subsection that controls access to any cash or chip storage area.
- (c) If a facility manager chooses to use rings to maintain its keys, each key on the ring shall be individually identified on a key access list.
- (d) Each facility manager's internal control system shall include the following information:
- (1) The location of each sensitive key and critical key box;

(2) each employee or contract job title that is authorized to access the sensitive key or critical key boxes;

(3) the procedure for issuing and controlling the keys for the sensitive key or critical key boxes;

(4) the sensitive key or critical key names, location, and persons authorized to sign out each sensitive key or critical key;

(5) the location and custodian of each duplicate sensitive key; and

(6) continuous surveillance coverage of each key box.

(e) If a facility manager chooses to use an automated key control system, the facility manager's internal control system shall include the following information:

(1) A description of the automated system and its configuration, including how access is controlled;

(2) the system's ability to provide scheduled and on-demand reports for a complete audit trail of all access, including the following:

(A) The identity of the key box;

(B) the identity of the employee;

(C) the identity of the keys;

(D) the date and time a key was removed;

(E) the date and time a key was returned;

(F) any unauthorized attempts to access the key box; and

(G) all entries, changes, or deletions in the system and the name of the employee performing the entry, change, or deletion;

(3) the employee position that is in charge of any automated key control system;

(4) each employee position that is authorized to enter, modify, and delete any keys;

(5) each employee position that is authorized to access the system;

(6) details about the alarms being used to signal for the following events:

(A) Overdue keys;

(B) open key box doors;

(C) unauthorized attempts to access; and

(D) any other unusual activities;

(7) any system override procedures; and

(8) a procedure for the notification of a commission security agent on duty if a partial or complete system failure occurs.

(f) Each individual authorized to access keys in the automated system shall have the authorization noted in the employee's personnel file.

(g) Each change to the list of authorized employees that have access to the automated keys

shall be updated within 72 hours of the change. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Oct. 16, 2009.)

**112-104-35. Key control procedures.** (a) Each facility manager's internal controls for keys shall include a key box custodian. Each custodian of a sensitive key box or critical key box shall be issued a sensitive key or critical key access list that notes the authorized employee positions that may access each sensitive key or critical key.

(b) If two keys are required to access a controlled area, then the keys shall be issued to different employees and each key shall be individually signed out of the key access list.

(c) Each key that requires issuance under security or management escort shall be identified as such in the sensitive key or critical key access list. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Oct. 16, 2009.)

**112-104-36. Key access list.** (a) Each facility manager shall maintain a current and accurate key access list for each sensitive key or critical key. Each facility manager shall provide a copy of the key access list to the commission's director of security. The key access list shall include the following details:

(1) The name of the key;

(2) the storage location of the key;

(3) the name of the custodian of the key;

(4) the quantity of the keys;

(5) the title of each employee authorized to remove the key; and

(6) any escort requirements and specific limitations to key access.

(b) The custodian of duplicate keys shall maintain a key access list documenting the following information:

(1) The name of the keys;

(2) the identification number assigned to the key;

(3) the employee positions that are authorized to remove a key; and

(4) any escort requirements for each key's use.

(c) The internal control system for keys shall indicate which employees have the authority to make changes, deletions, or additions to the sensitive key and critical key access lists. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Oct. 16, 2009.)

**112-104-37. Key log.** (a) Any sensitive key or critical key may be issued only after completion of a sensitive key or critical key log. The key log shall include the following information:

- (1) The date the key was issued or returned;
- (2) the key number;
- (3) the individual or automated key box issuing the key;
- (4) the individual receiving the key;
- (5) the time the key was signed out or removed;
- (6) the time the key was signed in;
- (7) the individual returning the key; and
- (8) the individual or automated key box receiving the returned key.

(b) Each individual who signs out a sensitive key or a critical key shall maintain custody of the key until the key is returned to the sensitive key or the critical key box. Keys may be passed only to count team leads and distributed to other count team members during bill validator drops and EGM drops. In the event of an emergency, illness, or injury rendering the individual incapable of returning the key, a supervisor may return the key with a notation on the sensitive key log.

(c) Upon completion, sensitive key or critical key logs shall be forwarded at intervals specified by the facility manager to the accounting or internal audit department, where the logs shall be reviewed and retained. If any discrepancies are found in the key logs, the security or internal auditing department shall begin an investigation and document the discrepancy.

(d) Each facility manager shall maintain a duplicate key inventory log documenting the current issuance, receipt, and inventory of all duplicate sensitive keys. The duplicate key inventory log shall include the following information:

- (1) The date and time of the key issuance, receipt, or inventory;
- (2) each key name;
- (3) each key number;
- (4) the number of keys in beginning inventory;
- (5) the number of keys added or removed;
- (6) the number of keys in ending inventory;
- (7) the reason for adding or removing keys; and
- (8) the signatures of the two individuals accessing the box. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Oct. 16, 2009.)

**112-104-38. Broken, lost, or missing keys.** (a) The internal control system shall include procedures for the following if a critical key or sensitive key is broken:

- (1) The name of the employee required to receive and replace the broken key;
- (2) disposition of the broken key; and

(3) notification to a commission agent on duty.  
(b) An inventory of duplicate keys shall be maintained in such quantity that there is always at least one duplicate key in inventory for each critical key or sensitive key.

(c) The internal control system shall include procedures to be followed when a sensitive key or critical key is lost, missing, or taken from the premises.

(d) The internal control system shall include procedures for investigating and reporting missing critical keys or sensitive keys. The commission agent on duty shall be notified upon discovery that any sensitive keys or critical keys are missing. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Oct. 16, 2009.)

**112-104-39. Corrections to forms.** (a) Monetary corrections to a figure originally recorded on a form may be made only in ink by performing the following:

- (1) Crossing out the error;
- (2) entering the correct figure; and
- (3) obtaining the initials of the employee making the change and the initials of the employee's supervisor.

(b) Each nonmonetary correction to a form shall be initialed by the employee making the correction.

(c) Each form that is not prenumbered shall be maintained and controlled by the applicable department manager. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Oct. 16, 2009.)

**112-104-40. Manual form dispensers.** (a) Each facility manager's accounting or security department shall be responsible for loading and unloading any locked manual form dispenser. Each form unloaded from the dispenser shall be delivered directly to the accounting department.

(b) If the manual form dispenser jams, an employee from the accounting department or security department shall clear the jam and relock the manual form dispenser.

(c) If a facility manager uses a manual form dispenser, then the dispenser shall be configured to dispense a single form at a time, with undispensed forms kept in continuous order. (d) Manual form dispensers shall be used to control the following manual forms:

- (1) Table fill slips;
- (2) table credit slips; and

(3) EGM hand-paid jackpot payout forms. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Oct. 16, 2009.)

**112-104-41. Forms; description.** (a) Each facility manager shall maintain a supply of all forms listed in subsection (b) and any additional forms that the manager deems necessary to manage the facility. Each facility manager's internal control submission shall include an index of all forms that the manager may use.

(b) The following forms shall be a part of each facility manager's minimum internal controls:

- (1) Inventory ledgers for the following:
  - (A) Date of receipt, count, or issuance of cards or dice;
  - (B) quantity of cards and dice received or issued; and
  - (C) balance of cards or dice inventory on hand;
- (2) a log for card or dice pickup and either cancellation or destruction, including the following details:
  - (A) The date of the form's preparation;
  - (B) the date and time of cancellation or destruction of the cards or dice;
  - (C) the quantity of cards and dice picked up, canceled, or destroyed; and
  - (D) all required signatures;
- (3) a card or dice storage log for the pit area, including the following details:
  - (A) The date of each entry on the log;
  - (B) the quantity and description of all cards and dice placed in the compartment;
  - (C) the quantity and description of all cards and dice removed from the compartment;
  - (D) the current number of each design and color combination of cards and dice; and
  - (E) each daily verification of the current inventory;
- (4) a cashier's cage or vault count sheet, including the following details:
  - (A) The date and time of completion of the count sheet;
  - (B) the location of the cashier's cage;
  - (C) the amount of each type and denomination of funds;
  - (D) the actual count total or closing inventory;
  - (E) the accountability total;
  - (F) the amount of overages or shortages; and
  - (G) each signature required by these regulations for the count sheet;
- (5) a cashier's cage multiple-transaction log, including the following details:

(A) The location of the cashier's cage or bank where the cash transactions occurred;

(B) the date of the multiple-transaction log;

(C) the full name of any patron making multiple transactions, if provided by the patron, or a description to help identify the patron if the patron refuses to provide a name. Each description shall include weight, height, hair color, and any other observed distinguishing features;

(D) the total cash transaction amount; and

(E) the transaction type. The transaction types shall be the following:

(i) Cash-outs, including cashing personal checks and travelers checks;

(ii) chip redemptions. The gaming location shall be included in the comments column;

(iii) deposits for safekeeping;

(iv) deposits out when withdrawing a safekeeping deposit; and

(v) any other transactions not listed in paragraphs (b)(5)(E)(i) through (iv), including each cash transaction payment of EGM jackpots and each exchange of currency for currency;

(F) the time of the transaction;

(G) the signature and commission license number of the employee logging the transaction;

(H) any observed information that would be useful in identifying the patron or explaining the transaction;

(I) the supervisor's signature. The supervisor's signature shall acknowledge the following items:

(i) That the supervisor has reviewed the log and, to the best of the supervisor's knowledge, all cash transactions of \$500 or more have been properly recorded; and

(ii) that all currency transaction reports have been properly completed for all single cash transactions and series of multiple cash transactions in excess of \$10,000; and

(J) the page number and total pages of the log for the gaming day;

(6) a chip inventory ledger, including the following details:

(A) The date of receipt, issuance, and destruction;

(B) the number of each denomination of chips received, issued, or destroyed;

(C) the dollar amount of each denomination of value chips, as defined in K.A.R. 112-108-1, received, issued, or destroyed;

(D) the number and description of non-value chips received, issued, or destroyed;

(E) any required signatures; and

- (F) the identification of any primary chips held in reserve with the word “reserve”;
- (7) a safekeeping deposit or withdrawal form, including the following details:
- (A) Preprinted numbering on all copies;
  - (B) the name and signature of the patron making the deposit;
  - (C) the date of each deposit or withdrawal;
  - (D) the amount of each deposit or withdrawal;
  - (E) the type of deposit or withdrawal;
  - (F) the reason for the deposit or withdrawal;
- and
- (G) any required signatures;
- (8) a duplicate key inventory log, including the following details:
- (A) The date and time of the log’s completion;
  - (B) the key name;
  - (C) the key number;
  - (D) the number of keys in beginning inventory;
  - (E) the number of keys added or removed;
  - (F) the number of keys in ending inventory;
  - (G) the reason for adding or removing keys; and
  - (H) the required signatures of the two individuals accessing the box;
- (9) a tips and gratuity deposit form, including the following details:
- (A) The date of completion of the form;
  - (B) the number of chips listed by denomination;
  - (C) the total number of all denominations; and
  - (D) all required signatures;
- (10) a temporary bank voucher, including the following details:
- (A) The date and time of the voucher’s completion;
  - (B) the location of the temporary bank;
  - (C) the amount of funds issued;
  - (D) the signature from the main bank cashier who is issuing the funds;
  - (E) the signature of the individual receiving funds;
  - (F) the signature of the individual returning funds; and
  - (G) the signature of the main bank cashier receiving returned funds;
- (11) a duplication of any critical program storage media log. “Critical program storage media” and “CPSM” shall mean any media storage device containing data, files, or programs, as determined by the commission, that are capable of affecting the integrity of gaming. The duplicate CPSM log shall include the following details:
- (A) The date of completion of the form;
  - (B) the manufacturer of the chip;
  - (C) the program number;
  - (D) any personnel involved; and
  - (E) the disposition of any permanently removed CPSM;
- (12) an EGM drop compartment sweeps log, including the following details:
- (A) Each EGM number and location;
  - (B) the date and time of the drop;
  - (C) the signature of each employee performing the sweep; and
  - (D) the signature of the supervisor overseeing the drop;
- (13) an EGM drop or win report, including the following details:
- (A) The gaming date;
  - (B) the amount wrapped by denomination and totaled;
  - (C) the dollar value difference by denomination;
  - (D) the percentage variance difference by denomination;
  - (E) the total jackpot payouts;
  - (F) the total drop by denomination;
  - (G) the total drop of all denominations;
  - (H) the net win or loss by denomination and total; and
  - (I) all required signatures;
- (14) an EGM entry access log, including the following details:
- (A) The EGM number and location;
  - (B) the date and time of the EGM access;
  - (C) the reason for entry; and
  - (D) all required signatures;
- (15) an EGM hand-paid jackpot form, including the following details:
- (A) The date and time of completion of the form;
  - (B) an EGM number that required hand payment and the location and denomination of the payment;
  - (C) the amount of jackpot;
  - (D) the reel symbols on each EGM jackpot requiring hand payment; and
  - (E) all required signatures;
- (16) an EGM sweeps log, including the following details:
- (A) Each EGM number and location;
  - (B) the date and time of the EGM sweep;
  - (C) the signature of each employee performing the sweep; and
  - (D) the signature of the supervisor overseeing the sweep;
- (17) an even exchange slip, including the following details:
- (A) The date, time, and location of the exchange;

- (B) the amounts to be exchanged by type;
  - (C) the amounts to be changed for;
  - (D) all required signatures; and
  - (E) the total amount exchanged;
- (18) each cage or bank variance slip, including the following details:
- (A) The date and time of completion of the slip;
  - (B) the location of the bank;
  - (C) the amount of overage or shortage; and
  - (D) all required signatures;
- (19) ingress or egress logs for the count rooms, surveillance rooms, and cages, including the following details:
- (A) The date and time of each ingress or egress;
  - (B) the printed name of each person entering or leaving;
  - (C) the room entered or left;
  - (D) the reason for entry; and
  - (E) all required signatures;
- (20) a main bank or vault accountability log, including the following details:
- (A) The date and shift that the accounting was made;
  - (B) the opening balance;
  - (C) the amount of each type of accountability transaction;
  - (D) detail of the total main bank or vault inventory, including the inventory of the following:
    - (i) Currency;
    - (ii) coin;
    - (iii) chips;
    - (iv) safekeeping deposits; and
    - (v) any unclaimed property account;
  - (E) the total main bank or vault inventory;
  - (F) all overages and shortages;
  - (G) the closing balance; and
  - (H) all required signatures;
- (21) a master gaming report, including the following details:
- (A) The gaming date;
  - (B) the game and table number;
  - (C) the opening table inventory slip;
  - (D) the total fill slips;
  - (E) the total credit slips;
  - (F) the closing table inventory slip;
  - (G) the total drop per table;
  - (H) the overall totals by game;
  - (I) the total win or loss; and
  - (J) all required signatures;
- (22) a RAM clearing slip, including the following details:
- (A) The date and time that the RAM was cleared;
  - (B) an EGM number, the location, and the number of credits played before the RAM clearing occurred;
  - (C) the current reel positions or video displays;
  - (D) the previous two reel positions or video displays;
  - (E) the actual meter readings of the internal hard and soft meters;
  - (F) the progressive jackpot display, if linked;
  - (G) the reason for RAM clear; and
  - (H) all required signatures;
- (23) the returned check log, including the following details:
- (A) The name and address of each person who presented the check that was subsequently returned;
  - (B) the date of the check;
  - (C) the amount of the check;
  - (D) the check number;
  - (E) the date the facility manager received notification from a financial institution that the check was not accepted; and
  - (F) the dates and amounts of any payments received on the check after being returned by a financial institution;
- (24) a sensitive key log, including the following:
- (A) The date the key activity occurred;
  - (B) the key number;
  - (C) the individual or automated key box issuing the key;
  - (D) the name of the individual receiving the key;
  - (E) the time the key was signed out;
  - (F) the time the key was signed in;
  - (G) the individual returning the key; and
  - (H) the individual or automated key box receiving the returned key;
- (25) a signature authorization list, including the following details for each employee listed:
- (A) The employee's hire date;
  - (B) the employee's name;
  - (C) the department;
  - (D) the position;
  - (E) the license number;
  - (F) the employee's initials as on a signature card; and
  - (G) the employee's signature, with at least the first initial and last name;
- (26) a surveillance incident report, including the following details:
- (A) The date and incident report number;
  - (B) the time and location of the incident;
  - (C) the name and address of each witness and subject involved in the incident, if known;

- (D) a detailed narrative of the incident;
- (E) an identification of any videotape covering the incident;
- (F) the final disposition of the incident; and
- (G) all required signatures;
- (27) a surveillance shift log, including the following details:
  - (A) The date that the entry is being made;
  - (B) the time of and duration, description, and location of all unusual occurrences observed;
  - (C) a listing of any surveillance issues, including the following:
    - (i) Equipment malfunctions related to other logged events or activities;
    - (ii) completed tapes;
    - (iii) still photograph requests; and
  - (D) required signatures;
- (28) a surveillance tape release log, including the following details:
  - (A) The tape number;
  - (B) the date and time of release;
  - (C) the printed name, department, or agency;
  - (D) a notation indicating whether the tape is a duplicate or original;
  - (E) an authorization notation;
  - (F) an "issued by and to" notation; and
  - (G) all required signatures;
- (29) a surveillance tape retention log, including the following details:
  - (A) The date and time of the tape retention activity;
  - (B) the tape number being retained;
  - (C) a description of the activity recorded and the recording mode; and
  - (D) all required signatures;
- (30) a table credit slip, if applicable, including the following details:
  - (A) The date, pit, game or table number, and time of the table credit activity;
  - (B) the amount of each denomination of chips to be credited;
  - (C) the total amount of all denominations to be credited; and
  - (D) all required signatures;
- (31) a table fill slip, including the following details:
  - (A) The date, pit, game or table number, and time of the table fill activity;
  - (B) the amount of each denomination of chips to be distributed;
  - (C) the total amount of all denominations to be distributed; and
  - (D) all required signatures;
- (32) a table inventory slip, including the following details:
  - (A) The date and shift;
  - (B) the game and table number;
  - (C) the total value of each denomination of chips remaining at the table;
  - (D) the total value of all denominations; and
  - (E) all required signatures;
- (33) a table soft count slip or currency counter machine tape, including the following details:
  - (A) The date of the soft count or printing of the machine tape;
  - (B) the table game and number;
  - (C) the box contents by denomination;
  - (D) the total of all denominations; and
  - (E) all required signatures;
- (34) a wide-area progressive secondary jackpot slip, including the following details:
  - (A) The date and time of the wide-area progressive secondary jackpot;
  - (B) an EGM number, location, and denomination;
  - (C) the amount of the jackpot in alpha and numeric description;
  - (D) the reel symbols and number of credits played;
  - (E) all required signatures; and
  - (F) the game type;
- (35) a security incident report, including the following details:
  - (A) The incident report number;
  - (B) the date and time of the incident;
  - (C) the location of the incident;
  - (D) the type of incident;
  - (E) the names and addresses of any witnesses and subjects involved in the incident, if known;
  - (F) a detailed narrative of the incident;
  - (G) the identification of videotape covering the incident, if applicable; and
  - (H) all required signatures;
- (36) a security incident log, including the following details:
  - (A) The date of the daily log;
  - (B) the time of the incident;
  - (C) the incident report number;
  - (D) the name of the reporting security department employee and the employee's commission license number; and
  - (E) the summary of the incident;
- (37) a visitor or vendor log, including the following details:
  - (A) The date of the visitor's or vendor's visit;
  - (B) the printed name;

- (C) the company;
- (D) the time in and time out;
- (E) the type of badge and the badge number;
- (F) the reason for entry; and
- (G) all required signatures;
- (38) a key access list, including the following details:
  - (A) The name of the key;
  - (B) the location of the key;
  - (C) the custodian of the key;
  - (D) the quantity of the keys; and
  - (E) the job titles authorized to sign out the key and, if applicable, any escort requirements and specific limitations;
- (39) a table games variance slip, including the following details:
  - (A) The gaming date;
  - (B) the game or table number;
  - (C) the shift;
  - (D) a description of the discrepancy found; and
  - (E) all required signatures;
- (40) an inventory log of prenumbered forms, including the following details:
  - (A) The name of the prenumbered form;
  - (B) the date received or issued;
  - (C) the quantity received or issued;
  - (D) the number sequence of forms received or issued;
  - (E) the name of each department to which forms were issued; and
  - (F) all required signatures and commission license numbers;
- (41) a gift log, including the following details:
  - (A) The name of the gift recipient;
  - (B) the gift donor;
  - (C) a description and value of the gift; and
  - (D) the date the gift was received;
- (42) a safekeeping log, including the following details:
  - (A) The date of deposit or withdrawal;
  - (B) the name of the patron;
  - (C) the dollar amount of deposit or withdrawal;
  - (D) the type of deposit or withdrawal; and
  - (E) the total balance of all deposits;
- (43) a card or dice discrepancy report, including the following details:
  - (A) The date and time of the noted discrepancy;
  - (B) the location;
  - (C) a description of the discrepancy found; and
  - (D) all required signatures;
- (44) a remote access log, including the following details:
  - (A) The access start date and time;
  - (B) the access end date and time;
  - (C) the reason for the remote access; and
  - (D) the person making access;
- (45) a personnel access list, including the following details:
  - (A) The employee name;
  - (B) the license number; and
  - (C) all authorized functions the employee may perform;
- (46) a redemption log, including the following details:
  - (A) The date the claim is being made;
  - (B) the dollar value of each item received by mail;
  - (C) the check number;
  - (D) the patron's name and address; and
  - (E) the signature of the employee performing the transaction;
- (47) a currency cassette log, including the following details:
  - (A) The date of the currency cassette log;
  - (B) the time of the currency cassette log;
  - (C) the tamper-resistant seal number;
  - (D) the unique cassette number;
  - (E) the amount of cash in the cassette;
  - (F) the denomination of currency in the cassette; and
  - (G) the signature of the main bank cashier who prepared the cassette; and
- (48) a table games jackpot slip, including the following details:
  - (A) The date of the table game jackpot;
  - (B) the time of the table game jackpot;
  - (C) the amount of winnings in alpha and numeric description;
  - (D) the table game number;
  - (E) the type of jackpot;
  - (F) the player's name;
  - (G) the signature of the cashier;
  - (H) the signature of the dealer;
  - (I) the signature of the table games supervisor; and
  - (J) the signature of the security officer escorting the funds; and
- (49) a meter-reading comparison report, including the following details:
  - (A) The date of the meter-reading comparison report;
  - (B) the asset number;
  - (C) the beginning and ending credits played;
  - (D) the beginning and ending credits paid;
  - (E) the beginning and ending amount-to-drop, if applicable;

(F) the beginning and ending jackpots paid;  
 (G) the difference between the beginning and ending amount for all meters;  
 (H) the variance between the meters, if any; and  
 (I) the signature of an accounting department employee. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Oct. 16, 2009.)

**112-104-42. Purchasing.** (a) Each facility manager's internal control system shall include internal controls for purchasing.

(b) The internal controls shall indicate the amount of a single transaction or series of related transactions that an individual or a group of employees, owners, or directors may approve.

(c) The internal controls shall include the following information for both manual and computerized systems:

(1) Steps for initiating purchasing procedures;  
 (2) detailed procedures for the preparation and distribution of purchase orders, including the following:

(A) The amounts that can be authorized by various positions or levels of personnel;

(B) the sequence of required signatures and distribution of each part of the purchase order;

(C) a statement that purchase orders shall be issued only for a specific dollar amount. Each change to an issued purchase order shall be returned to the purchasing department to initiate an amended purchase order and obtain additional approvals, if necessary; and

(D) the maintenance of a purchase order log;

(3) detailed procedures for issuing and approving blanket purchase orders for purchases of goods or services, including the following:

(A) The competitive bid requirements for blanket purchase orders;

(B) a statement that each blanket purchase order shall include a maximum amount, the effective date, and the expiration date; and

(C) controlling, documenting, and monitoring blanket purchase orders;

(4) requirements for competitive bidding process, including the following:

(A) The number of bids required. A minimum of two bids shall be required;

(B) a statement that the purchasing department shall have the final responsibility for obtaining competitive bids. The originating departments may provide the amount budgeted for the purchase, cost limitations, and vendor recommendations;

(C) the steps for documenting bids and the minimum amount required for written bids;

(D) a statement that all competitive bids received shall be confidential and shall not be disclosed to any other vendors; and

(E) criteria for qualifying approved vendors of goods or services based on "fair market value," considering factors including quality, service, and price;

(5) detailed procedures and approval process for emergency purchases, including the following:

(A) A statement that emergency purchases shall occur after normal business hours, on weekends or holidays or, in case of immediate need of goods or services, in response to unusual occurrences during normal business hours;

(B) a statement that approvals may be verbal until purchasing documentation is prepared. Purchasing documentation shall be finalized within five days;

(C) a statement on the purchase order documenting the reason for the emergency purchase; and

(D) the maintenance of an emergency purchase order log;

(6) detailed procedures to ensure that vendor files contain all company-required forms, documentation, and approvals;

(7) a prohibition against the purchase or lease of gaming equipment or supplies from other than a licensed supplier;

(8) detailed procedures for contracts, including the following:

(A) The management levels and the contract amounts that managers may negotiate and execute;

(B) a statement that all contracts shall be subject to the competitive bid process;

(C) the terms of all contracts;

(D) the approval process for payments made against an executed contract; and

(E) the distribution and filing of executed contracts;

(9) if applicable, detailed procedures for the use of purchasing cards, including the following:

(A) Authorized position titles to be purchasing card holders and their spending limits, both single-transaction and monthly;

(B) items that may be purchased with the purchasing card;

(C) use of the purchasing card with approved vendors only, if applicable;

(D) responsibilities of the holder of the purchasing card, including maintaining receipts and verifying monthly statements;

(E) responsibilities of the manager of the purchasing card holder, including approving monthly statements;

(F) disputing fraudulent or incorrect charges;

(G) payment to vendors for purchasing card charges; and

(H) the name of the department or position, as stated in the facility manager's internal controls, that is responsible for overseeing the purchasing card process;

(10) detailed procedures for the receipt of all goods received by an employee independent of the purchasing department as specified in the facility manager's internal controls, including the following:

(A) The verification process for the receipt of goods, including damaged goods, partial shipments, and overshipments;

(B) the distribution of all receiving documentation; and

(C) the maintenance of receiving documentation; and

(11) payment of vendor invoices, including procedures for the following:

(A) Each time the invoice amount disagrees with the purchase documentation;

(B) processing non-invoice payments; and

(C) the approval process for the utilization of a check request form, if applicable.

(d) Related party transactions, either oral or written, shall meet the minimum internal control standards in this regulation. In addition, the internal controls shall require the following:

(1) Each related party transaction or series of related party transactions reasonably anticipated to exceed \$50,000 annually shall be subject to approval of the board of directors or owners of the company.

(2) An annual report of related party contracts or transactions shall be prepared and submitted to the board of directors or owners and the executive director, listing all related party transactions or group of like transactions occurring during the year. This report shall be due at the end of the third month following each calendar year, be formatted to group related party transactions by key person or entity, and contain the following information:

(A) Name of the related party;

(B) amount of the transaction or payments under the contract;

(C) term of contract;

(D) nature of transaction; and

(E) determination of how the fair market value of the contract, goods, or services was ascertained.

(3) A quarterly report updating new or renewed related party transactions entered into during the quarter shall be prepared and submitted to the board of directors or owners and to the executive director. This report shall also indicate any terminations of related party transactions and shall be due at the end of the second month following the end of the quarter. The annual report shall meet the requirement for the fourth quarterly report. (Authorized by and implementing K.S.A. 2010 Supp. 74-8772; effective Dec. 9, 2011.)

#### Article 105.—SECURITY

**112-105-1. Security department.** (a) Each facility manager shall have a security department that is responsible for the security of the gaming facility. The facility manager, through its security department, shall do the following:

(1) Protect the people in the gaming facility;

(2) safeguard the assets within the gaming facility;

(3) protect the patrons, employees, and property from illegal activity;

(4) assist with the enforcement of all applicable laws and regulations;

(5) prevent persons who are under 21 years old from gambling or entering gaming areas;

(6) detain any individual if a commission enforcement agent so requests or if there is reason to believe that the individual is in violation of the law or gaming regulations;

(7) record any unusual occurrences, including suspected illegal activity;

(8) identify and remove any person who is required to be excluded pursuant to article 111 or 112 of the commission's regulations;

(9) report security violations or suspected illegal activity to the commission security staff within 24 hours;

(10) report to the commission's security staff, within 24 hours, any facts that the facility manager has reasonable grounds to believe indicate a violation of law, violation of the facility manager's minimum internal control standards, or violation of regulations committed by any facility manager, including the performance of activities different from those permitted under that person's license or certificate;

(11) notify commission security staff, within 24 hours, of all inquiries made by law enforcement

officials and any inquiries made concerning the conduct of a person with a license or certificate; and

(12) establish and maintain procedures for handling the following:

- (A) Identification badges;
- (B) incident reports;
- (C) asset protection and movement on the property;
- (D) power or camera failure;
- (E) enforcement of the minimum gambling age;
- (F) firearms prohibition;
- (G) alcoholic beverage control;
- (H) disorderly or disruptive patrons;
- (I) trespassing;
- (J) eviction;
- (K) detention; and
- (L) lost or found property.

(b) No open carrying of firearms shall be permitted within a gaming facility except for the following:

(1) Kansas racing and gaming commission enforcement agents;

(2) on-duty law enforcement officers; and

(3) trained and certified guards employed by an armored car service while on duty and working for a licensed non-gaming supplier company.

(c) No concealed carrying of firearms shall be permitted within a gaming facility except for the following:

(1) Kansas racing and gaming commission enforcement agents;

(2) on-duty law enforcement officers in plain clothes engaged in the performance of their official duties; and

(3) any off-duty or retired law enforcement officer who meets the following conditions:

(A) Is in compliance with the firearms policies of the officer's law enforcement agency;

(B) is carrying a photographic identification card that identifies the individual as a current or retired law enforcement officer and has been issued by the officer's current agency or the agency from which the individual separated from service as a law enforcement officer;

(C) presents the photographic identification card specified in paragraph (c)(3)(B) when requested by a commission agent or gaming facility security personnel; and

(D) has not been denied a license to carry a concealed handgun and does not have a license to carry a concealed handgun that has been sus-

pending or revoked pursuant to the personal and family protection act, K.S.A. 75-7c01 et seq. and amendments thereto.

(d) As used in this regulation, "law enforcement officer" shall mean any of the following:

(1) Any person employed by a law enforcement agency who is in good standing and is certified under the Kansas law enforcement training act;

(2) a law enforcement officer who has obtained a similar designation in a jurisdiction outside the state of Kansas but within the United States; or

(3) a federal law enforcement officer who, as part of the officer's duties, is permitted to make arrests and to be armed.

(e) Each facility manager shall meet its obligations in subsections (b) and (c) in accordance with the personal and family protection act, K.S.A. 75-7c01 et seq. and amendments thereto. (Authorized by and implementing K.S.A. 74-8772; effective Sept. 26, 2008; amended April 1, 2011; amended March 20, 2020.)

**112-105-2. Security plan.** (a) Each applicant for a facility manager certification shall submit a security plan to the commission at least 120 days before the proposed opening of a racetrack gaming facility or lottery gaming facility. The plan shall be consistent with the applicant's contractual obligations with the Kansas lottery.

(b) A facility manager shall not commence gaming operations until its security plan has been approved by the commission.

(c) To be approved, the security plan shall include the following:

(1) An organizational chart showing all positions in the security department;

(2) a description of the duties and responsibilities of each position shown on the organizational chart;

(3) the administrative and operational policies and procedures used in the security department;

(4) a description of the training required for security personnel;

(5) a description of the location of each permanent security station;

(6) the location of each security detention area;

(7) provisions for security staffing; and

(8) the emergency operations plan required by K.A.R. 112-105-3.

(d) All amendments to the security plan shall be submitted to the commission for approval at least 30 days before the date of desired implementation. (Authorized by and implementing K.S.A.

2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

**112-105-3. Emergency operations plan.**

(a) The director of security in the security department shall maintain an emergency operations plan, including evacuation procedures, to deal with the following:

- (1) The discovery or threat of an explosive device on the property;
- (2) a fire or fire alarm;
- (3) a terrorist threat directed at the property;
- (4) severe storms;
- (5) the threat or use of an unauthorized firearm or any other weapon, as described in K.S.A. 21-4201 and amendments thereto; and
- (6) any other event for which the applicant determines that prior planning is reasonable.

(b) When the applicant establishes the emergency operations plan, the safety of patrons and personnel shall be the first priority.

(c) The director of security shall ensure that the commission's security staff at the facility are notified of any emergency situation at that time.

(d) All amendments to the emergency operations plan shall be submitted to the commission for approval at least 30 days before the desired date of implementation. (Authorized by and implementing K.S.A. 2010 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

**Article 106.—SURVEILLANCE**

**112-106-1. Surveillance system.** (a) A facility manager or applicant for a facility manager certification shall have a surveillance system before beginning gaming operations. The surveillance system shall include a digital video system capable of the following:

- (1) Instant replay;
- (2) recording by any camera in the system; and
- (3) allowing simultaneous and uninterrupted recording and playback.

(b) The surveillance system shall include a communication system capable of monitoring the gaming facility, including the security department.

(c) The surveillance system shall be connected to all facility alarm systems.

(d) The surveillance system shall be capable of monitoring the entire property, except private offices and restrooms.

(e) The surveillance system shall include the following features:

- (1) Redundant system drives;

(2) a backup power supply capable of operating all surveillance equipment during a power outage. The backup power supply shall be tested on a monthly basis;

(3) backup storage components that will automatically continue or resume recording in the event of failure of any single component of the system, so that the failure of any single component will not result in the loss of any data from the system; and

(4) automatic restart if a power failure occurs.

(f) The digital video system shall meet the following requirements:

(1) Function as a closed network;

(2) have its access limited to the personnel identified in the surveillance system plan;

(3) be equipped to ensure that any transmissions are encrypted, have a firewall at both ends, and are password-protected;

(4) be equipped with a failure notification system that provides an audible and visual notification of any failure in the surveillance system or the digital video recording storage system;

(5) record all images and audit records on a hard drive;

(6) be locked by the manufacturer to do the following:

(A) Disable the erase and reformat functions; and

(B) prevent access to the system data files; and

(7) be equipped with data encryption or watermarking so that surveillance personnel will be capable of demonstrating in a court of law that the video was not altered or manipulated in any way.

(g) The surveillance system shall include cameras dedicated to monitoring the following with sufficient clarity to identify any person:

(1) The entrances to and exits from the gaming facility;

(2) the count rooms;

(3) the vaults;

(4) the surveillance room;

(5) the security rooms;

(6) all cage areas; and

(7) all exterior entrances to and exits from the property.

(h) The surveillance system required by this regulation shall be equipped with light-sensitive cameras with lenses of sufficient magnification to allow the operator to read information on an electronic gaming machine reel strip and credit meter and be capable of clandestine monitoring in detail and from various vantage points, including the following:

(1) The conduct and operation of electronic gaming machines, lottery facility games, and pari-mutuel wagering;

(2) the conduct and operation of the cashier's cage, satellite cashier's cages, mutuel lines, count rooms, and vault;

(3) the collection and count of the electronic gaming bill validator canisters; and

(4) the movement of cash and any other gaming facility assets.

(i) All cameras shall be equipped with lenses of sufficient magnification capabilities to allow the operator to clearly distinguish the value of the following:

- (1) Chips;
- (2) dice;
- (3) tokens;
- (4) playing cards;
- (5) positions on the roulette wheel; and
- (6) cash and cash equivalents.

(j) The surveillance system shall provide a view of the pit areas and gaming tables capable of clearly identifying the following:

- (1) The dealers;
- (2) the patrons;
- (3) the hands of all participants in a game;
- (4) facial views of all participants in a game;
- (5) all pit personnel;
- (6) the activities of all pit personnel;
- (7) the chip trays;
- (8) the token holders;
- (9) the cash receptacles;
- (10) the tip boxes;
- (11) the dice;
- (12) the shuffle machines;
- (13) the card shoes, which are also called dealing boxes;

(14) the playing surface of all gaming tables with sufficient clarity to determine the following:

- (A) All wagers;
- (B) card values; and
- (C) game results; and

(15) roulette tables, which shall be viewed by the surveillance system with color cameras.

(k) The surveillance of the electronic gaming devices shall be capable of providing the following:

- (1) A view of all patrons;
- (2) a facial view of all patrons with sufficient clarity to allow identification of each patron;
- (3) a view of the electronic gaming device with sufficient clarity to observe the result of the game;
- (4) an overall view of the areas around the electronic gaming device;

(5) a view of each bill validator with sufficient clarity to determine bill value and the amount of credit obtained; and

(6) a view of the progressive games, including the incrementation of the progressive jackpot.

(l) All surveillance system display screens shall meet all of the following requirements:

(1) Be equipped with a date and time generator synchronized to a central clock that meets the following requirements:

(A) Is displayed on any of the surveillance system display screens; and

(B) is recorded on all video pictures or digital images;

(2) be capable of recording what is viewed by any camera in the system; and

(3) be of a sufficient number to allow the following:

(A) Simultaneous recording and coverage as required by this article;

(B) off-line playback;

(C) duplication capabilities;

(D) single-channel monitors in the following areas:

(i) Each entry and each exit;

(ii) the main bank and cages;

(iii) table games; and

(iv) count rooms; and

(E) no more than four channels per monitor in all other areas where surveillance is required.

(m) The surveillance system shall be connected to at least one video printer. Each video printer shall be capable of generating clear color copies of the images depicted on the surveillance system display screen or video recording.

(n) The surveillance system shall allow audio recording in any room where the contents of bill validator canisters are counted.

(o) All wiring within the surveillance system shall be tamper-resistant.

(p) The surveillance system shall be linked to the commission's security office with equipment capable of monitoring or directing the view of any system camera.

(q) The commission's director of security shall be notified at least 48 hours in advance of the relocation of any camera on the surveillance system's floor plan. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

**112-106-2. Surveillance system plan.** (a) Each applicant for a facility manager certifica-

tion shall submit a surveillance system plan to the commission at least 120 days before the proposed opening of a racetrack gaming facility or lottery gaming facility.

(b) A facility manager shall not commence gaming activities until its surveillance system plan is approved by the commission.

(c) To be approved, the surveillance system plan shall include the following:

(1) A schematic showing the placement of all surveillance equipment;

(2) a detailed description of the surveillance system and its equipment;

(3) the policies and procedures for the surveillance department;

(4) the plans for staffing as required in K.A.R. 112-106-4;

(5) the monitoring activities for both the gaming area and adjacent areas;

(6) the monitoring activities for a detention room; and

(7) a list of the facility manager's personnel that may have access to the surveillance system.

(d) All proposed changes to the surveillance system plan shall be submitted by the director of surveillance to the commission for approval at least 30 days before the director of surveillance desires to implement the changes. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

**112-106-5. Surveillance room.** (a) Each facility manager shall have a secure surveillance room with reasonable space, as determined by the executive director, to accommodate the required equipment and operator stations.

(b) Each surveillance room shall be located out of the view of the gaming area. The entrances to the surveillance room shall be locked at all times and shall not be accessible to members of the public or non-surveillance employees of the gaming facility.

(c) Commission agents shall have unrestricted access to the surveillance room and all information received or stored by the surveillance system.

(d) Access to the surveillance room shall be limited to surveillance employees of the gaming facility and commission security employees, except that persons with a legitimate need to enter the surveillance room may do so upon receiving approval from a commission enforcement agent.

(1) Each person, other than surveillance personnel and commission enforcement agents,

entering the surveillance room shall sign a surveillance room entry log.

(2) The surveillance room entry log shall meet the following requirements:

(A) Be maintained in the surveillance room by surveillance room personnel;

(B) be maintained in a book with bound numbered pages that cannot readily be removed;

(C) be signed by each person entering the surveillance room, with each entry containing the following:

(i) The date and time of entering the surveillance room;

(ii) the entering person's name and that person's affiliation or department within the gaming facility;

(iii) the reason for entering the surveillance room; and

(iv) the date and time of exiting the surveillance room; and

(D) be retained for at least one year after the date of the last entry. The destruction of the surveillance room entry log shall be approved by the commission's director of security.

(3) The surveillance room entry log shall be made available for inspection by the commission security employees upon demand.

(e) The surveillance room shall be subject to periodic inspection by commission employees to ensure that all of the following conditions are met:

(1) All equipment is working properly.

(2) No camera views are blocked or distorted by improper lighting or obstructions.

(3) All required surveillance capabilities are in place.

(4) All required logs are current and accurate.

(5) There is sufficient staff to protect the integrity of gaming at the facility.

(6) The surveillance room employees are not performing tasks beyond the surveillance operation. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

**112-106-6. Monitoring.** (a) The surveillance department employees shall continuously record the transmissions from the cameras used to observe the following locations, persons, activities, and transactions:

(1) The entrances to and exits from the following:

(A) The gaming facility;

(B) the count rooms;

- (C) the vaults;
  - (D) the surveillance room;
  - (E) the security rooms;
  - (F) the cage areas; and
  - (G) the site of all ancillary operations;
- (2) each transaction conducted at a cashiering location, whether or not that cashiering location services patrons;
- (3) the main bank, vault, and satellite cages;
  - (4) the collection of cash storage boxes from electronic gaming machines;
  - (5) the count procedures conducted in the count room;
  - (6) any armored car collection or delivery;
  - (7) automated bill breaker, gaming voucher redemption, coupon redemption, and jackpot payout machines whenever the machines are opened for replenishment or other servicing; and
  - (8) any other areas specified in writing by the commission.
- (b) The surveillance department employees shall maintain a surveillance log of all surveillance activities in the surveillance room. The log shall be maintained in a book with bound, numbered pages that cannot be readily removed or in an electronic format with an audit function that prevents modification of information after the information has been entered into the system. The log shall contain the following, at a minimum:
- (1) The date and time of each entry;
  - (2) the identity of the employee making the entry;
  - (3) a summary of the activity recorded;
  - (4) the location of the activity;
  - (5) the location of the recorded information;
- and
- (6) the surveillance department's disposition of the activity.
- (c) The surveillance department employees shall record by camera and log the following events when they are known to occur on the property:
- (1) Any activity by players and employees, alone or in concert, that could constitute cheating or stealing;
  - (2) any activity that could otherwise be criminal;
  - (3) any procedural violation by an employee;
  - (4) the detention of persons;
  - (5) the treatment of disorderly individuals;
  - (6) emergency activities capable of being observed by the surveillance system;
  - (7) the presence of persons on the involuntary exclusion list;

- (8) the presence of persons on the self-exclusion list;
  - (9) arrests and evictions;
  - (10) the treatment of ill or injured patrons;
  - (11) the on-site maintenance and repair of any gaming or money handling equipment; and
  - (12) any jackpot winning of \$1,200 or more.
- (d) Surveillance department employees shall record by camera the movement of the following on the gaming facility floor:
- (1) Cash;
  - (2) cash equivalents;
  - (3) tokens;
  - (4) cards;
  - (5) chips; or
  - (6) dice.
- (e) The surveillance department employees shall continuously monitor and record by camera the following:
- (1) Soft count procedures;
  - (2) hard count procedures;
  - (3) currency collection;
  - (4) drop bucket collection; and
  - (5) the removal of the daily bank deposit from the gaming facility by armored car officers. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

### **Article 107.—ELECTRONIC GAMING MACHINES**

**112-107-1. Electronic gaming machine requirements.** (a) Each electronic gaming machine (EGM) approved for use in a gaming facility shall meet the requirements of article 110.

(b) Unless a facility manager's electronic gaming monitoring system is configured to automatically record all of the information required by this article, the facility manager shall be required to house the following entry authorization logs in each EGM:

- (1) A machine entry authorization log that documents each time an EGM or any device connected to the EGM that could affect the operation of the EGM is opened. The log shall contain, at a minimum, the following:
  - (A) The date and time of opening;
  - (B) the purpose for opening the EGM or device;
  - (C) the signature and the license or permit number of the person opening and entering the EGM or device; and

(D) if a device, the asset number corresponding to the EGM in which the device is housed; and

(2) a progressive entry authorization log that documents each time a progressive controller not housed within the cabinet of the EGM is opened. The log shall contain, at a minimum, the following:

(A) The date and time of opening;

(B) the purpose for accessing the progressive controller; and

(C) the signature and the license or permit number of the person accessing the progressive controller. Each log shall be maintained in the progressive controller unit and have recorded on the log a sequence number and the gaming supplier's serial number of the progressive controller.

(c) Each EGM shall be equipped with a lock controlling access to the card cage door securing the microprocessor, and the lock's key shall be different from any other key securing access to the EGM's components, including its belly door or main door, bill validator, and electronic gaming cash storage box. Access to the key securing the microprocessor shall be limited to a supervisor in the security department. The department's director of security shall establish a sign-out and sign-in procedure for the key, which shall include notification to commission staff before release of the key. (Authorized by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8750 and 74-8772; effective April 24, 2009.)

**112-107-2. Testing and approval.** (a) Each EGM prototype and the associated equipment operated in this state shall be approved in accordance with the act, this article, and article 110.

(b) One of the following EGM testing procedures may be required by the executive director:

(1) An abbreviated testing and approval process in accordance with K.A.R. 112-107-3(g); or

(2) testing and approval in accordance with K.A.R. 112-107-3(i). (Authorized by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8750 and 74-8772; effective April 24, 2009.)

**112-107-3. Submission for testing and approval.** (a) Each LFG prototype and the associated equipment subject to testing and approval under this regulation shall be evaluated by the commission for the following:

(1) Overall operational integrity and compliance with the act, this article, and the technical standards adopted by the commission under article 110;

(2) compatibility and compliance with the central computer system; and

(3) compatibility with any protocol specifications approved by the Kansas lottery, including the ability to communicate with the central computer system for the purpose of transmitting auditing program information, real-time information retrieval, and activation and disabling of LFGs.

(b) LFGs and associated equipment that shall be submitted for testing and commission approval include the following:

(1) Bill validators and printers;

(2) electronic gaming monitoring systems, to the extent that the systems interface with LFGs and related systems;

(3) LFG management systems that interface with LFGs and related systems;

(4) player tracking systems that interface with LFGs and related systems;

(5) progressive systems, including wide-area progressive systems;

(6) gaming ticket systems;

(7) external bonusing systems;

(8) cashless funds transfer systems;

(9) machines performing gaming ticket, coupon, or jackpot payout transactions;

(10) coupon systems, to the extent the systems interface with LFGs and related systems; and

(11) other LFG-related systems as determined by the executive director.

(c) A product submission checklist to be completed by an applicant for or holder of a gaming supplier certificate may be prescribed by the executive director.

(d) The chief engineer of the applicant for or holder of a gaming supplier certificate or the engineer in charge of the division of the gaming supplier responsible for producing the product submitted may be required by the executive director to attest that the LFGs and associated equipment were properly and completely tested by the gaming supplier before submission to the commission.

(e) An abbreviated testing and approval process may be utilized by the commission in accordance with the act.

(f) If a facility manager develops software or a system that is functionally equivalent to any of the electronic gaming systems specified in subsection (b), that software or system shall be subject to the testing and approval process of this article to the same extent as if the software or system were developed by a gaming supplier certificate holder. Each reference in this article

to the responsibilities of a gaming supplier certificate holder shall apply to a facility manager developing software or systems subject to testing and approval under this article.

(g) When an applicant or gaming supplier certificate holder seeks to utilize the abbreviated testing and approval process for an LFG prototype, associated device or software, or any modification to an LFG prototype, associated device or software, the applicant or supplier shall submit the following to the independent testing laboratory:

(1) A prototype of the equipment, device, or software accompanied by a written request for abbreviated testing and approval that identifies the jurisdiction within the United States upon which the applicant or supplier proposes that the commission rely. The applicant or supplier shall transport the equipment, device, or software at its own expense and deliver it to the offices of the independent testing laboratory;

(2) a certification executed by the chief engineer or engineer in charge of the applicant or supplier verifying that all of the following conditions are met:

(A) The prototype or modification is identical in all mechanical, electrical, and other respects to one that has been tested and approved by the testing facility operated by the jurisdiction or private testing facility on behalf of the jurisdiction;

(B) the applicant or supplier is currently certified and in good standing in the named jurisdiction, and the prototype has obtained all regulatory approvals necessary to sale or distribution in the named jurisdiction;

(C) in the engineer's opinion, the testing standards of the named jurisdiction are comprehensive and thorough and provide adequate safeguards that are similar to those required by this article; and

(D) in the engineer's opinion, the equipment, device, or software meets the requirements of the act, this article, and the technical standards adopted by the commission under article 110, including requirements related to the central computer system;

(3) an executed copy of a product submission applicable to the submitted equipment, device, or software unless a substantially similar checklist was filed with the named jurisdiction and is included in the submission package required by paragraph (g)(4);

(4) copies of the submission package and any amendments filed with the named jurisdiction, copies of any correspondence, review letters, or

approvals issued by the testing facility operated by the named jurisdiction or a private testing facility on behalf of the named jurisdiction and, if applicable, a copy of the final regulatory approval issued by the named jurisdiction;

(5) a disclosure that details any conditions or limitations placed by the named jurisdiction on the operation or placement of the equipment, device, or software at the time of approval or following approval;

(6) a complete and accurate description of the manner in which the equipment, device, or software was tested for compatibility and compliance with the central computer system and protocol specifications approved by the Kansas lottery, including the ability to communicate with the central computer system for the purpose of transmitting auditing program information, real-time information retrieval, and activation and disabling of LFGs;

(7) any hardware, software, and other equipment, including applicable technical support and maintenance, required by the independent testing laboratory to conduct the abbreviated testing and approval process required by the act, this article, and the technical standards adopted by the commission under article 110. The testing equipment and services required by this subsection shall be provided at no cost to the commission; and

(8) any additional documentation requested by the commission that is necessary to evaluate the LFG, associated equipment, or any modification.

(h) When an applicant or a gaming supplier seeks commission approval of an LFG, equipment, device, or software, or any modification to which the abbreviated testing process in subsection (f) is not applicable, the applicant or supplier shall submit the following to the independent testing laboratory:

(1) A prototype of the equipment, device, or software accompanied by a written request for testing and approval. The gaming supplier shall transport the equipment, device, or software at its own expense and deliver the equipment, device, or software to the offices of the commission's independent testing laboratory in accordance with instructions provided;

(2) any certifications required under this regulation;

(3) an executed copy of a current product submission checklist;

(4) a complete and accurate description of the equipment, device, or software, accompanied by

related diagrams, schematics, and specifications, together with documentation with regard to the manner in which the product was tested before its submission to the commission;

(5) any hardware, software, and other equipment, including applicable technical support and maintenance, required by the independent testing laboratory to conduct the testing and approval process required by the act, this article, and the technical standards adopted by the commission under article 110. All testing equipment and services required by this subsection shall be provided at no cost to the commission;

(6) for an LFG prototype, the following additional information, which shall be provided to the commission:

(A) A copy of all operating software needed to run the LFG, including data and graphics information, on electronically readable and unalterable media;

(B) a copy of all source code for programs that cannot be reasonably demonstrated to have any use other than in an LFG, on electronically readable and unalterable media;

(C) a copy of all graphical images displayed on the LFG, including reel strips, rules, instructions, and pay tables;

(D) an explanation of the theoretical return to the player, listing all mathematical assumptions, all steps in the formula from the first principles through the final results of all calculations including bonus payouts, and, when a game requires or permits player skill in the theoretical derivations of the payout return, the source of strategy;

(E) hardware block diagrams of the major subsystems;

(F) a complete set of schematics for all subsystems;

(G) a diagram of the wiring harness connection;

(H) a technical or operator manual;

(I) a description of the security methodologies incorporated into the design of the LFG including, when applicable, encryption methodology for all alterable media, auto-authentication of software, and recovery capability of the LFG for power interruption;

(J) a cross reference of product meters to the required meters specified in article 110;

(K) a description of tower light functions indicating the corresponding condition;

(L) a description of each error condition and the corresponding action required to resolve the error;

(M) a description of the use and function of available electronic switch settings or configurable options;

(N) a description of the pseudo random number generator or generators used to determine the results of a wager, including a detailed explanation of operational methodology, and a description of the manner by which the pseudo random number generator and random number selection processes are impervious to outside influences, interference from electromagnetic, electrostatic, and radio frequencies, and influence from ancillary equipment by means of data communications. Test results in support of representations shall be submitted;

(O) specialized hardware, software, or testing equipment, including technical support and maintenance, needed to complete the evaluation, which may include an emulator for a specified microprocessor, personal computers, extender cables for the central processing unit, target reel strips, and door defeats. The testing equipment and services required by this subsection shall be provided at no cost to the commission;

(P) a compiler, or reasonable access to a compiler, for the purpose of building applicable code modules;

(Q) program storage media including erasable programmable read-only memory (EPROM), electronically erasable programmable read-only memory (EEPROM), and any type of alterable media for LFG software;

(R) technical specifications for any microprocessor or microcontroller;

(S) a complete and accurate description of the manner in which the LFG was tested for compatibility and compliance with the central computer system and protocol specifications approved by the Kansas lottery, including the ability to communicate with the central computer system for the purpose of transmitting auditing program information, real-time information retrieval, and activation and disabling of LFGs; and

(T) any additional documentation requested by the commission relating to the LFG;

(7) if an LFG prototype is modified, including a change in theme, the following additional information, which shall be provided to the commission:

(A) A complete and accurate description of the proposed modification to the LFG prototype, accompanied by applicable diagrams, schematics, and specifications;

(B) when a change in theme is involved, a copy of the graphical images displayed on the LFG,

including reel strips, rules, instructions, and pay tables;

(C) when a change in the computation of the theoretical payout percentage is involved, a mathematical explanation of the theoretical return to the player, listing all assumptions, all steps in the formula from the first principles through the final results of all calculations including bonus payouts, and, when a game requires or permits player skill in the theoretical derivations of the payout return, the source of strategy;

(D) a complete and accurate description of the manner in which the LFG was tested for compatibility and compliance with the central computer system and protocol specifications approved by the Kansas lottery, including the ability to communicate with the central computer system for the purpose of transmitting auditing program information, real-time information retrieval and activation, and the disabling of LFGs; and

(E) any additional documentation requested by the commission relating to the modification of the LFG;

(8) for an electronic gaming monitoring system, casino management system, player tracking system, wide-area progressive system, gaming ticket system, external bonusing system, cashless funds transfer system, automated gaming ticket, coupon redemption or jackpot payout machine, coupon system, or any other equipment or system required to be tested and approved under subsection (b), the following:

(A) A technical manual;

(B) a description of security methodologies incorporated into the design of the system, which shall include the following, when applicable:

- (i) Password protection;
- (ii) encryption methodology and its application;
- (iii) automatic authentication; and
- (iv) network redundancy, backup, and recovery procedures;

(C) a complete schematic or network diagram of the system's major components accompanied by a description of each component's functionality and a software object report;

(D) a description of the data flow, in narrative and in schematic form, including specifics with regard to data cabling and, when appropriate, communications methodology for multisite applications;

(E) a list of computer operating systems and third-party software incorporated into the system, together with a description of their interoperability;

(F) system software and hardware installation procedures;

(G) a list of available system reports;

(H) when applicable, features for each system, which may include patron and employee card functions, promotions, reconciliation procedures, and patron services;

(I) a description of the interoperability testing, including test results for each submitted system's connection to LFGs, to ticket, coupon redemption, and jackpot payout machines, and to computerized systems for counting money, tickets, and coupons. This list shall identify the tested products by gaming supplier, model, and software identification and version number;

(J) a narrative describing the method used to authenticate software;

(K) all source codes;

(L) a complete and accurate description, accompanied by applicable diagrams, schematics, and specifications, of the creation of a ticket and the redemption options available;

(M) a complete and technically accurate description, accompanied by applicable diagrams, schematics, and specifications, of the creation of a coupon and the redemption options available;

(N) any specialized hardware, software, or other equipment, including applicable technical support and maintenance required by the independent testing laboratory to conduct the testing and approval process required by the act, this article, and the technical standards adopted by the commission under article 110. The testing equipment and services required by this subsection shall be provided at no cost to the commission; and

(O) any additional documentation requested by the executive director related to the equipment or system being tested; and

(9) for a modification to any of the systems identified in paragraph (h)(8), the following additional information:

(A) A complete and accurate description of the proposed modification to the system, accompanied by applicable diagrams, schematics, and specifications;

(B) a narrative disclosing the purpose for the modification; and

(C) any additional documentation requested by the executive director relating to the modification.

(i) A trial period may be required by the commission to assess the functionality of the prototype or modification in a live gaming environment. The conduct of the trial period shall be subject to com-

pliance by the gaming supplier and the facility manager with any conditions that may be required by the commission. These conditions may include development and implementation of product-specific accounting and internal controls, periodic data reporting to the commission, and compliance with the technical standards adopted under article 110 on trial periods or the prototype or modification adopted by the commission. Termination of the trial period may be ordered by the executive director if the executive director determines that the gaming supplier or the facility manager conducting the trial period has not complied with the conditions required by the commission or that the product is not performing as expected.

(j) At the conclusion of the testing of a prototype or modification, the independent testing laboratory shall report the results of its testing to the commission. Upon receipt of the independent testing laboratory's report, any one of the following shall be done by the commission:

- (1) Approve;
- (2) approve with conditions;
- (3) reject the submitted prototype or modification; or
- (4) require additional testing or a trial period under subsection (i).

(k) A facility manager shall not install an LFG or associated equipment, or any modification, required to be tested and approved under subsection (b) unless the equipment, device, or software has been approved by the commission and issued a certificate authorizing its use at the gaming facility. The certificate shall be prominently displayed on the approved device. A facility manager shall not modify, alter, or tamper with an approved LFG, the associated equipment, or a commission-issued certificate. Before the removal of the LFG or associated equipment from the gaming facility, the certificate shall be removed by a commission agent. An LFG or the associated equipment installed in a gaming facility in contravention of this requirement shall be subject to seizure by any Kansas law enforcement officer.

(l) The installation of a modification to an LFG prototype or the associated equipment prototype may be authorized by the executive director on an emergency basis to prevent cheating or malfunction, upon the written request of a gaming supplier. The request shall specify the name and employer of any persons to be involved in the installation of the modification and the manner in which the installation is to be effected. Within

15 days of receipt of any authorization to install an emergency modification, the gaming supplier shall submit the modification for full testing and approval in accordance with this article.

(m) Each facility manager shall, no later than four hours after detection, notify the commission's security staff of any known or suspected defect or malfunction in any LFG or associated equipment installed in the gaming facility. The facility manager shall comply with any instructions from the commission staff for use of the LFG or associated equipment.

(n) Each facility manager shall file a master list of approved gaming machines as required by K.A.R. 112-107-10.

(o) Each gaming supplier shall, no later than 48 hours after detection, notify the commission of any known or suspected defect or malfunction in any LFG or associated equipment approved for use in a lottery gaming facility. (Authorized by K.S.A. 2009 Supp. 74-8772; implementing K.S.A. 2009 Supp. 74-8749, 74-8750, and 74-8772; effective April 24, 2009; amended April 1, 2011.)

**112-107-5. Transportation of LFGs.** (a) The transportation of any LFG into or out of this state shall be approved in advance by the executive director. The person causing the LFG to be transported or moved shall notify the executive director of the proposed importation or exportation at least 15 days before the LFG is moved, unless otherwise approved by the executive director. The notice shall include the following information:

- (1) The name and address of the person shipping or moving the LFG;
- (2) the name and address of the person who manufactured, assembled, distributed, or resold the LFG, if different from the person shipping or moving the game;
- (3) the name and address of a new owner if ownership is being changed in conjunction with the shipment or movement;
- (4) the method of shipment or movement and the name and address of the common carrier or carriers, if applicable;
- (5) the name and address of the person to whom the LFG is being sent and the destination of the LFG, if different from that address;
- (6) the quantity of LFG being shipped or moved and the manufacturer's make, model, and serial number of each game;
- (7) the expected date and time of delivery to, or removal from, any authorized location within this state;

(8) the port of entry or exit, if any, of the LFG if the origin or destination of the LFG is outside the continental United States; and

(9) the reason for transporting or moving the LFG.

(b) Each shipment of LFGs shall be sealed before being transported. On arrival at the gaming facility, the shipment shall not be opened or inventoried until the seal is witnessed and broken by an agent of the commission. An agent of the commission shall verify that the LFGs are unloaded, inventoried, and compared to the notice required in subsection (a). (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective April 24, 2009; amended April 1, 2011.)

**112-107-6. Off-premises storage of EGMs.** (a) A facility manager shall not store EGMs off the premises of the gaming facility without prior approval from the commission.

(b) Each facility manager seeking to store EGMs off the premises of the gaming facility shall file a written request for off-premises storage with the executive director. The request shall include all of the following:

(1) The location and a physical description of the proposed storage facility;

(2) a description of the type of surveillance system that has been or will be installed at the storage facility;

(3) the facility manager's plan to provide continuous security at the storage facility;

(4) the number and the name of the manufacturer of the EGMs that will be stored at the facility;

(5) the date that the EGMs are expected to arrive at the storage facility; and

(6) the date that the EGMs are expected to be moved to the gaming facility.

(c) Before acting on a request for off-premises storage of EGMs, agents of the commission shall inspect the proposed storage facility.

(d) Each request shall be responded to by the executive director within 30 days. Any request approved by the executive director may be subject to specific terms and conditions imposed by the executive director. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective April 24, 2009.)

**112-107-7. Gaming floor plan.** (a) Each applicant or gaming facility manager shall submit to the commission a floor plan of its gaming floor and the restricted areas servicing the electronic gaming operation. The floor plan shall include de-

pictions drawn to a scale of 1/8 inch per foot, unless another scale is approved by the executive director, of the following:

(1) Each EGM area on the gaming floor and each EGM location within each EGM area. EGM locations shall be identified by number;

(2) the cage and any satellite cage, including each cage window and window number;

(3) each count room and any trolley storage area;

(4) each automated bill validator, gaming ticket redemption machine, coupon redemption machine, and jackpot payout machine;

(5) each automated teller machine;

(6) each area designated for the storage or repair of EGMs;

(7) the location of each vault and armored car bay; and

(8) any additional documentation requested by the executive director relating to the floor plan for the gaming floor.

(b) A gaming facility manager shall not commence electronic gaming operations until the floor plan depicting the facility manager's gaming floor and all restricted areas servicing the electronic gaming operation has been approved in writing by the executive director.

(c) A gaming facility manager shall not change the number, configuration, or location of EGMs on the floor plan approved under subsection (b) without the prior written approval of the executive director. (Authorized by K.S.A. 2008 Supp. 74-8772; implementing K.S.A. 2008 Supp. 74-8752 and 74-8772; effective April 24, 2009.)

**112-107-9. Testing and software installation on the live gaming floor.** (a) Each facility manager shall notify the executive director in writing at least 72 hours before testing any EGMs, associated equipment, and displays on a gaming floor during the facility manager's gaming hours. The notification shall include the following:

(1) A detailed narrative description of the type of testing to be conducted, including the reason for the testing, a list of individuals conducting the testing, and the facility manager's procedures for conducting the testing;

(2) the date, time, and approximate duration of the testing;

(3) the model, EGM location number, and asset number of the EGM or machines to be tested; and

(4) the location within the gaming facility where the testing shall occur.

(b) Each facility manager shall notify the executive director at least 72 hours before installing any new software or installing any change in previously approved software for the following:

- (1) Automated gaming ticket and coupon redemption machines;
- (2) wide-area progressive systems;
- (3) electronic gaming monitoring systems;
- (4) casino management systems;
- (5) player tracking systems;
- (6) external bonusing systems, as specified in K.A.R. 112-107-26;
- (7) cashless funds transfer systems;
- (8) server-supported electronic gaming systems;
- (9) server-based electronic gaming systems; and
- (10) automated jackpot payout machines.

(c) The notification required by subsection (b) shall include the following:

(1) A description of the reasons for the new installation or change in previously approved software;

(2) a list of the computer components and the programs or versions to be modified or replaced;

(3) a description of any screens, menus, reports, operating processes, configurable options, or settings that will be affected;

(4) the method to be used to complete the proposed installation;

(5) the date that the proposed modification will be installed and the estimated time for completion;

(6) the name, title, and employer of the persons performing the installation;

(7) a diagrammatic representation of the proposed hardware design change;

(8) restrictions on access to the production code by the person implementing the installation; and

(9) procedures to ensure that user and operator manuals are updated to reflect changes in policies and procedures resulting from the proposed installation. (Authorized by K.S.A. 2008 Supp. 74-8772; implementing K.S.A. 2008 Supp. 74-8750 and 74-8772; effective April 24, 2009.)

**112-107-10. Master list of approved gaming machines.** (a) At least 20 days before commencing gaming, each facility manager shall file with the commission, in writing, a complete list of the LFGs and gaming equipment possessed by the facility manager on its gaming floor, in restricted areas off the gaming floor but within the gaming facility as approved by the commission under K.A.R. 112-104-26, and in storage locations

in this state off the premises of the gaming facility as approved by the commission under K.A.R. 112-107-6. The list shall be titled as a master list of approved gaming machines.

(b) The master list of approved LFGs and gaming equipment shall contain the following information that, for those LFGs and the gaming equipment located on the gaming floor, shall be presented for each LFG and gaming equipment in consecutive order by the LFG or gaming equipment location number:

(1) The date the list was prepared;

(2) a description of each LFG and all gaming equipment, using the following:

(A) Asset number and model and manufacturer's serial number;

(B) computer program number and version;

(C) denomination, if configured for multiple denominations, and a list of the denominations;

(D) manufacturer and machine type, noting cabinet type;

(E) if an LFG, specification of whether the LFG is a progressive or a wide-area progressive LFG;

(F) an indication as to whether the LFG or gaming equipment is configured to communicate with a cashless funds transfer system;

(G) an indication as to whether the LFG or gaming equipment is configured to communicate with a gaming ticket system;

(H) designation of which specific surveillance video system cameras will be able to view that LFG or gaming equipment; and

(I) commission certificate number;

(3) for those LFGs or gaming equipment located off the gaming floor, an indication as to whether the LFG or gaming equipment is in a restricted area off the gaming floor but within the gaming facility under K.A.R. 112-104-26 or is in a commission-approved storage location in this state off the premises of the gaming facility under K.A.R. 112-107-6; and

(4) any additional relevant information requested by the commission.

(c) If an LFG or gaming equipment has been placed in an authorized location on the gaming floor or is stored in a restricted area off the gaming floor but within the gaming facility as approved by the commission under K.A.R. 112-104-26, then all subsequent movements of that LFG or gaming equipment within the gaming facility shall be recorded by an LFG department member in a gaming equipment movement log, which shall include the following:

(1) The asset number and model and the manufacturer's serial number of the moved LFG or gaming equipment;

(2) the date and time of movement;

(3) the location from which the LFG or gaming equipment was moved;

(4) the location to which the LFG or gaming equipment was moved;

(5) the date and time of any required notice to the Kansas lottery in connection with the activation or disabling of the LFG in the central computer system;

(6) the signature of the LFG shift manager and the commission's electronic gaming inspector verifying the movement of the LFG or gaming equipment in compliance with this regulation; and

(7) any other relevant information the commission may require.

(d) Before moving an LFG or any gaming equipment that has been placed in an authorized location on the gaming floor, the facility manager shall remove the bill validator canister drop box and transport the drop box to the count room in accordance with the procedures in K.A.R. 112-104-18.

(e) The facility manager shall daily submit documentation summarizing the movement of LFGs and gaming equipment within a gaming facility to the commission, in writing or in an electronic format approved by the commission.

(f) On the first Tuesday of each month following the initial filing of a master list of approved LFGs or gaming equipment, a facility manager shall file with the commission, in writing or in an electronic format approved by the commission, an updated master list of approved LFGs or gaming equipment containing the information required in subsection (b).

(g) Each gaming supplier and each regulatory or law enforcement agency that possesses LFGs shall file with the commission, in writing or in an electronic format approved by the commission, a complete list of the LFGs possessed by the entity. The list shall be titled as a master list of approved gaming machines and shall be filed within three business days of the initial receipt of the LFGs. Each list shall contain the following information:

(1) The date on which the list was prepared; and

(2) a description of each LFG by the following:

(A) Model and manufacturer's serial number;

(B) manufacturer and machine type, noting cabinet type; and

(C) specification of whether the LFG is a progressive or a wide-area progressive LFG.

(h) On the first Tuesday of each month following the initial filing of a master list of approved LFGs or gaming equipment, those persons specified in subsection (f) shall file with the commission, in writing or in an electronic format approved by the commission, an updated master list of approved LFGs or gaming equipment containing the information required in subsection (g).

(i) A computer system designed to meet the requirements of this regulation may be approved by the executive director. (Authorized by K.S.A. 2010 Supp. 74-8772; implementing K.S.A. 2010 Supp. 74-8750 and 74-8772; effective April 24, 2009; amended April 1, 2011.)

**112-107-11. Notice to Kansas lottery of EGM movement.** Each facility manager shall obtain authorization from the executive director and the Kansas lottery's executive director before doing any of the following:

(a) Placing an EGM on the gaming floor;

(b) moving an EGM to a different location on the gaming floor; or

(c) removing an EGM from the gaming floor. (Authorized by K.S.A. 2008 Supp. 74-8772; implementing K.S.A. 2008 Supp. 74-8749, 74-8750, and 74-8772; effective April 24, 2009.)

**112-107-13. Commencement of electronic gaming operations.** (a) Each facility manager shall demonstrate that the facility manager has met all of the following conditions before commencing electronic gaming at a gaming facility:

(1) The gaming facility, including the gaming floor and restricted areas servicing the electronic gaming operation, meets all the applicable requirements of the act, this article, and article 110.

(2) Each EGM and the associated equipment installed in the gaming facility and utilized in the conduct of EGM operations have been tested and approved by the commission in compliance with the act, this article, and article 110.

(3) The gaming floor plan required under K.A.R. 112-107-7(a) has been approved by the executive director in compliance with the act, this article, and article 110.

(4) The facility manager's internal control system has been approved by the commission in compliance with the act, this article, K.A.R. 112-104-1, and article 110.

(5) The facility manager is prepared to imple-

ment necessary management controls, surveillance, and security precautions to ensure the efficient conduct of electronic gaming operations.

(6) The facility manager's employees are licensed or permitted by the commission and are trained in the performance of their responsibilities.

(7) The gaming facility is prepared in all respects to receive the public.

(8) The facility manager has successfully completed a test period.

(9) For racetrack gaming facility managers, the facility manager has met the live racing requirements under the act.

(b) When a facility manager meets the requirements in subsection (a), the date and time at which the facility manager may begin gaming operations at the gaming facility shall be authorized by the commission. (Authorized by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8749, 74-8750, and 74-8772; effective April 24, 2009.)

**112-107-14. EGM conversions.** Each facility manager shall meet the following requirements:

(a) Maintain complete and accurate records of all EGM conversions;

(b) give prior written notice of each EGM conversion to the commission; and

(c) notify the Kansas lottery in accordance with K.A.R. 112-107-11. (Authorized by K.S.A. 2008 Supp. 74-8772; implementing K.S.A. 2008 Supp. 74-8750, 74-8752, and 74-8772; effective April 24, 2009.)

**112-107-15. Revocations and additional conditions.** The approval of or imposition of additional conditions on an EGM prototype, associated equipment prototype, or modification may be revoked by the commission if the equipment, device, or software meets either of the following conditions:

(a) The equipment, device, or software does not meet the requirements of the act, this article, or article 110.

(b) The EGM, or modification to the EGM, is not compatible or compliant with the central computer system and protocol specifications approved by the Kansas lottery commission or is unable to communicate with the central computer system for the purpose of transmitting auditing program information, real-time information retrieval, and the activation and disabling of EGMs. (Autho-

rized by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8749, 74-8750, and 74-8772; effective April 24, 2009.)

**112-107-16. Kiosks as automated gaming ticket and coupon redemption machines.** (a)

Any facility manager may utilize a kiosk as an automated gaming ticket and coupon redemption machine if that machine has been tested and approved by the commission under K.A.R. 112-107-3.

(b) Automated gaming ticket and coupon redemption machines may be located on or proximate to the gaming floor of a gaming facility and shall be subject to surveillance coverage under article 106. Each kiosk shall have imprinted, affixed, or impressed on the outside of the machine a unique asset identification number.

(c) Each kiosk shall meet the requirements of article 110.

(d) Before using a kiosk, a facility manager shall establish a comprehensive system of internal controls addressing the distribution of currency or coin, or both, to the machines, the removal of gaming tickets, coupons or currency accepted by the machines, and the associated reconciliations. The internal controls shall be submitted to and approved by the commission under K.A.R. 112-104-1.

(e) Each kiosk or the ancillary systems, applications, and equipment associated with reconciliation shall be capable of producing the following reports upon request:

(1) A gaming ticket transaction report. The report shall include the disposition of gaming tickets, including whether the ticket has been paid, partially paid, unpaid, or accepted by a kiosk, which shall include the validation number, the date and time of redemption, amount requested, and the amount dispensed. This information shall be available by reconciliation period, which may be by day, shift, or drop cycle;

(2) a coupon transaction report. This report shall include the payment disposition of coupons accepted by a kiosk, which shall include the unique serial number, the date and time of redemption, the amount requested, and the amount dispensed. The information shall be available by reconciliation period, which may be by day, shift, or drop cycle;

(3) a reconciliation report. The report shall include all of the following:

(A) Report date and time;

(B) unique asset identification number of the machine;

(C) total cash balance of the currency cassettes;  
 (D) total count of currency accepted by denomination;

(E) total dollar amount of tickets accepted;  
 (F) total count of gaming tickets accepted;  
 (G) total dollar amount of coupons accepted; and  
 (H) total count of coupons accepted;  
 (4) gaming ticket, coupon, and currency storage box report. The report shall be generated, at a minimum, whenever a gaming ticket, coupon, or currency storage box is removed from a kiosk. The report shall include all of the following:

(A) Report date and time;  
 (B) unique asset identification number of the machine;  
 (C) unique identification number for each storage box in the machine;  
 (D) total value of currency dispensed;  
 (E) total number of bills dispensed by denomination;  
 (F) total dollar value of gaming tickets accepted;  
 (G) total count of gaming tickets accepted;  
 (H) total dollar value of coupons accepted;  
 (I) total count of coupons accepted; and  
 (J) the details required to be included in the gaming ticket transaction report required by paragraph (e)(1) and the coupon transaction report required in paragraph (e)(2); and

(5) a transaction report. The report shall include all critical patron transaction history, including the date, time, amount, and disposition of each complete and incomplete transaction. If a kiosk is capable of redeeming multiple tickets or coupons in a single transaction, the transaction history shall include a breakdown of the transaction with regard to the individual gaming tickets and coupons accepted. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective April 24, 2009.)

**112-107-17. Automated jackpot payout machines.** (a) Any facility manager may utilize an automated jackpot payout machine that has been tested and approved by the commission under K.A.R. 112-107-3.

(b) Each automated jackpot payout machine shall meet the requirements of the act, this article, and article 110.

(c) Before using an automated jackpot payout machine, each facility manager shall establish a comprehensive system of internal controls for the payment of jackpot payouts utilizing an automated jackpot payout machine and the distribution of

currency or coin, or both, to the machines. The internal controls shall be submitted to and approved by the commission under K.A.R. 112-104-1. (Authorized by K.S.A. 2008 Supp. 74-8772; implementing K.S.A. 2008 Supp. 74-8750 and 74-8772; effective April 24, 2009.)

**112-107-18. Gaming tickets.** (a) A facility manager may utilize gaming tickets and a gaming ticket system that has been tested and approved by the commission under K.A.R. 112-107-3.

(b) Each facility manager shall establish a system of internal controls for the issuance and redemption of gaming tickets. The internal controls shall be submitted and approved by the commission under K.A.R. 112-104-1 and shall address the following:

(1) The procedures for assigning an EGM's asset number, identifying other redemption locations in the system, and enabling and disabling ticket capabilities for EGMs and redemption locations;

(2) the procedures for issuance, modification, and termination of a unique system account for each user in accordance with article 110;

(3) the procedures used to configure and maintain user passwords in accordance with article 110;

(4) the procedures for restricting special rights and privileges, including administrator and override capabilities, in accordance with article 110;

(5) the duties and responsibilities of the information technology, internal audit, electronic gaming operations, cage, and accounting departments and the level of access for each position with regard to the gaming ticket system;

(6) a description of physical controls on all critical hardware, including locks and surveillance. This description shall include the location and security protocols applicable to each piece of equipment;

(7) the procedures for the backup and timely recovery of critical data in accordance with article 110; and

(8) the use of logs to document and maintain the details of commission-approved hardware and software modifications upon implementation.

(c) The system of internal controls required in subsection (b) shall also include controls over the issuance and redemption of gaming tickets and shall include all of the following requirements:

(1) Upon presentation of a gaming ticket for redemption, the electronic gaming cashier or EGM shall use the gaming ticket system to verify the validity of the serial number and value of the ticket, and if valid, the system shall immediately cancel

the ticket electronically and permit the redemption of the ticket for the value printed thereon. Before redeeming a gaming ticket, the complete serial number of the unredeemed gaming ticket shall be available only to the system.

(2) The facility manager shall maintain a record of all transactions in the gaming ticket system for at least 210 days from the date of the transaction.

(3) Each gaming ticket shall expire in not less than 180 days from the date of issuance if not redeemed.

(4) A gaming ticket system shall not be configured to issue a gaming ticket exceeding \$10,000.

(5) The facility manager shall maintain a record of unredeemed gaming tickets for all gaming tickets that were issued but not redeemed. The record shall be stored in the system for a period of time approved by the executive director, which shall be at least one year from the date of issuance of the gaming ticket. The following requirements shall apply:

(A) Each unredeemed gaming ticket record removed from the system after one year shall be stored and controlled in a manner approved by the commission.

(B) Each unredeemed gaming ticket record removed from the system shall be subject to the standard record retention requirements of this article.

(d) The system of internal controls required to be submitted and approved by the commission under subsection (b) shall also include procedures to be used in the following instances:

(1) If the facility manager chooses to pay a patron the represented value of a gaming ticket notwithstanding the fact that the gaming ticket system is inoperable, rendering the manager unable to determine the validity of the gaming ticket at the time of payment. The system of internal controls shall include procedures to verify the ticket once the gaming ticket system becomes operable in accordance with article 110; and

(2) if the facility manager chooses to pay a patron the value of a gaming ticket notwithstanding the fact that the gaming ticket system failed to verify and electronically cancel the gaming ticket when it was scanned. Each payment by the facility manager shall be treated as a complimentary. These payments shall not result in a deduction from EGM income.

(e) At the end of each gaming day, the gaming ticket system shall be caused by the facility manager to generate reports, and the reports shall be provided to the manager's accounting depart-

ment, either directly by the system or through the management information systems department. The report, at a minimum, shall contain the following information:

(1) A list of all gaming tickets that have been issued, including the asset number and the serial number of the EGM, and the value, date, and time of issuance of each gaming ticket;

(2) a list of all gaming tickets that have been redeemed and cancelled, including the redemption location, the asset number of the EGM or location if other than an EGM, the serial number, the value, date, and time of redemption for each ticket, the total value of all gaming tickets redeemed at EGMs, and the total value of all gaming tickets redeemed at locations other than EGMs;

(3) the liability for unredeemed gaming tickets;

(4) the readings on gaming ticket-related EGM meters and a comparison of the readings to the number and value of issued and redeemed gaming tickets, as applicable;

(5) the exception reports and audit logs; and

(6) any other relevant reports as required by the executive director.

(f) Each facility manager shall, at the time of discovery, report to the commission audit staff any evidence that a gaming ticket has been counterfeited, tampered with, or altered in any way that would affect the integrity, accuracy, reliability, or suitability of the gaming ticket.

(g) Upon any attempt to redeem a gaming ticket when the total value of which gaming ticket cannot be completely converted into an equivalent value of credits, the EGM shall perform one of the following procedures:

(1) Automatically issue a new gaming ticket containing the value that cannot be completely converted;

(2) not redeem the gaming ticket and return the gaming ticket to the patron; or

(3) allow for the additional accumulation of credits on a meter that displays the value in dollars and cents.

(h) Each facility manager that utilizes a system or an EGM that does not print a test gaming ticket that is visually distinguishable from a redeemable gaming ticket shall adopt internal controls for all of the following:

(1) The issuance of test currency from the cage; and

(2) the return and reconciliation of the test currency and any gaming tickets printed during the testing process.

(i) Except as provided in subsection (m), each gaming ticket shall be redeemed by a patron for cash, EGM credits, or a check issued by the facility manager in the amount of the gaming ticket redeemed. A facility manager shall not permit redemption of a gaming ticket if the facility manager knows or has reason to know that the ticket meets any of the following conditions:

(1) Is different from the sample of the gaming ticket approved by the commission;

(2) was previously redeemed; or

(3) was printed as a test gaming ticket.

(j) Any facility manager may effectuate redemption requests submitted by mail. Gaming tickets redeemed by mail may only be redeemed by a cage supervisor in accordance with internal controls approved by the commission under K.A.R. 112-104-1 that include the following:

(1) Procedures for using the gaming ticket system to verify the validity of the serial number and value of the ticket that, if valid, shall be immediately cancelled electronically by the system; and

(2) procedures for the issuance of a check equal to the value of the ticket.

(k) Gaming tickets redeemed at cashier locations shall be transferred to the facility manager's accounting department on a daily basis. The gaming tickets redeemed by EGMs shall be counted in the count room and forwarded to the manager's accounting department upon the conclusion of the count process. The gaming tickets redeemed at automated gaming ticket redemption machines shall be forwarded to the manager's accounting department upon the conclusion of the cage reconciliation process. The manager's accounting department employees shall perform the following, at a minimum:

(1) On a daily basis, the following:

(A) Compare gaming ticket system report data to any count room system report data available for that gaming day to ensure proper electronic cancellation of the gaming ticket; and

(B) calculate the unredeemed liability for gaming tickets, either manually or by means of the gaming ticket system; and

(2) on a weekly basis, compare appropriate EGM meter readings to the number and value of issued and redeemed gaming tickets per the gaming ticket system. Meter readings obtained through an electronic gaming monitoring system may be utilized to complete this comparison.

(l) Each facility manager shall provide written notice to the commission audit staff of any ad-

justment to the value of any gaming ticket. The notice shall be made before or concurrent with the adjustment.

(m) Employees of a facility manager who are authorized to receive gratuities under K.A.R. 112-104-27 may redeem gaming tickets given as gratuities only at a cage. Gaming tickets valued at more than \$100 shall be redeemed at the cage only with the approval of the supervisor of the cashier conducting the redemption transaction.

(n) Each gaming ticket system shall be configured to alert each facility manager to any malfunction in accordance with article 110. Following a malfunction of a system, the facility manager shall notify the commission within 24 hours of the malfunction and shall not utilize the system until the malfunction has been eliminated. A facility manager may be permitted by the executive director to utilize the system before the system is restored, for a period not to exceed 72 hours, if all of the following conditions are met:

(1) The malfunction is limited to a single storage media device, including a hard disk drive.

(2) The system contains a backup storage media device not utilized in the normal operation of the system. The backup device shall automatically replace the malfunctioning device and permit a complete recovery of all information in the event of an additional malfunction.

(3) Continued use of the malfunctioning system would not inhibit the ability to perform a complete recovery of all information and would not otherwise harm or affect the normal operation of the system.

(o) Other than a modification to a gaming ticket system that is required on an emergency basis to prevent cheating or malfunction and is approved by the executive director under K.A.R. 112-107-3(m), a modification to a gaming ticket system shall not be installed without being tested and approved under K.A.R. 112-107-3. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective April 24, 2009.)

**112-107-19. Coupons.** (a) Any facility manager may utilize coupons and a coupon system that has been tested and approved by the commission under K.A.R. 112-107-3.

(b) The design specifications for the coupon shall meet the requirements of article 110.

(c) The design specifications for the coupon system shall meet the requirements of article 110.

(d) Each facility manager shall establish a sys-

tem of internal controls for the issuance and redemption of coupons before issuing any coupon. The internal controls shall be submitted to and approved by the commission under K.A.R. 112-104-1. The system of internal controls shall include the following requirements:

(1) The package containing the coupons shall be opened and examined by at least two members of the accounting department. Each deviation between the invoice and control listing accompanying the coupons, the purchase or requisition order, and the actual coupons received shall be reported to the controller or to a higher authority in a direct reporting line and to the director of internal audit.

(2) Upon examination of the coupons, the facility manager shall cause to be recorded in a coupon control ledger the type and quantity of coupons received, the date of the receipt, the beginning serial number, the ending serial number, the new quantity of unissued coupons on hand, the purchase order or requisition number, any deviations between the number of coupons ordered and the number received, and the signature of any individual who examined the coupons.

(3) All unissued coupons shall be stored in the cage, controlled by a cage department supervisor.

(4) A representative from the internal audit department shall prepare a monthly inventory of unissued coupons. Any deviations between the coupon inventory and the coupon control ledger shall be reported to the controller and the director of internal audit.

(5) A representative of the facility manager shall estimate the number of coupons needed by shift each day. An accounting department employee shall obtain the quantity of coupons to be issued. If a date indicating when the coupon becomes invalid is not preprinted on the coupon, the accounting department employee shall affix a stamp indicating the date the coupon becomes invalid. The following, at a minimum, shall be recorded in the coupon control ledger:

- (A) The date the coupons were issued;
- (B) the type of coupons issued;
- (C) the beginning serial number of the coupons issued;
- (D) the ending serial number of the coupons issued;
- (E) the quantity issued and the quantity remaining; and
- (F) the signatures of the accounting department employee issuing the coupons and any other department's employee receiving the coupons.

(6) The facility manager shall require unused coupons obtained from the accounting department employee to be stored in a locked cabinet until the coupons are distributed to patrons. All coupons remaining unused at the end of a shift shall be either returned to the cage department for receipt and redistribution or kept for use by the following shift if accountability between shifts is maintained. All expired coupons shall be returned to the cage department on a daily basis. Any coupons that are not used by the expiration date indicated on the coupons shall be voided when returned to the cage department.

(7) Documentation shall be prepared by a representative of the facility manager for the distribution of coupons to patrons. The documentation shall include the following information, at a minimum:

- (A) The date and time or the shift of preparation;
- (B) the type of coupons used;
- (C) the beginning serial number of the coupons used;
- (D) the ending serial number of the coupons used;
- (E) the total number of coupons used;
- (F) the total number of coupons remaining for use by the next shift or returned to the accounting department; and
- (G) the signatures of the facility manager's representatives who distributed the coupons.

(8) The coupons shall be redeemed in the following manner:

(A) Coupons redeemable for cash or tokens shall be redeemed only by change persons or at cashiers' booths, the cage, or at any other location within the gaming facility approved by the commission. A change person, booth cashier, or general cage cashier shall accept the coupons in exchange for the stated amount of cash or tokens. Coupons accepted for redemption shall be cancelled by those authorized to accept coupons. Cancellation of coupons shall be done in a manner that cancels the coupon number and shall permit subsequent identification of the individual who accepted and cancelled the coupon. Redeemed coupons shall be maintained and shall be submitted to the main bank not less frequently than at the conclusion of each day.

(B) Coupons redeemable for wagers shall be accepted only in exchange for the wagers stated on the coupons. Cancellation of coupons shall be done in a manner that permits subsequent identification of the individual who accepted and can-

celled the coupon. Redeemed coupons shall be maintained and shall be submitted to the main bank not less frequently than at the conclusion of each gaming day.

(C) A coupon redeemable for gaming chips shall be redeemed only by one of the following ways:

(i) At a gaming table and only by a dealer or first-level supervisor who supervises the game, who shall accept the coupon in exchange for the stated amount of gaming chips and shall deposit the coupon into the drop box upon acceptance; or

(ii) by a chip person, who shall accept the coupon only from a patron seated at a poker table at which a game is in progress in exchange for the stated amount of gaming chips and shall cancel the coupon upon acceptance. The coupon shall be cancelled in a manner that permits subsequent identification of the individual who accepted and cancelled the coupon. The cancelled coupons shall be exchanged with the main bank at the conclusion of the chip person's shift, at a minimum.

(D) A match play coupon shall be redeemed only at a gaming table that offers an authorized game in which patrons wager only against the house. The coupon shall be redeemed only by a dealer and only if accompanied by the proper amount of gaming chips required by the coupon. The dealer shall accept the coupon as part of the patron's wager and deposit the coupon into the drop box after the wager is won or lost.

(9) Documentation on unused coupons, voided coupons, and redeemed coupons maintained shall be forwarded on a daily basis to the accounting department, which shall perform the following regarding the coupons:

(A) Review for the propriety of signatures on documentation and for proper cancellation of coupons;

(B) examine for proper calculation, summarization, and recording on documentation, including the master game report;

(C) reconcile by the total number of coupons given to representatives of the department making distribution to patrons, returned for reissuance, distributed to patrons, voided, and redeemed;

(D) record; and

(E) maintain and control until destruction of the coupons is approved by the commission. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective April 24, 2009.)

**112-107-20. EGM computer systems.** (a) All components of a facility manager's production

EGM computer system shall be located within the gaming facility. As used in this regulation, "production EGM computer system" shall mean the facility manager's primary EGM computer system comprised of a collection of hardware and software used to process or monitor EGM activity in real time. A production EGM computer system shall include any segregated testing component.

(b) With the written approval of the executive director, a facility manager's back-up EGM computer system, or any part of it, may be located in a secure and remote computer that is under the custody and control of an affiliate, intermediary, subsidiary, or holding company approved by the commission, referred to as a "host entity." A back-up EGM computer system may consist of either of the following:

(1) A mirrored backup system that duplicates the production system by recording all slot-related operations on a real-time basis and is designed to become the production system whenever needed; or

(2) a periodic backup system that consists of regularly scheduled recording of selected data, which may include a complete image of the production system or any portion of the system.

(c) At a minimum, each facility manager requesting authorization to allow a backup EGM computer system to reside outside the gaming facility shall certify that both of the following conditions are met:

(1) Communications between the remote computer and the facility manager's EGM computer system occur using a dedicated and secure communication medium, which may include a leased line.

(2) The remote computer automatically performs the following functions:

(A) Generates daily monitoring logs and real-time alert messages to inform the facility manager and host entity of any system performance problems and hardware problems;

(B) generates daily monitoring logs and real-time alert messages to inform the facility manager of any software errors;

(C) generates daily monitoring logs to inform the facility manager of any unsuccessful attempts by a device, person, or process to obtain computer access;

(D) authenticates the identity of every device, person, and process from which communications are received before granting computer access to the device, person, or process;

(E) ensures that data sent through a transmission is completely and accurately received; and

(F) detects the presence of corrupt or lost data and, as necessary, rejects the transmission.

(d) Unless a remote computer is used exclusively to maintain the EGM computer system of the facility manager, the system shall be partitioned in a manner approved by the executive director and shall include the following:

(1) A partition manager that meets the following requirements:

(A) The partition manager shall be comprised of hardware or software, or both, and perform all partition management tasks for a remote computer, including creating the partitions and allocating system resources to each partition;

(B) the facility manager and host entity shall jointly designate and identify the security officer who will be responsible for administering the partition manager and maintaining access codes to the partition manager. The security officer shall be an employee of the facility manager or host entity and shall be licensed as a level I employee;

(C) special rights and privileges in the partition manager, including the administrator, shall be restricted to the management information systems director or security officer of the facility manager or host entity, who shall be licensed as level I employees;

(D) access to the partition manager shall be limited to employees of the management information systems departments of the facility manager and host entity; and

(E) software-based partition managers contained in a remote computer shall be functionally limited to performing partition management tasks for the remote computer, while partition managers using hardware and software that are not part of a remote computer may be utilized to perform other functions for a remote computer that are approved by the executive director;

(2) a separate partition established for the facility manager's EGM computer system that meets the following requirements:

(A) The partition shall be limited to maintaining the software and data of the facility manager for which the partition has been established;

(B) the security officer of the facility manager for which the partition has been established shall be licensed as a level I employee and shall be responsible for maintenance of access codes to the partition; and

(C) special rights and privileges in the partition,

including the administrator, shall be restricted to the security officer and the management information systems director of the facility manager for which the partition has been established; and

(3) separate and distinct operating system software, application software, and computer access controls for the partition manager and each separate partition.

(e) Any facility manager may be permitted by the executive director to establish a partition within a computer that contains its EGM computer system for its affiliate, intermediary, subsidiary, or holding company if all of the following requirements are met:

(1) A partition manager comprised of hardware or software, or both, shall be utilized to perform all partition management tasks, including creating the partitions and allocating system resources to each partition.

(2) A security officer shall be designated within the management information systems department of the facility manager to be responsible for administering the partition manager and maintaining access codes to the partition manager. Special rights and privileges in the partition manager, including the administrator, shall be restricted to the security officer and the management information systems director of the facility manager.

(3) Special rights and privileges in any partition that has been established for the benefit of an affiliate, intermediary, subsidiary, or holding company shall be restricted to the security officer and information technology director of the affiliate, intermediary, subsidiary, or holding company.

(f) Any facility manager may be permitted by the executive director to maintain backup or duplicate copies of the software and data of its EGM computer system, or any portion of the software and data, in removable storage media devices, including magnetic tapes or disks, in a secure location within a gaming facility or other secure location outside the gaming facility as approved by the executive director for the purposes of disaster recovery.

(g) Notwithstanding the provisions of subsection (a), upon the declaration of a disaster affecting the EGM computer system by the chief executive officer of the facility manager and with the prior written approval of the executive director, a facility manager may maintain the software and data of its EGM computer system, or any portion of the software and data, in a computer located in a secure location outside the gaming facility.

(h) Any facility manager may locate software or data not related to an EGM computer system, including software or data related to the sale of food and beverages, in a computer located outside the gaming facility. With the written approval of the executive director, a facility manager may connect the computer to an EGM computer system if all of the following conditions are met:

(1) Logical access to computer software and data of the EGM computer system is appropriately limited.

(2) Communications with all portions of the EGM computer system occur using a dedicated and secure communications medium, which may consist of a leased line.

(3) The facility manager complies with other connection-specific requirements of the commission. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective April 24, 2009.)

**112-107-21. Progressive LFGs.** (a) Each progressive LFG shall meet the requirements of article 110.

(b) Each facility manager seeking to utilize a linked LFG shall submit the location and manner of installing any progressive meter display mechanism to the executive director for approval.

(c) An LFG that offers a progressive jackpot shall not be placed on the gaming floor until the executive director has approved the following:

(1) The initial and reset amounts at which the progressive meter or meters will be set;

(2) the proposed system for controlling the keys and applicable logical access controls to the LFGs;

(3) the proposed rate of progression for each progressive jackpot;

(4) the proposed limit for the progressive jackpot, if any; and

(5) the calculated probability of winning each progressive jackpot. The probability shall not exceed 50 million to one.

(d) Progressive meters shall not be turned back to a lesser amount unless one of the following occurs:

(1) The amount indicated has been actually paid to a winning patron.

(2) The progressive jackpot amount won by the patron has been recorded in accordance with a system of internal controls approved under K.A.R. 112-104-1.

(3) The progressive jackpot has, upon executive director approval, been transferred to another progressive LFG or wide-area progressive system in accordance with this article.

(4) The change is necessitated by an LFG or meter malfunction. For progressive jackpots governed by subsection (a), an explanation for the malfunction shall be entered on the progressive electronic gaming summary required by this article, and the commission shall be notified of the resetting in writing.

(e) Once an amount appears on a progressive meter, the probability of hitting the combination that will award the progressive jackpot shall not be decreased unless the progressive jackpot has been won by a patron or the progressive jackpot has been transferred to another progressive LFG or wide-area progressive system or removed in accordance with subsection (g).

(f) If an LFG has a progressive meter with digital limitations on the meter, the facility manager shall set a limit on the progressive jackpot, which shall not exceed the display capability of the progressive meter.

(g) Any facility manager may limit, transfer, or terminate a progressive jackpot offered on a gaming floor only under any of the following:

(1) A facility manager may establish a payout limit for a progressive jackpot if the payout limit is greater than the payout amount that is displayed to the patron on the progressive jackpot meter. The facility manager shall provide notice to the commission of the imposition or modification of a payout limit on a progressive meter concurrent with the setting of the payout limit.

(2) A facility manager may terminate a progressive jackpot concurrent with the winning of the progressive jackpot if its LFG program or progressive controller was configured before the winning of the progressive jackpot to establish a fixed reset amount with no progressive increment.

(3) A facility manager may permanently remove one or more linked LFGs from a gaming floor if both of the following conditions are met:

(A) If the LFG is part of a wide-area progressive system offered at multiple facilities, the facility manager retains at least one linked LFG offering the same progressive jackpot on its gaming floor.

(B) If the progressive jackpot is only offered in a single gaming facility, at least two linked LFGs offering the same progressive jackpot remain on the gaming floor.

(4) Any facility manager may transfer a progressive jackpot amount on a stand-alone LFG or the common progressive jackpot on an entire link of LFGs with a common progressive meter, includ-

ing a wide-area progressive system, from a gaming floor. The facility manager shall give notice of its intent to transfer the progressive jackpot to the commission at least 30 days before the anticipated transfer and shall conspicuously display the facility manager's intent to transfer the progressive jackpot on the front of each LFG for at least 30 days. To be eligible for transfer, the progressive jackpot shall meet the following conditions:

- (A) Be transferred in its entirety; and
- (B) be transferred to one of the following:
  - (i) The progressive meter for an LFG or wide-area progressive system with the same or greater probability of winning the progressive jackpot, the same or lower wager requirement to be eligible to win the progressive jackpot, and the same type of progressive jackpot. However, if no other LFG or wide-area progressive system meets all of these qualifications, a transfer of the jackpot to the progressive meter of the most similar LFG or wide-area progressive system available may be authorized by the executive director; or
  - (ii) the progressive meters of two separate LFGs or wide-area progressive systems if each LFG or wide-area progressive system to which the jackpot is transferred individually satisfies the requirements of paragraph (g)(4)(B)(i).

(5) Any facility manager may immediately and permanently remove a progressive jackpot on a stand-alone progressive LFG, the common progressive jackpot on an entire link of LFGs with a common progressive meter, or an entire wide-area progressive system from a gaming floor if notice of intent to remove the progressive jackpot meets the following requirements:

- (A) Is conspicuously displayed on the front of each LFG for at least 30 days; and
- (B) is provided in writing to the commission at least 30 days before the removal of the progressive jackpot.

(h) The amount indicated on the progressive meter or meters and coin-in meter on each LFG governed by subsection (a) shall be recorded by the facility manager's accounting department or LFG department on a progressive electronic gaming summary report at least once every seven calendar days. Each report shall be signed by the preparer. If not prepared by the accounting department, the progressive electronic gaming summary report shall be forwarded to the accounting department by the end of the gaming day on which it is prepared. An employee of the accounting department shall be responsible for calculat-

ing the correct amount that should appear on a progressive meter. If an adjustment to the progressive meters is necessary, the adjustment shall be made by a member of the LFG department authorized by the progressive gaming supplier to make progressive meter adjustments as follows:

(1) Supporting documentation shall be maintained to explain any addition or reduction in the registered amount on the progressive meter. The documentation shall include the date, the asset number of the LFG, the amount of the adjustment, and the signatures of the accounting department member requesting the adjustment and the LFG department member making the adjustment; and

(2) the adjustment shall be effectuated within 48 hours of the meter reading.

(i) Except as otherwise authorized by this regulation, each LFG offering a progressive jackpot that is removed from the gaming floor shall be returned to or replaced on the gaming floor within five gaming days. The amount on the progressive meter or meters on the returned or replacement LFG shall not be less than the amount on the progressive meter or meters at the time of removal. If an LFG offering a progressive jackpot is not returned or replaced, any progressive meter amount at the time of removal shall, within five days of the LFG's removal, be added to an LFG offering a progressive jackpot approved by the executive director. The LFG shall offer the same or greater probability of winning the progressive jackpot and shall require the same or lower denomination of currency to play that was in use on the LFG that was removed. This subsection shall not apply to the temporary removal by a facility manager, for a period not to exceed 30 days, of all linked LFGs that are part of a particular wide-area progressive system if the progressive jackpot offered by the temporarily removed LFGs remains available on LFGs that are part of the same wide-area progressive system in another gaming facility.

(j) If an LFG is located adjacent to an LFG offering a progressive jackpot, the facility manager shall conspicuously display on the LFG a notice advising patrons that the LFG is not participating in the progressive jackpot of the adjacent LFG. (Authorized by K.S.A. 2009 Supp. 74-8772; implementing K.S.A. 2009 Supp. 74-8750 and 74-8772; effective April 24, 2009; amended April 1, 2011.)

**112-107-22. Wide-area progressive systems.** (a) Two or more facility managers may operate linked progressive LFGs that are intercon-

nected between two or more participating gaming facilities, with the prior written approval of the commission and the Kansas lottery as required under subsection (c). The LFGs participating in the link shall be collectively referred to as a wide-area progressive system.

(b) Each wide-area progressive system shall at all times be installed and operated in accordance with relevant requirements of the act, this article, and article 110.

(c) Each wide-area progressive system shall be operated and administered by participating facility managers in accordance with the terms and conditions of a written agreement executed by the participating facility managers. The agreement shall be referred to as an electronic gaming system agreement. Each electronic gaming system agreement shall be submitted in writing and approved by the commission and the Kansas lottery before implementation and shall meet the requirements of the act, this article, and article 110.

(d) Any facility manager participating in an electronic gaming system agreement may delegate, in whole or in part, the management and administration of a wide-area progressive system to a gaming supplier if the electronic gaming system agreement is executed by the gaming supplier and the terms of the agreement are approved by the commission and the Kansas lottery. The persons designated in an electronic gaming system agreement as being responsible for the management and administration of a wide-area progressive system shall be referred to as the wide-area progressive system operator.

(e) An agreement between a gaming supplier and a facility manager under which a gaming supplier sells, leases, or services a wide-area progressive system shall not constitute an electronic gaming service agreement, unless the agreement also covers the management and administration of the wide-area progressive system.

(f) Each electronic gaming system agreement providing for the management and administration of a wide-area progressive system shall identify and describe with specificity the duties, responsibilities, and authority of each participating facility manager and each electronic gaming system operator, including the following:

(1) Details with regard to the terms of compensation for the electronic gaming system operator. The agreement shall address to what extent, if any, the electronic gaming system operator is receiving compensation based, directly or indirectly, on an

interest, percentage, or share of a facility manager's revenue, profits, or earnings from the management of the wide-area progressive system;

(2) responsibility for the funding and payment of all jackpots and fees associated with the management of the wide-area progressive system;

(3) control and operation of the computer monitoring room required under subsection (l);

(4) a description of the process by which significant decisions with regard to the management of the wide-area progressive system are approved and implemented by the participating facility managers and electronic gaming system operator;

(5) when applicable, terms satisfactory to the commission with regard to apportionment of responsibility for establishing and servicing any trust agreement associated with any annuity jackpot offered by the wide-area progressive system;

(6) responsibility for generating, filing, and maintaining the records and reports required under the act, this part, and article 110; and

(7) any other relevant requirements of the commission, including those required to comply with the technical standards on wide-area progressive systems adopted by the commission under article 110.

(g) An electronic gaming system agreement submitted to the commission for approval shall be accompanied by a proposed system of internal controls addressing the following:

(1) Transactions directly or indirectly relating to the payment of progressive jackpots, including the establishment, adjustment, transfer, or removal of a progressive jackpot amount and the payment of any associated fees; and

(2) the name, employer, position, and gaming license status of any person involved in the operation and control of the wide-area progressive system.

(h) The information identified in paragraph (g) (2) shall be reviewed by the executive director to determine, based on an analysis of specific duties and responsibilities, which persons shall be licensed. The electronic gaming system manager shall be advised of the executive director's findings. Each participating facility manager and any participating gaming supplier shall comply with the commission's licensing instructions.

(i) An electronic gaming system manager shall not commence operation and administration of a wide-area progressive system pursuant to the terms of an electronic gaming system agreement until the agreement and the internal controls re-

quired under subsection (g) have been approved in writing by the commission and any licensing requirements under subsection (h) have been met.

(j) If an electronic gaming system agreement involves payment to a gaming supplier functioning as an electronic gaming system operator, of an interest, percentage, or share of a facility manager's revenue, profits, or earnings from the operation of a wide-area progressive system, the electronic gaming system agreement may be approved by the commission only if it determines that the total amounts paid to the gaming supplier under the terms of the agreement are commercially reasonable for the managerial and administrative services provided. Nothing in this regulation shall limit the commission's consideration of the electronic gaming system agreement to its revenue-sharing provisions.

(k) Each wide-area progressive system shall be controlled from a computer monitoring room. The computer monitoring room shall meet the following requirements:

(1) Be under the sole possession and control of employees of the wide-area progressive system manager designated in the electronic gaming system agreement for that system. The employees of the wide-area progressive system manager may be required to obtain a license or permit if the executive director determines, after a review of the work being performed, that the employees require a license or permit for the protection of the integrity of gaming;

(2) have its monitoring equipment subjected to surveillance coverage either by the surveillance system of a facility manager participating in the electronic gaming system agreement or by a dedicated surveillance system maintained by the wide-area progressive system manager. The surveillance plan shall be approved by the executive director;

(3) be accessible only through a locked door. The door shall be alarmed in a manner that audibly signals the surveillance monitoring room for the surveillance system elected under paragraph (1)(2); and

(4) have a computer monitoring room entry log. The log shall meet the following requirements:

(A) Be kept in the computer monitoring room;

(B) be maintained in a book with bound, numbered pages that cannot be readily removed or an electronic log approved by the executive director; and

(C) be signed by each person entering the com-

puter monitoring room who is not an employee of the wide-area progressive system manager employed in the computer monitoring room on that person's assigned shift. Each entry shall contain the following information:

(i) The date and time of entering and exiting the room;

(ii) the name, department, or license number of the person entering and exiting the room and of the person authorizing the entry; and

(iii) the reason for entering the computer monitoring room.

(l) In evaluating a proposed location for a computer monitoring room, the following factors may be considered by the executive director:

(1) The level of physical and system security offered by the proposed location; and

(2) the accessibility of the location to the commission's audit, law enforcement, and technical staff. (Authorized by K.S.A. 2009 Supp. 74-8772; implementing K.S.A. 2009 Supp. 74-8750 and 74-8772; effective April 24, 2009; amended April 1, 2011.)

**112-107-23. Electronic gaming monitoring systems.** (a) Any facility manager may utilize an electronic gaming monitoring system that has an interface between it, EGMs, and related systems if the electronic gaming monitoring system has been tested and approved by the commission under K.A.R. 112-107-3.

(b) Each electronic gaming monitoring system shall meet the requirements of the act, this article, and article 110. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective April 24, 2009.)

**112-107-24. Casino management systems.** (a) Any facility manager may utilize a casino management system that has an interface between it, EGMs, and related systems if the casino management system has been tested and approved by the commission under K.A.R. 112-107-3.

(b) Each casino management system shall meet the requirements of the act, this article, and article 110. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective April 24, 2009.)

**112-107-25. Player tracking systems.** (a) Any facility manager may utilize a player tracking system that has an interface between it, EGMs, and related systems if the player tracking system has been tested and approved by the commission under K.A.R. 112-107-3.

(b) Each player tracking system shall meet the requirements of the act, this article, and article 110. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective April 24, 2009.)

**112-107-26. External bonusing systems.**

(a) Any facility manager may utilize an external bonusing system that has been tested and approved by the commission under K.A.R. 112-107-3.

(b) The combination of the EGM theoretical payout percentage plus the bonus awards generated by an external bonusing system shall not equal or exceed 100% of the theoretical payout for an EGM on which the external bonus award is available.

(c) Each EGM shall meet the minimum theoretical payout percentage required under this article without the contribution of any external bonus award available on the EGM.

(d) Each external bonusing system shall meet the requirements of the act, this article, and article 110. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective April 24, 2009.)

**112-107-27. Cashless funds transfer systems.** (a) Any facility manager may utilize a cashless funds transfer system that has been tested and approved by the commission under K.A.R. 112-107-3.

(b) Each cashless funds transfer system shall meet the requirements of the act, this article, and article 110.

(c) Before utilizing a cashless funds transfer system, each facility manager shall establish a system of internal controls for the cashless funds transfer system. The internal controls shall be submitted to and approved by the commission under K.A.R. 112-104-1. The internal control procedures submitted by the facility manager shall address the integrity, security, and control of the facility manager's cashless funds transfer system shall include the following:

- (1) An overview of the system design;
- (2) system access controls and restrictions;
- (3) override policies and restrictions;
- (4) backup and recovery procedures;
- (5) logical and physical access controls and restrictions;
- (6) network security; and
- (7) procedures for handling customer disputes.

(d) The transfer of electronic credits to an EGM under this regulation shall be initiated only by a patron using an access control. Access con-

trols shall require the use of a unique access code for each patron. The access code shall be selected by and available to only the patron.

(e) Each facility manager shall maintain a record of every transfer of electronic credits to an EGM under this regulation. Each transfer shall be identified by, at a minimum, the date, the time, and the asset number of the EGM to which the transfer occurred and an identification number assigned to the patron who initiated the transaction. The identification number assigned to a patron for the purposes of this regulation shall be different from the unique access code selected by the patron as part of an access control.

(f) On at least a monthly basis, each facility manager using a cashless funds transfer system shall provide a statement to each patron who has participated in the system that month. The statement shall include, at a minimum, the patron's beginning monthly balance, credits earned, credits transferred to an EGM pursuant to this regulation, and the patron's monthly ending balance. With the written authorization of the patron, the mailing of a monthly statement may be issued electronically to the patron. However, a monthly statement shall not be required for transfers of temporary electronic credits or transfers of electronic credits from a temporary anonymous account.

(g) Each facility manager shall provide notice to the commission in writing of any adjustment to the amount of a credit transferred to an EGM by means of a cashless funds transfer system. The notice shall be submitted on or before the date of the adjustment. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective April 24, 2009.)

**112-107-28. Server-supported electronic gaming systems.** (a) Any facility manager may utilize a server-supported electronic gaming system if that system has been tested and approved by the commission under K.A.R. 112-107-3.

(b) Each server-supported electronic gaming system shall meet the requirements of the act, this article, and article 110.

(c) Before utilizing a server-supported electronic gaming system, each facility manager shall establish a system of internal controls for the server-supported electronic gaming system. The internal controls shall be submitted to and approved by the commission under K.A.R. 112-104-1. The internal controls submitted by the facility manager shall address the integrity, security, and control

of the server-supported electronic gaming system. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective April 24, 2009.)

**112-107-29. Server-based electronic gaming systems.** (a) Any facility manager may utilize a server-based electronic gaming system if that system has been tested and approved by the commission under K.A.R. 112-107-3.

(b) Each server-based electronic gaming system shall meet the requirements of the act, this article, and article 110.

(c) Before utilizing a server-based electronic gaming system, each facility manager shall establish a system of internal controls for the server-based electronic gaming system. The internal controls shall be submitted to and approved by the commission under K.A.R. 112-104-1. The internal controls submitted by the facility manager shall address the integrity, security, and control of its server-based electronic gaming system. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective April 24, 2009.)

**112-107-30. EGMs and associated equipment utilizing alterable storage media.** The use of alterable storage media in an EGM or associated equipment shall meet the requirements of the act, this article, and the technical standards on alterable storage media adopted by the commission under article 110. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective April 24, 2009.)

**112-107-31. Remote system access.** (a) In emergency situations or as an element of technical support, an employee of a gaming supplier may perform analysis of, or render technical support with regard to, a facility manager's electronic gaming monitoring system, casino management system, player tracking system, external bonusing system, cashless funds transfer system, wide-area progressive system, gaming ticket system, or other approved system from a remote location. All remote access to these systems shall be performed in accordance with the following procedures:

(1) Only an employee of a gaming supplier who separately holds an occupation license under article 103 may remotely access a system sold, leased, or otherwise distributed by that gaming supplier for use at a gaming facility.

(2) The gaming supplier shall establish a unique system account for each employee of a gaming supplier identified by that supplier as potential-

ly required to perform technical support from a remote location. All system access afforded pursuant to this regulation shall meet the following requirements:

(A) Be restricted in a manner that requires the facility manager's management information systems department to receive prior notice from the gaming supplier of its intent to remotely access a designated system;

(B) require the facility manager to take affirmative steps, for each instance of access, to activate the gaming supplier's access privileges; and

(C) be designed to appropriately limit the ability of any person authorized under this regulation to deliberately or inadvertently interfere with the normal operation of the system or its data.

(3) A separate log shall be maintained by both the gaming supplier and the facility manager's management information systems department. Each log shall contain, at a minimum, the following information:

(A) The system accessed, including manufacturer, and version number;

(B) the type of connection;

(C) the name and license number of the employee remotely accessing the system;

(D) the name and license number of the employee in the management information systems department activating the gaming supplier's access to the system;

(E) the date, time, and duration of the connection;

(F) the reason for the remote access, including a description of the symptoms or malfunction prompting the need for remote access to the system; and

(G) any action taken or further action required.

(4) All communications between the gaming supplier and any of the systems identified in subsection (a) shall occur using a dedicated and secure communication facility which may consist of a leased line approved in writing by the executive director.

(b) Each modification of, or remedial action taken with respect to, an approved system shall be processed and approved by the commission either in accordance with the emergency modification provisions of K.A.R. 112-107-3(1) or as a standard modification submitted under K.A.R. 112-107-3(h).

(c) If an employee of a gaming supplier is no longer employed by, or authorized by, that manufacturer to remotely access a system pursuant to

this regulation, the gaming supplier shall notify, by the end of that business day, the commission and each facility manager that has established a unique system account for that employee of the change in authorization and shall verify with each facility manager that any access privileges previously granted have been revoked.

(d) All remote system access shall be performed in accordance with article 110.

(e) Each facility manager authorizing access to a system by a gaming supplier under this regulation shall be responsible for implementing a system of access protocols and other controls over the physical integrity of that system and the remote access process sufficient to ensure appropriately limited access to software and the systemwide reliability of data. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective April 24, 2009.)

**112-107-32. EGM destruction procedures.** (a) Each facility manager shall establish a comprehensive system of internal controls for the EGM destruction procedures required by this regulation. The internal controls shall be submitted to and approved by the commission under K.A.R. 112-104-1.

(b) The facility manager shall submit a request in writing with an attached approval letter from the Kansas lottery requesting the destruction of an EGM. The notice shall contain the asset number of each EGM that is requested to be destroyed and shall be submitted at least 14 days in advance of the requested destruction date.

(c) When destroying an EGM, the critical program storage media (CPSM) and component parts shall be removed from the EGM before destruction of the cabinet. For the purposes of this regulation, a component part shall mean any sub-assembly or essential part as described in K.S.A. 21-4302(d)(1)(C), and amendments thereto, and shall include any equipment necessary for any of the following operations by the EGM:

- (1) The acceptance of currency, tickets, coupons, or tokens;
- (2) the discharge of currency, tickets, coupons, or tokens;
- (3) the determination or display of the outcome of the game;
- (4) recordkeeping; and
- (5) security.

(d) The CPSM and component parts may be destroyed or placed into the controlled inventory of the EGM department. All destroyed CPSM

and component parts shall be destroyed separately from the EGM cabinets.

(e) The destruction of any EGMs, CPSM, and component parts shall be witnessed by an agent of the commission. (Authorized by K.S.A. 2008 Supp. 74-8772; implementing K.S.A. 2008 Supp. 74-8750 and 74-8772; effective April 24, 2009.)

**112-107-34. Waivers.** (a) The requirements in this article or article 110 for an EGM may be waived by the commission upon the commission's determination that the EGM, associated equipment, or modification as submitted by the facility manager meets the operational integrity requirements of the act, this article, and article 110.

(b) Any gaming supplier may submit a written request to the commission for a waiver for one or more of the requirements in this article or article 110. The request shall include supporting documentation demonstrating how the EGM, associated equipment, or modification for which the waiver has been requested meets the operational integrity requirements of the act, this article, and article 110. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective April 24, 2009.)

#### Article 108.—TABLE GAMES

**112-108-1. Definitions.** The following words and terms, when used in this article, shall have the following meanings unless the context clearly indicates otherwise:

(a) "Bad beat" means a jackpot prize that is paid in poker when a sufficiently strong hand is shown face down and loses to an even stronger hand held by another player.

(b) "Boxperson" means an individual who supervises dice games, including craps, guards the money and chips at a long table, issues chips, and settles conflicts about the plays.

(c) "Burning cards" means a process, performed by the dealer, in which one or more cards are removed from the top of the deck of cards and placed in the discard pile, after the cards have been cut.

(d) "Coloring up" means exchanging lower denomination chips for higher denomination chips.

(e) "Counterfeit chip" means any chip or chip-like objects that have not been approved pursuant to this article, including objects referred to as "slugs," but not coins of the United States or other nations.

(f) "Day" means calendar day regardless of whether the day falls on a weekend or holiday.

(g) “Non-value chips” means chips without a value impressed, engraved, or imprinted on them.

(h) “Pai gow” means a double-hand poker variation based on the Chinese dominos game of Pai Gow.

(i) “Patron” means any person present at a gaming facility who is not employed by the facility manager, the Kansas lottery, or the commission and is not on the premises as a vendor of the facility manager.

(j) “Pit area” means the immediate areas within a gaming facility where one or more table games are open for play.

(k) “Promotional coupon” means any instrument offering any person something of value issued by a facility manager to promote the lottery gaming facility or ancillary facility or for use in or related to certified gambling games at a facility manager’s gaming establishment.

(l) “Promotional game” means a drawing, event, contest, or game in which patrons can, without giving consideration, participate or compete for the chance to win a prize or prizes of different values.

(m) “Promotional giveaway” means a promotional gift or item given by a facility manager to any person meeting the facility manager’s promotional criteria, for which the person provides no consideration. No chance or skill is involved in the awarding of the promotional gift or item, and all persons meeting the facility manager’s promotional criteria receive the same promotional gift or item.

(n) “Rake” means a commission charged by the house for maintaining or dealing a game, including poker.

(o) “Special hand” means a secondary jackpot paid on a poker hand that does not qualify for the bad beat.

(p) “Table game” means any lottery facility game other than a game played on an electronic gaming machine.

(q) “Table game mechanism” means a component that is critical to the operation of a table game, including a roulette wheel and an electronic add-on for the placement of wagers.

(r) “Value chips” means chips with a value impressed, engraved, or imprinted on the chips. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-2. Consistency with the Kansas lottery’s rules.** Each facility manager shall conduct each lottery facility game in a manner con-

sistent with the rules of the game approved by the Kansas lottery. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-3. Participation in table games by a certificate holder or a licensee.** (a) Except as provided in K.A.R. 112-108-37, no facility manager or any director, officer, key person, or any other agent of any facility manager shall play or be permitted to play any table game in the gaming facility where the person is licensed or employed.

(b) No holder of a gaming supplier certificate or any director, officer, key person, or any other agent of a gaming supplier shall play or be permitted to play at a table game in a gaming facility to which the gaming supplier provides its goods or services. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-4. Testing and approval of table games.** (a) Each table game, the rules of the game, and the associated equipment to be used in a gaming facility shall be submitted for approval in accordance with the act and these regulations.

(b) Each table game, the rules of the game, and associated equipment shall be evaluated by the commission for the following:

(1) Overall operational integrity and compliance with the act and these regulations;

(2) mathematical accuracy of the payout tables; and

(3) compatibility with any specifications approved by the Kansas lottery.

(c) A product submission checklist may be prescribed by the executive director.

(d) An independent testing laboratory may be used by the commission to evaluate the table game and associated equipment.

(e) A trial period may be required by the commission to assess the functionality of the table game, rules of the game, and associated equipment in a live gaming environment. The conduct of the trial period shall be subject to compliance by the facility manager with any conditions that may be required by the commission.

(f) A facility manager shall not install a table game or associated equipment unless the table game, rules of the game, and associated equipment have been approved by the commission and issued a certificate authorizing the use of the game, rules, or associated equipment at the gaming facility. The certificate shall be prominently displayed on the approved device. A facility manager shall not mod-

ify, alter, or tamper with an approved table game, rules of the game, or associated equipment or with a commission-issued certificate.

(g) The facility manager shall notify the executive director in writing and receive written approval at least five days before moving or disposing of a table game or associated equipment that has been issued a certificate. Before the removal of the table game or associated equipment from the gaming facility, the certificate shall be removed by a commission agent. A table game or the associated equipment installed in a gaming facility in contravention of this requirement shall be subject to seizure by any Kansas law enforcement officer.

(h) Any modification to a table game or the associated equipment may be authorized by the executive director on an emergency basis to prevent cheating or malfunction. The emergency request shall be documented by the facility manager. The request shall specify the name and employer of any persons to be involved in the installation of the modification and the manner in which the installation is to be effected. Within 15 days of receipt of any authorization to install an emergency modification, the facility manager shall submit the modification for full evaluation and approval in accordance with this article.

(i) Each facility manager shall notify the commission's security staff of any known or suspected defect or malfunction in any table game or associated equipment installed in the gaming facility no later than four hours after detection. The facility manager shall comply with any instructions from the commission staff for the use of the table game or associated equipment.

(j) Each facility manager shall include table games and associated equipment on the facility manager's master list of approved gaming machines as required by K.A.R. 112-107-10.

(k) All table games and associated equipment shall be noted on the gaming floor plan under K.A.R. 112-107-7. (Authorized by K.S.A. 2008 Supp. 74-8772; implementing K.S.A. 2008 Supp. 74-8750 and 74-8772; effective Jan. 8, 2010.)

**112-108-5. Compliance with law; prohibited activities.** (a) Each facility manager shall comply with all federal and state regulations and requirements for the withholding of taxes from winnings and the filing of currency transaction reports (CTR).

(b) Each facility manager shall be prohibited from the following activities:

(1) Permitting persons who are visibly intoxicated to participate in table games;

(2) permitting any table game or associated table game equipment that could have been marked, tampered with, or otherwise placed in a condition or operated in a manner that might affect the normal game play and its payouts;

(3) permitting cheating, if the facility manager was aware of the cheating;

(4) permitting any cheating device to remain in or upon any gaming facility, or conducting, carrying on, operating, or dealing any cheating or thieving game or device on the premises; and

(5) permitting any gambling device that tends to alter the normal random selection of criteria that determines the results of the game or deceives the public in any way to remain in or upon any gaming facility, if the facility manager was aware of the device.

(c) Each violation of this regulation shall be reported within one hour to a commission agent.

(d) A facility manager shall not allow a patron to possess any calculator, computer, or other electronic, electrical, or mechanical device at any table game that meets any of the following conditions:

(1) Assists in projecting the outcome of a game;

(2) keeps track of cards that have been dealt;

(3) keeps track of changing probabilities; or

(4) keeps track of playing strategies being utilized, except as permitted by the commission.

(e) A person who, without the assistance of another person or without the use of a physical aid or device of any kind, uses the person's own ability to keep track of the value of cards played and uses predictions formed as a result of the tracking information in their playing and betting strategy shall not be considered to be in violation of these regulations. Any facility manager may make its own determination of whether the behavior is disruptive to gaming. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-6. Table game internal controls.**

(a) Each facility manager shall establish a system of internal controls for the security and operation of table games as provided under this article. The internal controls for table games shall be submitted to the commission for approval under K.A.R. 112-104-1 and shall address the following:

(1) Object of the game and method of play, including what constitutes win, loss, or tie bets;

(2) physical characteristics of the game, gaming equipment, and gaming table;

(3) procedures for opening and closing of the gaming table;

(4) wagers and payout odds for each type of available wager, including the following:

(A) A description of the permissible wagers and payout odds;

(B) any minimum or maximum wagers, which shall be posted on a sign at each table; and

(C) any maximum table payouts, if any, which shall be posted at each table and shall not be less than the maximum bet times the maximum odds;

(5) for each game that uses any of the following, the applicable inspection procedures:

(A) Cards;

(B) dice;

(C) wheels and balls; or

(D) manual and electronic devices used to operate, display the outcome, or monitor live games;

(6) for each game that uses cards, a description of the following:

(A) Shuffling procedures;

(B) card cutting procedures;

(C) procedures for dealing and taking cards; and

(D) burning cards;

(7) procedures for the collection of bets and payouts including requirements for internal revenue service purposes;

(8) procedures for handling suspected cheating or irregularities and immediate notification of commission agent on duty;

(9) procedures for dealers being relieved;

(10) procedures for immediate notification to the commission agent on duty when equipment is defective or malfunctioning; and

(11) procedures to describe irregularities of the game, including dice off the table and soiled cards.

(b) Each facility manager that provides table games shall include a table game department in the internal controls. That department shall be supervised by a person located at the gaming facility who functions as the table game director. The department shall be mandatory and shall cooperate with yet perform independently of other mandatory departments listed under K.A.R. 112-104-2. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-7. Publication of rules and payoff schedules for all permitted games.** Each facility manager shall provide, free of charge and within one hour, a copy of the rules and accurate payoff schedules for any table game if requested by a patron. Each payoff schedule shall accurately

state actual payoffs applicable to a particular game or device. No payoff schedule shall be worded in a manner that misleads the public. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-8. Payout for progressive table games.** (a) Each table game that includes progressive jackpots shall have a progressive meter visible to patrons. If any part of the distribution to the progressive jackpots is being used to fund a secondary jackpot, visible signage informing players of this supplemental distribution shall be placed in the immediate area of the table. The existence of progressive jackpots and the distributions to those jackpots shall be set forth in the "rules of the game" within a facility manager's internal controls for each game having a progressive jackpot. Each table game not meeting this distribution requirement shall be deemed an unauthorized gambling game.

(b) At least five days before the cancellation of any table game that includes a progressive jackpot that has not been awarded, the facility manager shall submit a plan for disbursement of that jackpot for approval by the executive director. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-9. Authorized table gaming suppliers.** Chips, dice, and playing cards for use in table games may be purchased only from a permitted or certified gaming supplier. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-10. Chip specifications.** (a) Each value chip issued by a facility manager shall have the following characteristics:

(1) Be round;

(2) have clearly and permanently impressed, engraved, or imprinted on it the name of the facility manager and the specific value of the chip;

(3) have, at least on one side of the chip, the name of the city or other locality and the state in which the gaming facility is located and either the manufacturer's name or a distinctive logo or other mark identifying the manufacturer;

(4) have its center portion impressed, engraved, or imprinted with the value of the chip and the name of the facility manager that is issuing the chip;

(5) utilize a different center shape for each denomination;

(6) be designed so that the specific denomination of a chip can be determined on surveillance camera monitors when placed in a stack of chips of other denominations; and

(7) be designed, manufactured, and constructed so as to prevent the counterfeiting of value chips.

(b) Unless otherwise authorized by the executive director, value chips may be issued by facility managers in denominations of \$1, \$2.50, \$5, \$20, \$25, \$100, \$500, \$1,000, \$5,000, and \$10,000. Each facility manager shall have the discretion to determine the denominations to be utilized at its gaming facility and the amount of each denomination necessary for the conduct of gaming operations.

(c) Unless otherwise authorized by the executive director, value chips worth less than \$500 shall have a diameter of 39 millimeters, and value chips worth equal to or greater than \$500 shall have a diameter of 43 millimeters.

(d) Each denomination of value chip shall have a different primary color from every other denomination of value chip. Unless otherwise approved by the executive director, value chips shall have the colors specified in this subsection when the chips are viewed both in daylight and under incandescent light. In conjunction with these primary colors, each facility manager shall utilize contrasting secondary colors for the edge spots on each denomination of value chip. Unless otherwise approved by the executive director, no facility manager shall use a secondary color on a specific denomination of chip identical to the secondary color used by another facility manager in Kansas on that same denomination of value chip. The primary color to be utilized by each facility manager for each denomination of value chip shall be as follows:

- (1) For \$1, white;
- (2) for \$2.50, pink;
- (3) for \$5, red;
- (4) for \$20, yellow;
- (5) for \$25, green;
- (6) for \$100, black;
- (7) for \$500, purple;
- (8) for \$1,000, fire orange;
- (9) for \$5,000, grey; and
- (10) for \$10,000, burgundy.

(e)(1) Each non-value chip utilized by a facility manager shall be issued solely for roulette. Each non-value chip at each roulette table shall meet the following conditions:

(A) Have the name of the facility manager issuing it impressed into its center;

(B) contain a design, insert, or symbol differentiating it from the non-value chips being used at every other roulette table in the gaming facility;

(C) have "Roulette" impressed on it; and

(D) be designed, manufactured, and constructed so as to prevent counterfeiting;

(2) Non-value chips issued at a roulette table shall be used only for gaming at that table and shall not be redeemed or exchanged at any other location in the gaming facility. When so presented, the dealer at the issuing table shall exchange these chips for an equivalent amount of value chips.

(f) No facility manager or its employees shall allow any patron to remove non-value chips from the table from which the chips were issued.

(g) No person at a roulette table shall be issued or permitted to game with non-value chips that are identical in color and design to value chips or to non-value chips being used by another person at the same table. When a patron purchases non-value chips, a non-value chip of the same color shall be placed in a slot or receptacle attached to the outer rim of the roulette wheel. At that time, a marker denoting the value of a stack of 20 chips of that color shall be placed in the slot or receptacle.

(h) Each facility manager shall have the discretion to permit, limit, or prohibit the use of value chips in gaming at roulette. Each facility manager shall be responsible for keeping an accurate account of the wagers being made at roulette with value chips so that the wagers made by one player are not confused with those made by another player at the table. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-11. Submission of chips for review and approval.** (a) Each facility manager shall submit a sample of each denomination of value chips and non-value chips to the executive director for approval. No facility manager shall utilize these chips for gaming purposes until approved in writing by the executive director.

(b) In requesting approval of any chips, a facility manager shall submit to the commission a detailed schematic of its proposed chips and a sample chip. The detailed schematic shall show the front, back, and edge of each denomination of value chip and each non-value chip and the design and wording to be contained on the chip. If the design schematics or chip is approved by the executive director, no value chip or non-value chip shall be issued or utilized unless a sample of each denomination

of value chip and each color of non-value chip is also submitted to and approved by the executive director.

(c) The facility manager shall provide the name and address of the chip manufacturer to the commission.

(d) No facility manager or other person licensed by the commission shall manufacture for, sell to, distribute to, or use in any gaming facility outside of Kansas any value chips or non-value chips having the same design as that approved for use in Kansas. (Authorized by K.S.A. 2008 Supp. 74-8772; implementing K.S.A. 2008 Supp. 74-8752 and 74-8772; effective Jan. 8, 2010.)

**112-108-12. Primary, secondary, and reserve sets of gaming chips.** Unless otherwise authorized by the executive director, each facility manager shall have a primary set of value chips, a separate secondary set of value chips, a primary set of non-value chips, and a non-value chip reserve, which shall conform to the color and design specifications set forth in K.A.R. 112-108-10. An approved secondary set of value chips and reserve non-value chips shall be placed into active play when the primary set of value chips or non-value chips is removed.

(a) The secondary set of value chips shall have different secondary colors than the primary set and shall be required for all denominations.

(b) Each facility manager shall have a non-value chip reserve for each color utilized in the gaming facility with a design insert or symbol different from those non-value chips comprising the primary set.

(c) The facility manager shall remove the primary set of gaming chips from active play if at least one of the following conditions is met:

(1) A determination is made by the facility manager that the gaming facility is receiving a significant number of counterfeit chips.

(2) Any other impropriety or defect in the utilization of the primary set of chips makes removal of the primary set necessary.

(3) The executive director orders the removal because of security or integrity.

(d) If the primary set of chips is removed from active play, the facility manager shall immediately notify a representative of the commission of the reason for this occurrence. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-13. Exchange of value chips or non-value chips.** (a) Chips shall be issued to a person only at the request of that person and shall not be given as change in any other transaction. Chips shall be issued to gaming facility patrons at cashiers' cages or at the live table games. Chips may be redeemed at cashiers' cages.

(b) Chips shall be redeemed only by a facility manager for its patrons and shall not be knowingly redeemed from a source other than a patron. Employees of the facility manager may redeem chips they have received as gratuities as allowed under these regulations.

(c) Each facility manager shall redeem its own chips by cash or by check dated the day of the redemption on an account of the facility manager as requested by the patron, except when the chips were obtained or used unlawfully.

(d) Any facility manager may demand the redemption of its chips from any person in possession of them. That person shall redeem the chips upon presentation of an equivalent amount of cash by the facility manager.

(e) No facility manager shall knowingly accept, exchange, use, or redeem gaming chips issued by another facility manager.

(f) Each facility manager shall cause to be posted and remain posted, in a prominent place on the front of a cashier's cage, a sign that reads as follows: "Gaming chips issued by another facility manager cannot be used, exchanged, or redeemed at this gaming facility." (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-14. Receipt of gaming chips from manufacturer.** (a) When chips are received from the manufacturer, the chips shall be opened and checked by at least two employees, one from the table games department and one from the security department of the facility manager. Any deviation between the invoice accompanying the chips and the actual chips received or any defects found in the chips shall be reported to a security agent of the commission. A security agent of the commission shall be notified by both the gaming supplier and the facility manager of the time of delivery of any chips to the facility manager.

(b) After checking the chips received, the facility manager shall report in a chip inventory ledger each denomination of the chips received, the number of each denomination of chips received, the number and description of all non-value chips

received, the date of receipt, and the signature of the individuals who checked the chips. Chips shall be divided into the following categories:

- (1) Primary chips for current use;
- (2) reserve chips that may be placed into play as the need arises; and
- (3) secondary chips, both value chips and non-value chips, that are held to replace the primary set when needed.

(c) If any of the chips received are to be held in reserve and not utilized either at the table games or at a cashier's cage, the chips shall be stored in a separate, locked compartment either in the vault or in a cashier's cage and shall be recorded in the chip inventory ledger as reserve chips.

(d) All chips received that are part of the facility manager's secondary set of chips shall be recorded in the chip inventory ledger as such and shall be stored in a locked compartment in the gaming facility vault separate from the reserve chips. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-15. Inventory of chips.** (a) Chips shall be taken from or returned to either the reserve chip inventory or the secondary set of chips in the presence of at least two individuals, one from the table games department and one from the security department of the facility manager. The denominations, number, and amount of chips taken or returned shall be recorded in the chip inventory ledger, together with the date and signatures of the two individuals carrying out this process.

(b) The facility manager's accounting department shall monthly compute and record the unredeemed liability for each denomination of chips, take an inventory of chips in circulation, and record the result of this inventory in the chip inventory ledger. The accounting department shall take a monthly inventory of reserve chips and secondary chips and record the result of this inventory in the chip inventory ledger. Each individual who inspected and counted the chips shall sign either the inventory ledger or other supporting documentation. The procedures to be utilized to compute the unredeemed liability and to inventory chips in circulation, reserve chips, and secondary chips shall be submitted in the internal controls to the commission for approval. A physical inventory of chips in reserve shall be required annually only if the inventory procedures incorporate a commission-sealed, locked compartment and the

seals have not been broken. Seals shall be broken only by a commission agent, with each violation of this requirement reported upon discovery to a commission agent on duty.

(c) During non-gaming hours, all chips in the possession of the facility manager shall be stored in the chip bank, in the vault, or in a locked compartment in a cashier's cage, except that chips may be locked in a transparent compartment on gaming tables if there is adequate security as approved by the commission.

(d) The internal control system shall include procedures for the removal and destruction of damaged chips from the gaming facility inventory. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-16. Destruction of chips.** (a) At least 10 days before the anticipated destruction of chips, a facility manager shall notify the commission in writing of the following:

- (1) The date on which and the location at which the destruction will be performed;
- (2) the denomination of the chips to be destroyed;
- (3) the number and amount of value chips to be destroyed;
- (4) the description and number of non-value chips to be destroyed; and
- (5) a detailed explanation of the method of destruction.

(b) The facility's surveillance staff and a commission agent shall be notified before the commencement of destruction.

(c) The destruction of chips shall occur in a room monitored by surveillance for the duration of destruction.

(d) Unless otherwise authorized by the executive director, the destruction of chips shall be carried out in the presence of at least two individuals, one from the table games department and the other one from the security department. The following information shall be recorded in the chip inventory ledger:

- (1) The denomination, number, and amount of value chips or, in the case of non-value chips, the description and number so destroyed;
- (2) the signatures of the individuals carrying out the destruction; and
- (3) the date on which destruction took place. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-17. Counterfeit chips.** (a) The facility manager shall notify a commission security agent when a counterfeit chip is discovered and shall deliver the counterfeit chip to the commission security agent to investigate criminal prosecution.

(b) Each facility manager shall record the following information regarding counterfeit chips:

(1) The number and denominations, actual and purported, of the coins and counterfeit chips destroyed or otherwise disposed of pursuant to this regulation;

(2) the month during which they were discovered;

(3) the date, place, and method of destruction or other disposition, including, in the case of foreign coin exchanges, the exchange rate and the identity of the bank, exchange company, or other business or person at which or with whom the coins are exchanged; and

(4) the names of the persons carrying out the destruction or other disposition on behalf of the facility manager.

(c) Unless the executive director orders otherwise, facility managers may dispose of coins of the United States or any other nation discovered to have been unlawfully used at their establishments by either of the following:

(1) Including the coins in the coin inventories or, in the case of foreign coins, exchanging the coins for United States currency or coins and including the coins in the currency or coin inventories; or

(2) disposing of them in any other lawful manner.

(d) The facility manager shall maintain each record required by this regulation for at least seven years, unless the executive director approves or requires otherwise. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-18. Tournament chips and tournaments.** (a) "Tournament chip" shall mean a chip or chiplike object issued by a facility manager for use in tournaments at the facility manager's gaming facility.

(b) Tournament chips shall be designed, manufactured, approved, and used in accordance with the provisions of this article applicable to chips, except as follows:

(1) Tournament chips shall be of a shape and size and have any other specifications necessary to make the chips distinguishable from other chips used at the gaming facility.

(2) Each side of each tournament chip shall conspicuously bear the inscription "No Cash Value."

(3) Tournament chips shall not be used, and facility managers shall not permit their use, in transactions other than the tournaments for which the chips are issued.

(c) As used in this regulation, entry fees shall be defined as the total amount paid by a person or on a person's behalf for participation in a tournament. A tournament shall mean a contest offered and sponsored by a facility manager in which patrons may be assessed an entry fee or be required to meet some other criteria to compete against one another in a gambling game or series of gambling games in which winning patrons receive a portion or all of the entry fees, if any. These entry fees may be increased with cash or noncash prizes from the facility manager. Facility managers may conduct tournaments if all of the following requirements are met:

(1) The facility manager shall notify the executive director of the planned tournament at least 30 calendar days before the first day of the event.

(2) The facility manager shall not conduct the tournament unless approved by the executive director.

(3) The facility manager shall conduct the tournament in compliance with all applicable rules, regulations, and laws.

(4) The facility manager shall maintain written, dated rules governing the event and the rules shall be immediately available to the public and the commission upon request. Tournament rules shall, at a minimum, include the following:

(A) The date, time, and type of tournament to be held;

(B) the amount of the entry fee, if any;

(C) the minimum and maximum number of participants;

(D) a description of the tournament structure, including number of rounds, time period, players per table, and criteria for determining winners;

(E) the prize structure, including amounts or percentages, or both, for prize levels; and

(F) procedures for the timely notification of entrants and the commission and the refunding of entry fees in the event of cancellation.

(5) No false or misleading statements, written or oral, shall be made by a facility manager or its employees or agents regarding any aspect of the tournament, and all prizes offered in the tournament shall be awarded according to the facility manager's rules governing the event.

(6) The facility manager's accounting department shall keep a complete record of the rules of the event and all amendments to the rules, including criteria for entry and winning, names of all entrants, all prizes awarded, and prize winners, for at least two years from the last date of the tournament. This record shall be made readily available to the commission upon request.

(7) Entry fees shall accumulate to adjusted gross gaming receipts.

(8) Cash and noncash winnings paid in a tournament shall be deductible from adjusted gross gaming revenue, but any such deduction shall not exceed the total entry fees received for the tournament and noncash winnings shall be deductible only to the dollar value of the amount actually invoiced to and paid by the facility manager.

(9) Upon the completion of the tournament, documentation of entrants' names, names of prize winners and amounts won, and tax-reporting information shall be submitted to the commission.

(10) The facility manager shall designate in its internal control system an employee position acceptable to the commission that shall be responsible for ensuring adherence to the requirements in this regulation. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective Jan. 8, 2010; amended April 1, 2011.)

**112-108-19. Promotional activities.** (a) Each facility manager shall establish a system of internal controls for promotional giveaways, conduct of promotional games, and similar activities. The internal controls shall be submitted to the commission under K.A.R. 112-104-1. Each promotion shall meet the following requirements:

(1) No false or misleading statements, written or oral, shall be made by a facility manager or its employees or agents regarding any aspect of any promotional activity.

(2) The promotional activity shall meet the requirements of all applicable laws and regulations and shall not constitute illegal gambling under federal or state law. An affidavit of compliance shall be signed by the legal counsel of the facility manager and be maintained on file for two years from the last day of the event.

(3) The facility manager shall create dated, written rules governing the promotional activity that shall be immediately available to the public and the commission upon request. The facility manager shall maintain the rules of the event and all amendments, including criteria for entry and

winning, prizes awarded, and prize winners, for at least two years from the last day of the event.

(4) All prizes offered in the promotional activity shall be awarded according to the facility manager's rules governing the event.

(5) The facility manager's employees shall not be permitted to participate as players in any gambling, including promotional games, at the facility manager's gaming facility, including games for which there is no cost to participate.

(6) The facility manager shall designate in its internal control system an employee position acceptable to the commission that shall be responsible for ensuring adherence to the requirements in this regulation.

(b) Each promotional coupon shall contain the following information preprinted on the coupon:

(1) The name of the gaming facility;

(2) the city or other locality and state where the gaming facility is located;

(3) specific value of any monetary coupon stated in U.S. dollars;

(4) sequential identification numbers, player tracking numbers, or other similar means of unique identification for complete, accurate tracking and accounting purposes;

(5) a specific expiration date or condition;

(6) all conditions required to redeem the coupon; and

(7) a statement that any change or cancellation of the promotion shall be approved by the commission before the change or cancellation.

(c) Documentation of any change or cancellation of a promotional coupon, with the legal counsel's affidavit, shall be maintained on file for two years.

(d) Any facility manager may use mass media to provide promotional coupon offers to prospective patrons; however, these offers shall be redeemed only for a preprinted coupon that contains all of the information required for a promotional coupon in subsection (c).

(e) Each facility manager offering promotional coupons shall track the issuance and redemption of each promotional coupon in accordance with K.A.R. 112-107-19. Documentation of the promotional coupon tracking shall be maintained on file for two years and made available to the commission upon request. The inventory of nonissued promotional coupons shall be maintained in accordance with K.A.R. 112-107-19.

(f) Promotional coupons shall be cancelled when they are redeemed, in a manner that pre-

vents multiple redemptions of the same coupon. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-20. Table game and poker cards; specifications.** (a) Unless otherwise documented in the internal controls and approved by the commission, all cards used for table games shall meet all of the following requirements:

(1) Cards shall be in standard decks of 52 cards, with each card identical in size and shape to every other card in the deck or as otherwise documented in the internal controls and approved by the commission.

(2) Each standard deck shall be composed of four suits: diamonds, spades, clubs, and hearts.

(3) Each suit shall consist of 13 cards: ace, king, queen, jack, 10, 9, 8, 7, 6, 5, 4, 3, and 2. The face of the ace, king, queen, jack, and 10 value cards may contain an additional marking, as documented in the internal controls and approved by the commission, that will permit a dealer, before exposing the dealer's hole card at the game of blackjack, to determine the value of that hole card.

(4) The backs of all cards in the deck shall be identical and no card shall contain any marking, symbol, or design that will enable a person to know the identity of any element printed on the face of the card or that will in any way differentiate the back of that card from any other card in the deck.

(5) The backs of all cards in the deck shall be designed so as to diminish as far as possible the ability of any person to place concealed markings on the backs.

(6) The design to be placed on the backs of cards used by facility managers shall contain the name or trade name of the facility manager where the cards are to be used and shall be submitted to the executive director for approval before use of the cards in gaming activity.

(7) Each deck of cards for use in table games as defined in K.A.R. 112-108-1 shall be packaged separately with cellophane, shrink wrap, or another similar material as documented in the internal controls and approved by the commission. The packaging shall have a tamper-resistant security seal and a tear band. Each deck of poker cards shall be packaged in sets of two decks through the use of cellophane, shrink wrap, or another similar material as documented in the internal controls and approved by the commission and have a tamper-resistant security seal and a tear band.

(8) Nothing in this regulation shall prohibit decks of cards with one or more jokers. However, jokers may be used by the facility manager only in the play of any games documented in the internal controls and approved by the commission for that manner of play.

(b) The cards used by a facility manager in any poker room game shall meet the following requirements:

(1) Be visually distinguishable from the cards used by that facility manager to play any table games;

(2) be made of plastic; and

(3) have two decks with visually distinguishable card backings for each set of poker cards. These card backings may be distinguished, without limitation, by different logos, different colors, or different design patterns.

(c) For each table game utilizing cards, the cards shall be dealt from a dealing shoe or shuffling device, except the card games specified in K.A.R. 112-108-41. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-21. Table game cards; receipt, storage, inspections, and removal from use.**

(a) Each facility manager shall use only plastic cards that have been approved by the commission as specified in K.A.R. 112-108-20.

(b) Each facility manager shall ensure that each card storage area contains an inventory ledger and that the facility manager's employees update the ledger when cards are added or removed from that storage area.

(c) When a deck of table game cards, including poker cards, is received for use in the gaming facility from a licensed gaming supplier, all of the following requirements shall be met:

(1) The decks shall be inspected for proper quantity and any obvious damage by at least two employees, one of whom shall be from the table games department and the other from the security department or accounting department.

(2) The decks shall be recorded in the card inventory ledgers by a member of the security or accounting department and a member of the table games department. If any discrepancies in the invoice or packing list or any defects are found, the discrepancies shall be reported to a commission agent on duty within 24 hours.

(3) The decks shall be placed for storage in a primary or secondary storage area by at least two employees, one of whom shall be from the table

games department and the other from the security department or accounting department. The primary card storage area shall be located in a secure place, the location and physical characteristics of which shall be documented in the internal controls and approved by the commission. Secondary storage areas, if needed, shall be used for the storage of surplus decks. Decks maintained in any secondary storage area shall be transferred to the primary card storage area before being distributed to the pit area or poker tables. All secondary storage areas shall be located in secure areas, the location and physical characteristics of which shall be documented in the internal controls and approved by the commission.

(d) Each primary card storage area and each secondary card storage areas shall have two separate locks. The security department shall maintain one key to each storage area, and the table games department shall maintain the other key. No person employed by the table games department other than the pit manager, poker room manager, or the supervisor shall have access to the table games department key for the primary and secondary card storage areas.

(e) Immediately before the commencement of each gaming day and at other times as may be necessary, the pit manager, poker room manager, or the supervisor, in the presence of a security department employee and after notification to surveillance, shall remove the decks of table game cards or poker cards from the primary card storage area needed for that gaming day.

(f) All cards transported to a pit or the poker room shall first be recorded on the card inventory ledger. Both the authorized table games department employee and the security department employee shall sign to verify the information.

(g) Once the cards are removed from the primary card storage area, the pit manager, poker room manager, or the supervisor, in the presence of a security department employee, shall take the decks to the pit area or poker room and distribute the decks to the floor supervisors for distribution to the dealer at each table. The poker room manager, pit manager, or the supervisor shall place extra decks into a single locked compartment of a poker room or pit area stand. All authority shall be limited to the supervisor's or manager's respective area of duty. The poker room supervisor, pit area supervisor, or an employee in a higher position shall have access to the extra decks of cards to be used for that gaming day.

(h) Each movement of decks after delivery to the poker room or pit area shall be by a poker room manager, pit manager, or an employee in a higher position and shall require a security escort after notifying surveillance. The procedures for transporting used decks shall include the following:

(1) A requirement that used decks be transported by security;

(2) a requirement that the surveillance department be notified before movement of the decks;

(3) specifications on the time that the procedures will be performed;

(4) specifications on the location to which the decks will be taken;

(5) specifications on the keys needed;

(6) specifications on the employees who are responsible;

(7) a requirement for updating inventory ledgers; and

(8) any other applicable security measures that the facility manager deems appropriate.

(i) Before being placed into play, each deck shall be inspected by the dealer, with the inspection verified by a floor supervisor or the floor supervisor's supervisor. Card inspection at the gaming table shall require the dealer to sort each deck into sequence and into suit to ensure that all cards are in the deck. The dealer shall also check each card to ensure that there is no indication of tampering, flaws, scratches, marks, or other defects that might affect the integrity of the game.

(1) If, after checking the cards, the dealer finds that a card is unsuitable for use, a floor supervisor or an employee in a higher position shall either bring a replacement card from the replacement deck or replace the entire deck.

(2) A commission security agent on duty shall be notified immediately of the removal, including the card manufacturer's name, and the time of discovery and the location of where the unsuitable card was discovered. Cards may also be removed at the direction of the commission security agent on duty.

(3) Based upon the agent's discretion and circumstances as listed in subsection (t), all decks being removed from play shall be counted at the table to ensure that no cards are missing.

(4) The unsuitable cards shall be placed in a transparent sealed envelope or container, identified by the table number, date, and time, and shall be signed by the dealer and floor supervisor assigned to that table. The floor supervisor or an employee in a higher position shall maintain the

envelope or container in a secure place within the enclosed and encircled area until collected by a facility manager's security department employee.

(5) Cards being removed from play shall be inspected by a member of the facility's security department within 48 hours of their removal.

(j) If an automated deck-checking device is used, the facility manager shall include the following procedures:

(1) Before the initial use of the automated deck-checking device, the critical program storage media and the camera software shall be verified and sealed by a commission security agent.

(2) The dealer shall complete the inspection of the cards. The dealer inspection shall ensure that the back of the cards are the correct color and free of any visible flaws.

(3) The automated deck-checking device shall be maintained in the enclosed and encircled area.

(4) The automated deck-checking device shall not be used in the card storage room.

(5) The automated deck-checking device shall be inspected on a weekly basis with decks that have preidentified missing cards from each suit. The devices shall properly identify each missing card in these decks.

(k) All envelopes and containers used to hold or transport cards collected by security shall be transparent.

(1) The envelopes or containers and the method used to seal them shall be designed or constructed so that any tampering is evident.

(2) The envelopes or containers and seals shall be approved by the executive director.

(l) If any cards have been opened and placed on a gaming table, those cards shall be changed at least once every 24 hours. In addition, the following requirements shall be met:

(1) All cards opened for use on a traditional baccarat table shall be changed upon the completion of each shoe.

(2) All cards opened for use on any table game in which the cards are handled by the players shall be changed at least every six hours.

(3) All cards opened for use on any table game and dealt from the dealer's hand or held by players shall be changed at least every four hours.

(4) If any cards have been opened and placed on a poker table, those cards shall be changed at least once every six hours.

(m) Each card damaged during the course of play shall be replaced by the dealer, who shall request a floor supervisor or an employee in a higher

position to bring a replacement card from the enclosed and encircled area.

(1) The damaged cards shall be placed in a sealed envelope, identified by table number, date, and time, and be signed by the dealer and the floor supervisor or the supervisor's supervisor who brought the replacement cards to the table.

(2) The floor supervisor or an employee in a higher position shall maintain the envelope or container in a secure place within the enclosed and encircled area until collected by a security department employee.

(n)(1) The floor supervisor or an employee in a higher position shall collect all used cards either at the end of the gaming day or at least once each gaming day at the same time as designated by the facility manager and documented in the internal controls approved by the commission. A facility manager may choose to collect all used cards at other times as may be necessary.

(2) Used cards shall be counted and placed in a sealed envelope or container. A label shall be attached to each envelope or container that shall identify the table number, date and time and shall be signed by the dealer and floor supervisor assigned to the table. The floor supervisor or an employee in a higher position shall maintain the envelopes or containers in a secure place within the enclosed or encircled area until collected by a facility manager security department employee.

(o) The facility manager shall remove any cards from use whenever there is indication of tampering, flaws, scratches, marks, or other defects that might affect the integrity or fairness of the game, or at the request of the commission security agent on duty.

(p) Each extra deck with a broken seal shall be placed in a sealed envelope or container with a label attached to each envelope or container. The label shall identify the date and time the envelope was sealed and shall be signed by the floor supervisor and the pit manager. If the pit manager is not available to sign the label, then the floor supervisor and the floor supervisor's supervisor shall sign the label.

(q) At least once each gaming day at the time as designated by the facility manager in the internal controls, a facility manager security department employee shall collect, sign, and return to the security department all envelopes or containers containing the following:

(1) Damaged cards;

(2) cards used during the gaming day; and

(3) all other decks with broken seals.

(r) Each poker room supervisor shall maintain in the poker room stand a specified number of replacement decks for replacing unsuitable cards. The poker room supervisor or an employee in a higher position shall have access to the replacement decks that are kept in a single locked compartment. The poker room supervisor or an employee in a higher position shall keep a record of all cards removed from the replacement decks. The record shall include the time, date, color, value, suit, reason for replacement, and name of the individual who replaced the cards. The replacement decks shall be reconciled to the record at least weekly. Once a replacement deck has been depleted to the point that the deck is no longer useful, the remaining cards in the replacement deck shall be picked up by security and destroyed or cancelled.

(s) At least once each gaming day as designated by the facility manager in the internal controls, a pit manager or the pit manager's supervisor may collect all extra decks of cards. If collected, all sealed decks shall be cancelled, destroyed, or returned to an approved storage area.

(t) When the envelopes or containers of used cards and reserve cards with broken seals are returned to the security department, the used cards and reserve cards shall be inspected within 48 hours by a member of the facility manager's security department who has been trained in proper card inspection procedures. The cards shall be inspected for tampering, marks, alterations, missing or additional cards, or anything that might indicate unfair play.

(1) With the exception of the cards used on a traditional baccarat table, which are changed upon the completion of each shoe, all cards used in table games in which the cards are handled by the player shall be inspected.

(2) In other table games, if fewer than 300 decks are used in the gaming day, at least 10 percent of those decks shall be selected at random to be inspected. If 300 or more decks are used that gaming day, at least five percent of those decks but no fewer than 30 decks shall be selected at random to be inspected.

(3) The facility manager shall also inspect the following:

(A) Any cards removed from play as stated in paragraph (i)(3) based upon the agent's discretion and circumstances as listed in subsection (t);

(B) any cards that the facility manager has removed for indication of tampering; and

(C) all cards used for poker.

(4) The procedures for inspecting all decks required to be inspected under this subsection shall, at a minimum, include the following:

(A) The sorting of cards sequentially by suit;

(B) the inspection of the backs of the cards with an ultraviolet light;

(C) the inspection of the sides of the cards for crimps, bends, cuts, and shaving;

(D) the inspection of the front and back of all poker cards for consistent shading and coloring;

(E) the positions authorized by job description to conduct the inspection;

(F) surveillance notification before inspecting the cards;

(G) time and location the inspection will be conducted;

(H) minimum training requirements of persons assigned to conduct the inspections;

(I) each type of inspection to be conducted and how each inspection will be performed, including the use of any special equipment;

(J) any other applicable security measures;

(K) immediate notification of the commission security agent on duty and the completion of an incident report describing any flawed, marked, suspects, or missing cards that are noted; and

(L) reconciliation by an employee of the facility manager security department of the number of cards received with the number of cards destroyed or cancelled and any cards still pending destruction or cancellation. Each discrepancy shall be reported to the commission security agent on duty immediately.

(5) If, during the inspection procedures required in paragraph (t)(4), one or more poker cards in a deck are determined to be unsuitable for continued use, those cards shall be placed in a sealed envelope or container, and a three-part card discrepancy report shall be completed in accordance with paragraph (t)(10).

(6) Upon completion of the inspection procedures required in paragraph (t)(4), each deck of poker cards that is determined suitable for continued use shall be placed in sequential order, repackaged, and returned to the primary or poker card storage area for subsequent use.

(7) The facility manager shall develop internal control procedures for returning the repackaged cards to the storage area.

(8) The individuals performing the inspection shall complete a work order form that details the procedures performed and list the tables from

which the cards were removed and the results of the inspection. Each individual shall sign the form upon completion of the inspection procedures.

(9) The facility manager shall submit the training procedures for those employees performing the inspection, which shall be documented in the internal controls and approved by the commission.

(10) Evidence of tampering, marks, alterations, missing or additional cards, or anything that might indicate unfair play shall be reported upon discovery to the commission staff by the completion and delivery of a card discrepancy report.

(A) The report shall accompany the cards when delivered to the commission.

(B) The cards shall be retained for further inspection by the commission.

(C) The commission agent receiving the report shall sign the card discrepancy report and retain the original at the commission office.

(u) The facility manager shall submit to the commission for approval internal controls procedures for the following:

(1) A card inventory system that shall include, at a minimum, documentation of the following:

(A) The balance of decks on hand;

(B) the decks removed from storage;

(C) the decks returned to storage or received from the manufacturer;

(D) the date of the transaction; and

(E) the signature of each individual involved;

(2) a verification on a daily basis of the number of decks distributed, the decks destroyed or cancelled, and the decks returned to the storage area; and

(3) a physical inventory of the decks at least once every three months, according to the following requirements:

(A) This inventory shall be performed by an employee from the internal audit department, a supervisor from the cage, or a supervisor from the accounting department and shall be verified to the balance of decks on hand required in paragraph (u)(1)(A);

(B) the employees conducting this inventory shall make an entry and sign the card inventory ledger in a manner that clearly distinguishes this count as the quarterly inventory; and

(C) each discrepancy shall be reported upon discovery to the commission security agent on duty.

(v) If cards in an envelope or container are inspected and found to be without any indication of tampering marks, alterations, missing or additional cards, or anything that might indicate unfair play,

those cards shall be destroyed or cancelled. Once released by the commission agent on duty, the cards submitted as evidence shall immediately be destroyed or cancelled according to the following:

(1) Destruction shall occur by shredding or other method documented in the internal controls and approved by the commission.

(2) Cancellation shall occur by drilling a circular hole of at least  $\frac{1}{4}$  of an inch in diameter through the center of each card in the deck or by cutting at least  $\frac{1}{4}$  of an inch off one corner from each card in the deck or other method documented in the internal controls and approved by the commission.

(3) The destruction and cancellation of cards shall take place in a secure place, the location and physical characteristics of which shall be documented in the internal controls approved by the commission, and shall be performed by a member of the facility manager security department specifically trained in proper procedures.

(4) Card cancellation and destruction record shall be maintained indicating the date and time of cancellation or destruction, quantity of cards to be cancelled or destroyed, and the name of each individual responsible for cancellation or destruction.

(w) Procedures for canceling or destroying cards shall include the following maintenance:

(1) Notation of the positions authorized by job description to cancel or destroy cards;

(2) notation of surveillance notification before cancellation or destruction of the cards;

(3) notation of time and location the cancellation or destruction will be conducted;

(4) notation of the manner in which cancellation or destruction will be accomplished, including the use of any special equipment;

(5) any other applicable security measures; and

(6) immediate notification of a commission security agent on duty and the completion of a card and dice discrepancy report regarding any flawed, marked, or suspicious cards that are noted during the cancellation or destruction process. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-22. Dice specifications.** (a) Except as provided in subsection (b), each die used in gaming shall meet the following requirements:

(1) Be formed in the shape of a cube with a size no smaller than .750 inch on each side and not any larger than .775 inch on each side;

(2) be transparent and made exclusively of cellulose except for the spots, name, or trade name of

the facility manager and serial numbers or letters contained on the die;

(3) have the surface of each of its sides flat and the spots contained in each side flush with the area surrounding them;

(4) have all edges and corners square and forming 90-degree angles;

(5) have the texture and finish of each side exactly identical to the texture and finish of all other sides;

(6) have its weight equally distributed throughout the cube, with no side of the cube heavier or lighter than any other side of the cube;

(7) have its six sides bearing white circular spots from one to six respectively, with the diameter of each spot equal to the diameter of every other spot on the die;

(8) have spots arranged so that the side containing one spot is directly opposite the side containing six spots, the side containing two spots is directly opposite the side containing five spots, and the side containing three spots is directly opposite the side containing four spots. Each spot shall be placed on the die by drilling into the surface of the cube and filling the drilled-out portion with a compound that is equal in weight to the weight of the cellulose drilled out and that forms a permanent bond with the cellulose cube. Each spot shall extend into the cube exactly the same distance as every other spot extends into the cube to an accuracy tolerance of .0004 inch; and

(9) have the name or trade name of the facility manager in which the die is being used imprinted or impressed on the die.

(b) Each die used in gaming at pai gow shall meet the requirements of subsection (a), except as follows:

(1) Each die shall be formed in the shape of a cube not larger than .8 inch on each side.

(2) Instead of the name or trade name of the facility manager, an identifying mark or logo may be approved by the executive director to be imprinted or impressed on each die.

(3) The spots on each die shall not be required to be equal in diameter.

(4) Edges and corners may be beveled if the beveling is similar on each edge and each corner.

(5) Tolerances required by paragraph (a)(8) as applied to pai gow dice shall require accuracy of only .004 inch.

(c) A picture and sample of the die shall be submitted to the executive director for approval before being placed into play. (Authorized by and

implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-23. Dice; receipt, storage, inspections, and removal from use.** (a) Each facility manager shall ensure that all of the following requirements are met each time dice are received for use in the gaming facility:

(1) The packages shall be inspected for proper quantity and any obvious damage by at least two employees, one of whom shall be from the table games department and the other from the security department or accounting department.

(2) The dice shall be recorded in the dice inventory ledgers by a member of the security or accounting department. Any discrepancies in the invoice or packing list or any defects found shall be reported upon discovery to a commission security agent on duty.

(3) The boxes shall be placed for storage in a primary or secondary storage area by at least two employees, one of whom shall be from the table games department and the other from the security department or accounting department. The primary storage area shall be located in a secure place, the location and physical characteristics of which shall be approved by the commission. Secondary storage areas, if needed, shall be used for the storage of surplus dice. Dice maintained in secondary storage areas shall be transferred to the primary storage area before being distributed to the pits or tables. All secondary storage areas shall be located in secure areas, the location and physical characteristics of which shall be approved by the commission.

(b) Each primary storage area and each secondary storage area shall have two separate locks. The security department shall maintain one key, and the table games department shall maintain the other key. No person working in the table games department that is an employee in a lower position than the pit manager or poker room manager may have access to the table games department key for the primary and secondary storage areas.

(c) A facility manager shall ensure that each dice storage area contains an inventory ledger and that its employees update the ledger when dice are added or removed from that storage area.

(d) Before the commencement of each gaming day and at other times as may be necessary, the pit manager, poker room manager, or the supervisor, in the presence of a security department employee and after notification to surveillance, shall

remove the appropriate number of dice from the primary storage area for that gaming day.

(e) Before being transported to a pit, all dice shall be recorded on the dice inventory ledger. Both the authorized table games department employee and security department employee shall sign verifying the information.

(f) Once the dice are removed from the primary storage area, the pit manager, poker room manager, or the supervisor, in the presence of a security department employee, shall take the dice to the pits and distribute the dice to the floor supervisors or directly to the boxperson.

(1) At the time of receipt of any dice, a boxperson at each craps table shall, in the presence of the floor supervisor, inspect each die with a micrometer or any other instrument approved by the commission that performs the same function, a balancing caliper, a steel set square, and a magnet. These instruments shall be kept in a compartment at each craps table or pit stand and shall be at all times readily available for use by the commission upon request. The boxperson shall also check the dice to ensure that there is no indication of tampering, flaws, scratches, marks, or other defects that might affect the play of the game. The inspection shall be performed on a flat surface, which allows the dice inspection to be observed by surveillance and by any person near the pit stand.

(2) Following this inspection, the boxperson shall in the presence of the floor supervisor place the dice in a cup on the table for use in gaming. The dice shall never be left unattended while the dice are at the table.

(3) The pit manager shall place extra dice in a single locked compartment in the pit stand. The floor supervisor or an employee in a higher position shall have access to the extra dice to be used for that gaming day.

(4) Any movement of dice after being delivered to the pit shall be made by a pit manager or an employee in a higher position and require a security escort after notifying surveillance. Procedures for the pickup of used dice, including obtaining keys, assigning individuals responsible, and updating inventory ledgers, shall include the following:

- (A) Transportation of used dice by security;
- (B) surveillance notification before movement of the dice;
- (C) time the procedures will be performed;
- (D) location where the dice will be taken; and
- (E) any other applicable security measures.

(5) No dice taken from the reserve shall be used for gaming until the dice have been inspected in accordance with this regulation.

(g) The facility manager shall remove any dice from use if there is any indication of tampering, flaws, or other defects that might affect the integrity or fairness of the game, or at the request of the commission agent on duty.

(h) At the end of each gaming day or at any other times as may be necessary, a floor supervisor, other than the person who originally inspected the dice, shall visually inspect each die for evidence of tampering. Any evidence of tampering shall be immediately reported to the commission security agent on duty by the completion and delivery of an approved dice discrepancy report.

(1) Each die showing evidence of tampering shall be placed in a sealed envelope or container.

(A) All envelopes and containers used to hold or transport dice collected by security shall be transparent.

(B) A label shall be attached to each envelope or container that identifies the table number, date, and time and shall be signed by the boxperson and floor supervisor.

(C) The envelopes or containers and the method used to seal the dice shall be designed or constructed so that any tampering is evident.

(D) The security department employee receiving the die shall sign the original, duplicate, and triplicate copy of the dice discrepancy report and retain the original at the security office. The duplicate copy shall be delivered to the commission, and the triplicate copy shall be returned to the pit and maintained in a secure place within the pit until collection by a security department employee.

(2) The procedures for inspecting dice under this subsection shall include the following information:

(A) A listing of the positions authorized by job description to conduct the inspection;

(B) a direction that surveillance personnel shall be notified before inspecting the dice;

(C) detail about the time and location the inspection will be conducted;

(D) a listing of the minimum training requirements of persons assigned to conduct the inspections;

(E) a description of the inspections that will be conducted and how they will be performed, including the use of any special equipment;

(F) any other applicable security measures;

(G) a requirement for immediate notification of the commission security agent on duty and the completion of an incident report describing any flawed, marked, suspect, or missing dice that are noted; and

(H) a requirement for reconciliation by the security department employee of the number of dice received with the number of dice destroyed or cancelled and any dice still pending destruction or cancellation. Each discrepancy shall be reported to the commission security agent within two hours.

(3) All other dice shall be put into envelopes or containers at the end of each gaming day.

(A) A label shall be attached to each envelope or container that identifies the table number, date, and time and is signed by the boxperson and floor supervisor.

(B) The envelope or container shall be appropriately sealed and maintained in a secure place within the pit until collection by a security department employee.

(i) All extra dice in dice reserve that are to be destroyed or cancelled shall be placed in a sealed envelope or container, with a label attached to each envelope or container that identifies the date and time and is signed by the pit manager.

(j) A security department employee shall collect and sign all envelopes or containers of used dice and any dice in dice reserve that are to be destroyed or cancelled and shall transport the envelopes or containers to the security department for cancellation or destruction. This collection shall occur at the end of each approved gaming day and at any other times as may be necessary. The security department employee shall also collect all triplicate copies of dice discrepancy reports, if any. No dice that have been placed in a cup for use in gaming shall remain on a table for more than 24 hours.

(k) A pit manager or supervisor of the pit manager may collect all extra dice in dice reserve at the end of each gaming day or at least once each gaming day as designated by the facility manager and approved by the commission, and at any other times as may be necessary.

(1) If collected, dice shall be returned to the primary storage area.

(2) If not collected, all dice in dice reserve shall be reinspected before use for gaming.

(l) The facility manager's internal control system shall include approval procedures for the following:

(1) A dice inventory system that shall include, at a minimum, documenting the following:

(A) The balance of dice on hand;

(B) the dice removed from storage;

(C) the dice returned to storage or received from the manufacturer;

(D) the date of the transaction; and

(E) the signature of each individual involved;

(2) a reconciliation on a daily basis of the dice distributed, the dice destroyed and cancelled, the dice returned to the primary storage area and, if any, the dice in dice reserve; and

(3) a physical inventory of the dice performed at least once every three months and meeting the following requirements:

(A) This inventory shall be performed by an employee from the internal audit department or a supervisor from the cashier's cage, or accounting department and shall be verified to the balance of dice on hand required in paragraph (l)(1)(A);

(B) each discrepancy shall immediately be reported to the commission agent on duty; and

(C) the employees conducting this inventory shall make an entry and sign the dice inventory ledger in a manner that clearly distinguishes this count as the quarterly inventory.

(m)(1) Cancellation shall occur by drilling a circular hole of at least  $\frac{3}{16}$  of an inch in diameter through the center of each die or any other method approved by the commission.

(2) Destruction shall occur by shredding or any other method approved by the commission.

(3) The destruction and cancellation of dice shall take place in a secure place, the location and physical characteristics of which shall be approved by the commission.

(4) Dice cancellation and destruction record shall be maintained indicating the date and time of cancellation or destruction, quantity of dice to be cancelled or destroyed, and the individuals responsible for cancellation or destruction.

(5) Procedures for cancelling or destroying dice shall include the following:

(A) The positions authorized by job description to cancel or destroy dice;

(B) surveillance notification before cancellation or destruction of the dice;

(C) time and location the cancellation or destruction will be conducted;

(D) specifically how cancellation or destruction will be accomplished, including the use of any special equipment; and

(E) other applicable security measures.

(6) Each facility manager shall notify the commission security agent of any flawed, marked, or suspect dice that are discovered during the cancellation or destruction process.

(n) Evidence of tampering, marks, alterations, missing or additional dice or anything that might indicate unfair play discovered shall be reported to the commission by the completion and delivery of a dice discrepancy report.

(1) The report shall accompany the dice when delivered to the commission security agent on duty.

(2) The dice shall be retained for further inspection by the commission security agent on duty.

(3) The commission agent receiving the report shall sign the dice discrepancy report and retain the original at the commission office. (Authorized by and implementing K.S.A. 2010 Supp. 74-8772; effective Jan. 8, 2010; amended Dec. 9, 2011.)

**112-108-24. Mandatory table game count procedure.** Each facility manager shall report to the commission the times when drop boxes will be removed and the contents counted. All drop boxes shall be removed and counted at the times previously reported to the commission. The removal and counting of contents at other than the designated times shall be prohibited, unless the facility manager provides advance written notice to the commission's security staff on site of a change in times or the commission requires a change of authorized times. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-25. Handling of cash at gaming tables.** (a) Whenever cash is presented by a patron at a gaming table to obtain gaming chips, the following requirements shall be met:

(1) The cash shall be spread on the top of the gaming table by the dealer or boxperson accepting the cash, in full view of the patron who presented the cash and the supervisor assigned to that gaming table.

(2) The cash value amount shall be verbalized by the dealer or boxperson accepting the cash, in a tone of voice calculated to be heard by the patron and the supervisor assigned to that gaming table.

(3) The boxperson or dealer shall count and appropriately break down an equivalent amount of chips in full view of surveillance and the patron.

(4) The cash shall be taken from the top of the gaming table and placed by the dealer or boxperson into the drop box attached to the gaming table.

(b) No cash wagers shall be allowed to be placed at any gaming table. The cash shall be converted to chips before acceptance of a wager. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-26. Table game tips.** (a) Each tip given to a dealer shall be handled in the following manner:

(1) Immediately deposited into a transparent locked box reserved for tips, except that value chips received at table games may first be placed in a color-up tube if approved internal controls are in place for this action. If non-value chips are received at a roulette table, the marker button indicating their specific value at that time shall not be removed or changed until after a dealer, in the presence of a supervisor, has converted the non-value chips into value chips that are immediately deposited in a transparent locked box reserved for tips; and

(2) accounted for by a recorded count conducted by a randomly selected dealer for each respective count and a randomly selected employee of the security department. This count shall be recorded on a tips and gratuity deposit form.

(b) Any facility manager may submit internal controls for the commission's approval that would allow poker dealers to either pool tips with other dealers operating poker games in the poker room or receive tips on an individual basis. The receiving of tips individually may be allowed only when the dealer does not make decisions that can affect the outcome of the gambling game, is not eligible to receive winnings from the gambling game as an agent of the facility manager, and uses an approved shuffling machine during the course of the poker game. If tips are received by poker dealers on an individual basis, all tips shall be immediately placed into a locked individual transparent tip box that shall be assigned to and maintained by the dealer while working. The locked individual tip box shall be given to the facility manager at the end of the shift for counting, withholding of taxes, and subsequent payment during the normal payroll process. For the purposes of this subsection, winnings from a gambling game shall not include commissions, commonly referred to as the "rake," withheld from amounts wagered in a game. Poker dealers may be permitted to receive tips on an individual basis only if the facility manager has internal controls governing this practice that have been approved by the commission.

(c) For exchanging, which is sometimes called “coloring up,” dealer tips to a higher denomination before insertion into the tip box, the following requirements shall be met:

(1) A transparent cylinder or tube shall be attached to the table to maintain the chips until exchanged or colored up. The cylinder or tube shall have a capacity of no more than 25 chips.

(2) Before any chips are exchanged or colored up, the dealer shall make the announcement in a voice that can be heard by the table games supervisor that chips are being colored up. The dealer shall then deposit an equal value of higher denomination chips into the tip box and place the lower denomination chips into the chip tray.

(d) Upon receipt of a tip from a patron, a dealer shall extend the dealer’s arm in an overt motion and deposit the tip into the transparent locked box or color-up tube reserved for this purpose.

(e) Applicable state and federal taxes shall be withheld on tips and gifts received by facility manager employees.

(f) The facility manager shall include in its internal controls the procedures for dropping tip boxes.

(g) The contents of tip boxes shall be collected, transported, stored, counted, and distributed in a secure manner on a regular basis pursuant to a schedule approved by the commission.

(h) Before any tip box collection, a security department employee shall notify the surveillance department that the tip box collection process is about to begin.

(i) If a tip box becomes full, a security department employee and an employee from the applicable department shall notify the surveillance department and empty the full tip box into a secure bag or other approved container for the applicable department. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-27. Table inventory.** (a) Chips shall be added or removed from the table inventory only in any of the following instances:

(1) In exchange for cash presented by the patron;

(2) for payment of winning wagers or collection of losing wagers made at the table;

(3) through approved internal controls governing table fill and credit procedures;

(4) in exchange with patrons for gaming chips of equal value;

(5) in exchange for a verified automated tip receipt from a commission-approved automated table game controller; or

(6) in exchange with patrons for non-value chips on the roulette table.

(b) A facility manager shall not transfer or exchange chips or currency between table games.

(c) Table inventories shall be maintained in trays that are covered with a transparent locking lid when the tables are closed. The information on the table inventory slip shall be placed inside the transparent locking lid and shall be visible from the outside of the cover. In case of an emergency, the transparent lid shall be locked over the inventory until normal play resumes.

(d) The table inventory slip shall be at least a two-part form, one of which shall be designated as the “opener” and the other as the “closer.”

(e) If a gaming table is not opened during a gaming day, preparation of a table inventory slip shall not be required. However, the table games department shall provide a daily list of table games not open for play, including the inventory amount and date on the last closing table inventory slip.

(f) If a table game is not open for play for seven consecutive gaming days, the table inventory shall be counted and verified either by two table games supervisors or by a table games supervisor and a dealer or boxperson, who shall prepare a new table inventory slip and place the previous inventory slip in the table drop box. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-28. Opening of gaming tables.**

(a) Immediately before opening a table for gaming, a table games supervisor or table games manager shall unlock the transparent table tray lids in the presence of the dealer or boxperson assigned to the table.

(b) Either the dealer or boxperson in addition to either the table games supervisor or table games manager shall each count the chips by denomination and verify the count to the opening table inventory slip.

(c) The dealer or boxperson and the table games supervisor or table games manager shall sign and attest to the accuracy of the information recorded on the opener.

(d) Once signed, the dealer or boxperson shall immediately deposit the opener into the drop box attached to the gaming table.

(e) Internal controls shall include procedures for reconciling instances when counted inventory differs from the amount recorded on the opener and shall include the name of the table games supervisor or table games manager preparing a table games variance slip, the signatures required, distribution of each part of the form, and the assurance that one part is deposited in the drop box. Each variance of \$100 or more at any table shall be reported immediately by the table games supervisor or table games manager to a commission security agent on duty. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-29. Closing of gaming tables.**

(a) Whenever a gaming table is closed, all chips remaining at the table shall be counted and verified by either two table games supervisors or a table games supervisor in addition to either a dealer or a boxperson, who shall prepare a table inventory slip.

(b) After the table inventory slip is signed by the table games supervisor and the dealer or boxperson, the dealer or boxperson shall immediately deposit the closing table inventory slip in the drop box.

(c) The table games supervisor shall place the opening inventory slip under the table tray lid in a manner that the amounts on the opening inventory slip may be read and lock the lid in place.

(d) Each time a table game is closed, complete closing procedures shall be followed to include the counting, verification, recording, and securing of the chips in the tray, as well as the proper disposal of the cards or dice that were in play. If the game is reopened again on the same gaming day, complete opening procedures shall be followed to include the counting and verification of chips in the tray and inspection of cards or dice and all applicable gaming equipment. The opening and closing inventory table slip for games that are opened and closed more than once in a gaming day may be marked in a manner that indicates the sequence of the slips. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-30. During 24-hour gaming.** During 24-hour gaming, a closing table inventory slip shall be prepared in conjunction with the table drop for that gaming day. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-31. Procedures for manually filling chips from cage to tables; form procedures.** (a) Cross-fills, even money exchanges, and foreign currency exchanges in the pit shall be prohibited.

(b) To request that chips be filled at table games, a supervisor or table games manager shall prepare a two-part order for fill form in ink entering the following information:

(1) The amount of the fill by denomination of chips;

(2) the total amount of the fill;

(3) the table or game number; and

(4) the signature of the supervisor or manager.

(c) The order for fill shall be transferred to the facility manager's accounting department by the end of the gaming day. The order for fill shall be taken by a security department employee to the cashier's cage. A copy of the order for fill shall be placed on top of the table requesting the fill.

(d) A three-part manual fill slip shall be used to record the transfer of chips from the cashier's cage to a gaming table. The fill slips shall be sequentially numbered by the vendor. The alphabet shall not be required to be used if the numerical series is not repeated during the business year. Chips shall not be transported unless accompanied by a fill slip.

(e) Unless otherwise approved by commission, manual fill slips shall be inserted in a locked dispenser that permits an individual slip in the series and its copies to be written upon simultaneously. The dispenser shall discharge the original and duplicate copies while the triplicate remains in a continuous, unbroken form in the locked dispenser.

(f) If a manual fill slip needs to be voided, the cage cashier shall write "VOID" and an explanation of why the void was necessary. Both the cage cashier and either a security department employee or another level II employee independent of the transaction shall sign the voided fill slip. The voided fill slips shall be submitted to the facility manager's accounting department for retention.

(g) Corrections on manual table fills shall be made by crossing out the error, entering the correct information, and then obtaining the initials and employee license number of at least two cage employees. Each employee in accounting who makes corrections shall initial and include the employee's commission license number.

(h) A small inventory of unused manual fill slips may be issued to the facility manager's security department by accounting for emergency purposes.

es. These unused fill slips shall be maintained by the facility manager's accounting or security departments.

(i) A cashier's cage employee shall prepare a three-part fill slip in ink by entering the following information:

- (1) Denomination;
- (2) total amount;
- (3) game or table number and pit;
- (4) date and time; and
- (5) required signatures.

(j) A cashier's cage employee shall sign the order for fill after comparing it to the fill slip and then prepare the proper amount of chips. A facility manager's security department employee shall verify the chip totals with the fill slip. A cashier's cage employee shall present the ordered chips to the security department employee in a covered clear chip carrier. Once verified, both the cashier's cage employee and the security department employee shall sign the fill slip, and the cashier's cage employee or security department employee shall also time-and date-stamp the fill slip. A cashier's cage employee shall retain the order for fill and staple it to a copy of the fill slip after the required signatures from pit personnel are obtained by a security department employee.

(k) After notifying surveillance, a facility manager's security department employee shall take the chips and the fill slips to the indicated table. The chips shall be counted by the dealer or boxperson and witnessed by a table games supervisor and security department employee in full view of surveillance. After verifying the chips against the amounts listed on the fill slip, the table games supervisor and dealer or boxperson shall sign the fill slips. The table games supervisor and security department employee shall observe the dealer or boxperson place the chips in the rack and deposit the fill slips in the table drop box. A security department employee shall not leave the table until the chips have been placed in the racks and the fill slips have been dropped. A security department employee shall return a copy of the fill slip to the cashier.

(l) The copies of the fill slips shall be reconciled by accounting at least once daily. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-32. Procedures for automated filling of chips.** (a) The table games supervisor or table games manager shall determine whether a

fill is necessary and initiate the request for fill process. If a request for fill slip is used, procedures for distribution of the slip shall be included in the internal controls.

(b) The table games manager or the pit clerk shall enter a request for fill into the computer, including the following information:

- (1) The amount by denomination;
- (2) the total amount;
- (3) the game or table number and pit;
- (4) the dates and time; and
- (5) the required signatures.

(c) A two-part computer-generated fill slip shall be used to record the transfer of chips from the cashier's cage to a gaming table. The fill slips shall be numbered by the computer in a manner that ensures that every fill in a given calendar year has a unique sequential number.

(d) Two copies of the computerized fill slips shall be printed simultaneously, and a record of the transaction shall be stored within the computer database.

(e) If a computerized fill slip needs to be voided, the cage cashier shall write "VOID" across the original and all copies of the fill slip and an explanation of why the void was necessary. Both a cashier's cage employee and either a security department employee or another level II employee independent of the transaction shall sign the voided fill slip. The voided fill slips shall be submitted to the accounting department for retention and accountability. The transaction shall be properly voided in the computer database.

(f) A two-part fill slip shall be printed in the cashier's cage containing the information required in subsection (b). A security department employee shall verify the chip totals with the fill slip. A cashier's cage employee shall present the ordered chips to a security department employee in a clear chip carrier. Once verified, both a cashier's cage employee and security department employee shall sign the fill slip.

(g) After notifying surveillance, a security department employee shall take the chips and the fill slips to the indicated table. Only a security department employee shall transport fills. The chips shall be counted by the dealer or boxperson and witnessed by a table games supervisor and security department employee in full view of surveillance. After verifying the chips to the amounts listed on the fill slip, the table games supervisor and a dealer or boxperson shall sign the fill slips. The table games supervisor and security

department employee shall observe the dealer or boxperson place the chips in the rack and deposit the fill slip in the table drop box. A security department employee shall not leave the table until the chips have been placed in the racks and the fill slip has been dropped. A security department employee shall return a copy of the fill slip to the cashier's cage.

(h) The main bank cashier shall run an adding machine tape on the fill slips and verify the total to the amount in the automated accounting system. All fill paperwork shall be forwarded to accounting.

(i) The ability to input data into the gaming facility computer system from the pit shall be restricted to table game managers and pit clerks. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-33. Procedures for recording manual table credits.** (a) Three-part manual credit slips shall be used to record the transfer of chips from a gaming table to the cage. The credit slips shall be sequentially numbered by the vendor. The alphabet shall not be required to be used if the numerical series is not repeated during the calendar year. Chips shall not be transported unless accompanied by a credit slip.

(b) The inventory of nonissued credit slips shall be maintained by the facility manager's accounting or security department. The accounting department shall be responsible for the initial receipt of manual credit slips.

(c) If a table game supervisor or table game manager determines that a table credit is required, a three-part order for credit shall be completed in ink by entering the following information:

(1) The amount by denomination of chips needed;

(2) the total amount;

(3) the game or table number and pit;

(4) the date and time; and

(5) the signature of the manager or supervisor.

(d) The table game supervisor or the table game manager shall keep one copy of the order for credit on the table and take the other copy of the order for credit to the pit stand. The pit stand employee shall record that copy in the pit paperwork log and then return the copy to the table. The table game manager shall give a copy of the order for credit to a security department employee, who shall take it to the cashier's cage, where the cashier shall prepare a three-part credit slip in ink by entering the following:

(1) The chip denomination;

(2) total amount;

(3) game or table number; and

(4) time and date.

(e) The security department employee shall take the credit slip to the gaming table. A copy of the order for credit shall be retained at the cage.

(f) The dealer or boxperson shall count the chips in full view of a security department employee and either the table game supervisor or an employee in a higher position. The count shall be conducted in full view of cameras connected to the surveillance department.

(g) The dealer or boxperson and the table game supervisor shall verify the chips against the credit slip, and the credit slip against the order for credit. The dealer or boxperson and the table game supervisor shall sign the credit slip and the order for credit. The security department employee shall verify the chips against the order for credit, sign the order for credit and the credit slip, and receive the chips in a clear chip carrier. The security department employee shall carry the chips and the credit slip back to the cashier's cage. A copy of the order for credit shall be retained at the table until a copy of the credit slip is returned.

(h) The cashier's cage employee shall receive the credit slips and the chips from the security department employee and verify that the chips match the order for credit and credit slip. The cashier's cage employee shall then sign the credit slips and the order for credit. The cashier's cage employee shall time-and date-stamp the credit slips. Unless otherwise approved by the commission, a copy shall remain unbroken in the locked form dispensing machine. The order for credit shall be attached to a copy of the credit slip and be retained by the cashier's cage.

(i) The copy of the credit slip issued by the cashier's cage shall be taken back to the table by the security department employee. The table game supervisor and the dealer or boxperson shall compare the copy of the credit slip to the order for credit. The table game supervisor shall observe the dealer or boxperson deposit the order for credit slip and the credit slip in the table drop box.

(j) The copies of the credit slips, with the copies of the order for credit attached, shall be transferred to the main bank. The main bank cashier shall run a tape on the credit slips and verify the total against the amount in the automated accounting system.

(k) The locked copies of the manual credit slips shall be removed from the machines by the accounting department.

(l) If a credit slip needs to be voided, the cage cashier shall write "VOID" and an explanation of why the void was necessary across the original and all copies of the credit slip. Both the cashier's cage employee and either a security department employee or another level II employee independent of the transaction shall sign the voided credit slip. The voided credit slips shall be subsequently transferred to the accounting department and retained.

(m) Corrections on manual table fill or credit shall be made by crossing out the error, entering the correct information, and then obtaining the initials and commission license numbers of at least two cashier's cage employees.

(n) Each accounting employee who makes corrections shall initial and note that employee's commission license number on the request. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-34. Automated table credits.** (a) Two-part computer-generated credit slips shall be used to record the transfer of chips from a gaming table to the cashier's cage. The credit slips shall be sequentially numbered by the computer system, ensuring that each credit in a given calendar year is assigned a unique number. Chips shall not be transported unless accompanied by a credit slip.

(b) The table game manager or the pit clerk shall enter a request for credit into the computer, including the following information:

- (1) The amount by denomination;
- (2) total amount;
- (3) game or table number and pit;
- (4) dates and time; and
- (5) required signatures.

(c) A security department employee shall obtain the credit slip and chip carrier from the cage and proceed to the pit area.

(d) The dealer or boxperson shall count the chips in full view of a security department employee and either the table games supervisor or an employee in a higher position. The count shall be conducted in full view of a camera connected to the surveillance department.

(e) The table games supervisor and either a dealer or a boxperson shall verify that the value of the chips in the carrier matches the amount on the credit slip and sign the credit slip. The securi-

ty department employee shall verify that the chips match the credit slip, sign the credit slip, and carry the chips and the credit slip to the cashier's cage.

(f) A cashier's cage employee shall receive the credit slip and the chips from the security department employee, verify that the chips match the credit slip, and sign the credit slip. A copy of the credit slip shall be retained by the cashier's cage.

(g) The copy of the credit slip shall be taken back to the table by the security department employee. The table games supervisor shall observe the dealer or boxperson deposit the copy of the credit slip into the table drop box.

(h) The main bank cashier shall run an adding machine tape on the credit slips and verify the total against the amount on the automated accounting system. All credit paperwork shall be forwarded to the accounting department by the main bank cashier.

(i) If a credit slip needs to be voided, the cashier's cage employee shall write "VOID" and an explanation of why the void was necessary across the original and all copies of the credit slip. Both the cashier's cage employee and a security department employee independent of the transaction shall sign the voided credit slips. The voided credit slip shall be transferred to the accounting department, where the slip shall be retained. The transaction shall be properly voided in the computer database.

(j) The ability to input data into the gaming facility computer system from the pit shall be restricted to table games managers and pit clerks.

(k) Each employee in accounting who makes corrections shall initial each correction and include that employee's commission license number. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-35. Table game layouts.** (a) All table game layouts shall be consistent with the facility manager's internal controls and meet the following requirements:

(1) Markings on the layout shall be of a size that can be adequately seen by the surveillance.

(2) The odds of winnings and payouts shall be included in markings on the layout when required by the executive director.

(3) The designs shall not contain any advertising other than the facility manager's logo or trademark symbol or Kansas lottery-approved design.

(4) The designs shall not contain any feature that tends to create a distraction from the game.

(5) All other components of the game on the layout shall be of a size that can be adequately seen by surveillance.

(6) A colored depiction of the table shall be submitted to the executive director for approval before being placed into play.

(b) Table layouts shall not be stored in a nonsecure area.

(c) Used table layouts that display the licensee's logo and are not used for internal training purposes approved by commission shall be destroyed and shall not be sold or given to the public. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-36. Required personnel for specific table games.** (a) Pit areas may be on multiple levels or locations within a gaming facility. Pit areas shall be described by facility managers in their internal controls at a minimum by their locations, configurations, and restrictions on access. Each full-size baccarat table shall be in a separate room or clearly segregated area of the floor that functions as a separate area from the other table games and is surrounded by baccarat tables. For the purposes of access to a pit, card and dice control, and other table games activities, a "pit" shall be more narrowly defined as a single, separate area that is completely enclosed or encircled by gaming tables.

(b) The number of required table games supervisors shall be determined as follows:

(1) One table games supervisor shall not oversee more than six open table games if no craps table is open.

(2) One table games supervisor shall not oversee more than four open table games if one of the open table games is a craps table.

(3) One table games supervisor shall not oversee more than two open table games if both table games are craps tables.

(c) The table games supervisors and the oversight of their assigned table games and pit operations shall be directly supervised in the following configuration by either a table games manager or casino shift manager:

(1) In either of the following instances, a table games manager shall not be required to be on duty, but at least one casino shift manager shall provide direct supervision by acting as a table games manager:

(A) When one craps table is open; or

(B) when up to six tables are open.

(2) In either of the following instances, a table games manager shall provide direct supervision and a casino shift manager shall not act as a table games manager:

(A) When two or more craps or baccarat tables are open; or

(B) when seven to 36 table games are open.

(3) If more than 36 tables are open, one additional table games manager shall provide direct supervision for each additional set of one to 36 tables open. A casino shift manager shall not act as a table games manager.

(d) Other than a casino shift manager acting as a table games manager, table games managers shall be physically present in the pit for at least 90 percent of their shift and be solely dedicated to supervising activities at open table games and activities within the pits. Each absence of a longer duration shall require a replacement table games manager to be on duty in the pit. If a facility manager uses job titles other than "table games supervisor" or "table games manager," then the internal controls shall specify which job titles used by the facility manager correspond to these positions and ensure that the job descriptions of those positions properly delineate the duties. Table games managers supervising pit areas separated by sight or sound shall have a communications device enabling them to be immediately notified of any incident requiring their attention and shall promptly respond. The gaming facility shift manager shall assign table games managers specific responsibilities regarding activities associated with specific tables.

(e) Each full-size baccarat table shall be directly supervised by at least one table games supervisor. (Authorized by K.S.A. 2010 Supp. 74-8772; implementing K.S.A. 2010 Supp. 74-8752 and 74-8772; effective Jan. 8, 2010; amended April 1, 2011.)

**112-108-37. Instructional table games offered to public.** (a) A facility manager may offer instructional table games if all of the following conditions are met:

(1) Only cancelled cards and dice are used.

(2) Gaming chips are marked "no cash value" or are distinctively different from any value and non-value chips used in the gaming facility and can be readily seen if intermingled into a stack of active chips of a similar color.

(3) For roulette, non-value chips are distinctively different in design than those used on the gaming floor or have been drilled or otherwise cancelled.

- (4) No wagering is permitted.
- (5) No prizes are awarded in association with the games.
- (6) All participants are at least 21 years of age.
- (7) The executive director gives approval to the facility manager to use the instructional table game.
- (b) Written notification setting forth the date, time, type of event, and event location shall be submitted for approval to the executive director at least 15 days in advance of the instructional game. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-38. Minimum and maximum table game wagers.** (a) All minimum and maximum wagers shall be posted at each table and may be changed between games by posting new table limits.

(b) If the minimum or maximum wager is changed, the sign shall be changed to reflect the new amount. A facility manager may allow the following bets during a table limit change:

(1) Patrons who were playing when minimum table limits were raised may continue to place bets under the old table minimum limit; and

(2) patrons who were playing when a maximum table limit was raised may be allowed to continue placing bets under the previous table maximum bet.

(c) Payment on wagers that cannot be made evenly shall be rounded up to the next chip denomination. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-39. Dealer and boxperson hand clearing.** (a) Each dealer and each boxperson shall clear that individual's hands in view of all persons in the immediate area and surveillance before and after touching that individual's body and when entering and exiting the game. "Clearing" one's hands shall mean holding and placing both hands out in front of the body with the fingers of both hands spread and rotating the hands to expose both the palms and the backs of the hands to demonstrate that the hands are empty. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-40. Table games jackpot; employee pocketbooks.** (a) A table games jackpot slip or manual jackpot form shall be used to pay any table games jackpot that triggers IRS required reporting. If a manual jackpot form is used, the form shall include all the information as required on the

table games jackpot slip. The table games jackpot slip or manual jackpot form shall be a sequentially numbered, two-part form. One part shall be deposited in the table game drop box, and the other copy shall be retained at the cashier's cage.

(b) Each employee shall be prohibited from taking a pocketbook or other personal container into the pit area unless the pocketbook or container is transparent. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-41. Poker room; general.** (a) Live poker games in which the dealer does not play a hand and a rake is collected shall be played only in an approved poker room. All other poker games in which the dealer plays a hand and the player competes against the dealer shall be played at gaming tables that are part of a pit on the gaming floor.

(b) The facility manager shall have the current house rules in writing. These rules shall be available in hard copy in the poker room for patrons, employees, and commission personnel. All revised or rescinded house rules shall be kept on file and shall be available for at least one year. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-42. Poker room; supervision.** (a) Each poker room shall be under the general control of a poker room manager or table games manager and the direct oversight of at least one poker room supervisor. Poker room supervisors shall be solely dedicated to supervising poker room personnel and all activities within the poker room when the poker room is opening, in operation, or closing at the end of the gaming day. A poker room supervisor may operate the poker room bank, if so authorized in the internal controls system. The poker room shall be staffed with at least one poker supervisor for every one to eight tables open.

(b) If a facility manager uses job titles other than "poker room manager" or "poker room supervisor," the internal controls shall specify which job titles used by the facility manager correspond to these positions and ensure that the job descriptions of those positions properly describe the duties assigned. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-43. Poker room; banks and transactions.** (a) If a facility manager uses a poker room bank, the facility manager's internal con-

trols shall state whether the bank is operated as a branch of the main cage with a cashier's cage or if accountability and staffing of the bank are the responsibility of the poker room manager or poker room supervisor.

(b) Both the outgoing and incoming individuals responsible for the bank shall sign the completed count sheet attesting to the accuracy of the information at the beginning and ending of each shift. If there is no incoming or outgoing individual, the countdown, verification, and signatory requirements shall be performed by the individual who is responsible for the bank and a cashier's cage employee or a supervisor independent of the poker room.

(c) Each transfer between any table banks and the poker room bank shall be authorized by a poker room supervisor and evidenced by the use a transfer slip as specified in the internal controls. The poker dealer and poker room supervisor shall verify the amount of chips to be transferred. Transfers between table banks, poker room banks, or cashier's cages within the poker room shall not require a security escort.

(d) Transfers between the table banks, poker room banks, or the cashier's cages outside the poker room shall be properly authorized and documented by the poker room supervisor on an even exchange slip as specified in the internal controls.

(e) A facility manager may permit patrons to exchange cash for chips only at the poker room bank or cashier's cage and then only within submitted and commission-approved buy-in procedures.

(f) When a poker table is opened, a poker dealer shall count the poker table bank inventory, and the accuracy of the count shall be verified by the poker room supervisor and attested to by their signatures on a table inventory slip. The count shall be recorded and reconciled when the poker table is closed.

(g) When a poker table is not open for play for seven consecutive gaming days, the poker table inventory shall be counted and verified by either two poker room supervisors or a poker room supervisor and a dealer. The poker room supervisor shall prepare a new table inventory slip and place the previous inventory slip in the table drop box. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-44. Poker room; drops and counts.** The procedures for the collection of poker table drop boxes, token boxes, and the count of

the contents of these boxes shall meet the requirements of the internal control standards applicable to the table game drop boxes in K.A.R. 112-108-48. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-45. Bad beat and special hand.**

(a) If the facility manager offers a bad beat or special hand, all funds collected for the jackpot shall be used to fund the primary, secondary, and tertiary jackpots and be available for poker players to win. The percentage of the funds attributable to each jackpot shall be included in the rules of the game in the facility manager's internal control standards.

(b) When a patron wins a bad beat or special hand, the following information shall be recorded on the bad beat payout documentation, and copies of the internal revenue service forms, if applicable, shall be attached:

(1) A description of the cards that comprised the winning poker hand for that game;

(2) a description of the cards that comprised the winning bad beat hand;

(3) the name of the person that had the winning poker hand for that game;

(4) the name of the person that had the winning bad beat hand;

(5) the names of the other players in the game; and

(6) the amount won by each person.

(c) Surveillance staff shall be notified and shall visually verify all winning hands when a bad beat or special hand is won. The verification by surveillance shall be documented in the surveillance log.

(d) The amount of primary bad beat and any special hand shall be prominently displayed at all times in the poker room, and the amount displayed shall be promptly updated at least once each gaming day by adding the correct percentage of funds that were collected from the previous gaming day. If the bad beat is won and the amount displayed has not yet been updated, the poker room supervisor shall contact accounting and update the bad beat amount before paying the winners. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-46. Gaming table drop device characteristics.** (a) Each gaming table in the gaming facility shall have an attached drop device for the following items:

(1) Deposited currency;

- (2) copies of table transaction documents; and
  - (3) mutilated chips.
- (b) Each gaming table drop device shall have the following features:
- (1) A lock that secures the drop device to the gaming table;
  - (2) a lock that secures the contents of the drop device from being removed without authorization;
  - (3) a slot opening or mechanism through which all currency, documents, and mutilated chips shall be inserted;
  - (4) a mechanical device that shall automatically close and lock the slot opening upon removal of the drop device from the gaming table; and
  - (5) a marking that is permanently imprinted and clearly visible and that identifies the game and table number to which it is attached. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-47. Emergency gaming table drop devices; drop procedures.** (a) The facility manager shall maintain emergency gaming table drop devices with the same physical characteristics as those specified in K.A.R. 112-108-46, except for the game and table number markings. The emergency drop device shall be permanently marked with the word "EMERGENCY" and shall have an area for the temporary marking of the game and table number.

(b) Emergency drop devices shall be maintained in the soft count room or in a secured area as approved by the commission. The storage location, controls, and authorized access shall be described in the internal control system.

(c) At least two individuals shall be responsible for performing the emergency drop. One individual shall be a security department employee, and one individual shall be a level I or level II employee independent of the table games department. The table games department shall notify the commission security agent on duty that an emergency drop is needed. Security staff shall notify surveillance that an emergency drop is needed.

(d) The internal control procedures for emergency drop devices shall include the following items:

- (1) Procedures for retrieval of the emergency drop device;
- (2) the process for obtaining drop device release keys;
- (3) procedures for removal of the drop device; and

(4) the location and safekeeping of the replaced drop device.

(e) All contents removed during the emergency drop shall be counted and included in the next count. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-48. Procedures for the collection and transportation of drop devices.** (a) Each facility manager shall submit the current drop schedule to the commission's security agent showing the times and days when the drop devices will be removed from the gaming tables. At a minimum, the gaming table drop devices shall be dropped at the end of each gaming day.

(b) Each facility manager shall be allowed to conduct drops while patrons are present in accordance with commission-approved drop procedures.

(c) The internal control system shall state which job titles will participate in each drop ensuring that there are at least two employees, one of whom shall be a security employee. The actual removal of the drop devices from the gaming tables shall be performed by an employee independent of the table games department.

(d) The collection and transportation of gaming table drop devices containing funds shall be conducted using locked storage carts that shall be escorted by a security department employee at all times.

(e) The collection and transportation procedures of each type of drop device shall be described in the internal control system, including alternative procedures for malfunctions, emergencies, and occasions when multiple trips are required to transport the drop devices to the count room.

(f) Access to stored drop devices that contain funds shall be restricted to authorized members of the drop and count teams.

(g) Each drop device collection process, including transportation of drop devices, shall be continuously monitored by surveillance personnel and recorded.

(h) Each drop and count team member, except security department employees, assigned to the collection of drop devices shall wear a one-piece, pocketless jumpsuit, or other apparel approved by commission, as supplied by the facility manager. Drop apparel shall be issued immediately before use by the facility manager.

(i) A security department employee shall be present for and observe the entire drop process.

All drop devices shall be observed by security staff from the time the drop devices are no longer secured in the gaming device until the drop devices are secured in the respective count rooms.

(j) All drop devices shall be transported to the soft count room. The facility manager shall describe, in the internal control system, security procedures to be used when the empty drop storage carts must be stored elsewhere because of space limitation in the count rooms. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-49. Exchange and storage of foreign chips.** (a) Foreign chips shall mean chips that are not authorized for use at a specific gaming facility.

(b) Foreign chips inadvertently received in the rake shall be recorded as drop for adjusted gross receipt purposes.

(c) Foreign chips shall be separated from the facility manager's chips and stored in a locked compartment in the main bank or vault.

(d) The internal control system shall describe procedures for the storage of and accountability concerning foreign chips.

(e) Facility managers exchanging foreign chips with other gaming facilities shall ensure that each employee performing the exchange is independent of the transaction.

(f) Foreign chips shall be exchanged only for an equal value of the facility manager's chips, a check, or cash.

(g) Each facility manager shall maintain documentation of the exchange of foreign chips. The documentation shall include the signatures of all the individuals involved in the exchange and an inventory of all the items exchanged. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-50. Procedures for monitoring and reviewing game operations.** (a) Each facility manager shall establish procedures for monitoring and reviewing daily table games transactions for the following activities:

- (1) Table games;
- (2) gaming facility cashiering;
- (3) currency transaction reporting;
- (4) sensitive key access; and
- (5) reconciliation of numerical sequence of forms used, matching and reviewing all copies of forms, matching computer monitoring system re-

ports with actual fill and payout forms, and examination of voided forms.

(b) The procedures in subsection (a) shall include a description of the computation of the unredeemed liability and the inventory of chips in circulation and reserve.

(c) Each facility manager shall establish procedures for the documentation of resolving questions raised during the review and monitoring of daily gaming transactions.

(d) Each facility manager shall establish procedures for the documentation of the criteria for determining deviations from expected results of gaming operations that require further investigations and the procedures for conducting and recording the results of such investigations. This shall include the notification of a commission agent.

(e) The accounting department shall perform a monthly general ledger reconciliation of the following:

- (1) Adjusted gross receipts;
- (2) cage accountability;
- (3) chip liability; and
- (4) progressive jackpot liability.

(f) Each gaming facility's accounting department shall review on a weekly basis the master game report for any unusual variances from the prior week.

(g) The accounting department for each facility manager shall perform daily audits of the following:

- (1) Table games;
- (2) cashier's cage;
- (3) player tracking; and
- (4) any other areas deemed appropriate by the executive director.

(h) The daily audits specified in subsection (g) shall indicate the individual performing the audit and the individual reviewing the audit performed.

(i) Table game procedures shall be performed daily for both computerized and manual forms and shall include, at a minimum, the following:

- (1) Trace table game fills and credit slips originals to duplicate copies and to orders for fill and credits to verify agreement;
- (2) review the table game fills and credit slips for the proper number of authorized signatures, proper date or time, and accurate arithmetic;
- (3) review all voided table game fills and credits for appropriate handling and required number of authorized signatures. Ensure that all appropriate forms are attached;

(4) verify that credits and fills are properly recorded for the computation of win;

(5) trace opening drop cards to the previous shift's closing inventory slip to verify agreement and test for completeness and propriety;

(6) trace the detail from the master gaming report into the accounting entries recording the transactions and to the total cash summary; and

(7) perform any other procedures deemed necessary by the executive director.

(j) All variances or discrepancies in the daily audits specified in subsection (g) shall be investigated, recorded, and reported to the head of the accounting department or equivalent position. The investigation information shall be made available upon demand by the commission staff. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-51. Maintaining table game statistical data.** (a) Each facility manager shall maintain records showing the statistical drop, statistical win, and statistical win-to-drop percentages for each gaming table and type of game. These records shall be maintained by day, cumulative month-to-date, and cumulative year-to-date.

(b) Each facility manager shall prepare and distribute statistical reports to gaming facility management on at least a monthly basis. Fluctuations outside of the standard deviation from the base level shall be investigated, and the results shall be documented in writing and retained, with a copy submitted to the commission. For the purposes of this regulation, the "base level" shall be defined as the facility manager's win-to-drop percentage for the previous business year or previous month in the initial year of operations.

(c) The gaming facility management shall investigate with pit supervisory personnel any fluctuations outside of the standard deviation from the base level in table game statistics. At a minimum, investigations shall be performed for a month for all percentage fluctuations in excess of three percent from the base level. The results of each investigation shall be documented in writing and maintained for at least seven years by the licensee.

(d) Reports of daily table game drop, win or loss, and percentage of win or loss shall be given to the commission, as requested. In addition, if gaming facility management has prepared an analysis of specific table wins, losses, or fluctuations outside of the standard deviation from the base level, these reports shall also be given to the commis-

sion. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-52. Required internal audits.**

(a) The internal audit procedures specified in this regulation shall be conducted on at least a semi-annual basis, except for the annual cash count. If a procedure does not apply to the operations of the facility manager, this fact shall be noted in the audit report.

(b) Table game audit procedures, which shall be performed by a member of the facility's audit department, shall include the following requirements:

(1) Five table openings and five table closings shall be observed for compliance with the commission-approved internal controls and this article. The related documentation shall be reviewed for accuracy and required information.

(2) A total of 10 table fills and three table credits shall be observed. The observations shall occur over at least three different gaming days. If a member of the facility's audit department is unable to observe three credit fills, the staff member shall verify procedures through interview.

(3) Table game drop and collection procedures as defined in the commission-approved internal controls and this article shall be observed and reviewed for two gaming days with one day being a 24-hour gaming day or a weekend day.

(4) Soft count procedures for table games and poker drops shall be observed and reviewed as defined in the commission-approved internal controls and this article, including the subsequent transfer of funds to the main bank or vault.

(5) Dice inspection procedures shall be observed and reviewed as outlined in the commission-approved internal controls and this article.

(6) Card inspection procedures shall be observed and reviewed as defined in the commission-approved internal controls and this article.

(7) Card and dice inventory control procedures shall be reviewed and verified.

(8) Statistical reports for table game drop, win, and win-to-drop percentages shall be reviewed to determine if fluctuations in excess of three percent from the base level are investigated.

(9) Supervision in the pits shall be verified as required by the commission-approved internal controls and this article.

(10) Dealer tip collection, count verification, and recording procedures shall be observed.

(11) Table game operations shall be observed to ensure compliance with the commission-approved

internal controls and this article pertaining to table games, including poker. This observation shall include a representative sample of all table games over a two-day observation period.

(c) Gaming facility cashiering shall be verified by a member of the facility's internal audit department to ensure that any changes to the chip inventory ledgers during the semiannual audit period are documented and the required signatures are present on the ledger or the supporting documentation.

(d) Adjusted gross receipts shall be reconciled by a member of the facility's internal audit department against the following:

(1) The adjusted gross receipts from the table games, cage accountability, chip liability, and progressive jackpot liability. A copy of the reconciliation shall be included in the internal audit report;

(2) a two-day sample of gaming source documents, including table fill slips, table credit slips, and opener or closer slips. These gaming source documents shall also be reviewed in this process for accuracy and completion, as defined in the commission-approved internal controls and this article; and

(3) the transactional data in the central computer system.

(e) On an annual basis, the internal audit department shall conduct an observation of a complete physical count of all cash and chips in accordance with guidelines issued by the executive director. The count shall not be conducted during the last two months of a fiscal year.

(1) The executive director shall be notified 30 days in advance of the count. At the executive director's discretion, commission representatives may be present.

(2) Management staff may be notified no more than 24 hours in advance of the count to ensure that adequate staff is on duty to facilitate access to all areas being counted.

(3) All count sheets shall be signed by each individual performing the inventory.

(4) A summary of the inventory total for each count sheet, along with all shortages and overages and the signed count sheets, shall be included in the internal audit report.

(5) The cash count of cage windows and of the main bank shall be conducted by a member of the facility's internal audit department when the location is closed, unless otherwise approved by the executive director. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-53. Found items.** All cash, chips, tickets, cards, dice, gaming equipment, records, and any other items found in unauthorized or suspicious locations or circumstances shall be reported by the finder to the commission security agent on duty. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-54. Waiver of requirements.** (a) On the commission's initiative, one or more of the requirements of this article applicable to table games may be waived by the commission upon a determination that the nonconforming control or procedure meets the operational integrity requirements of the act and this article.

(b) A facility manager may submit a written request to the commission for a waiver for one or more of the requirements in this article. The request shall be filed on an amendment waiver and request form and shall include supporting documentation demonstrating how the table game controls for which the waiver has been requested will still meet the operational integrity requirements of the act and this article. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-55. Shipment of table games and table game mechanisms.** (a) Each facility manager shall ensure that the shipment of any table game or table game mechanism for use in a gaming facility shall be approved in advance by the executive director. The person causing the shipment shall notify the executive director of the proposed shipment at least 15 days before the shipment, unless otherwise approved by the executive director. The notice shall include the following information:

(1) The name and address of the person shipping the table game or table game mechanism;

(2) the name and address of the person who manufactured, assembled, distributed, or resold the table game or table game mechanism, if different from the person shipping the item;

(3) the name and address of a new owner if ownership is being changed in conjunction with the shipment;

(4) the method of shipment and the name and address of the third-party carrier, if applicable;

(5) the name and address of the person to whom the table game or table game mechanism is being sent and the destination of the item, if different from that address;

(6) the quantity of table games or table game mechanisms being shipped and the manufacturer's make, model, and serial number of each item;

(7) the expected date and time of delivery to, or removal from, any authorized location within this state;

(8) the port of entry or exit, if any, of the table game or table game mechanism if the origin or destination of the table game or table game mechanism is outside the continental United States; and

(9) the reason for shipping the table game or table game mechanism.

(b) Each shipment of table games or table game mechanisms shall be sealed before being transported. On arrival at the gaming facility, the shipment shall not be opened or inventoried until the seal is witnessed and broken by an agent of the commission. An agent of the commission shall verify that each table game and table game mechanism is unloaded, inventoried, and compared to the notice required in subsection (a). (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective Jan. 8, 2010; amended April 1, 2011.)

**112-108-56. Handling chips.** A dealer shall "prove chips" when opening or closing a table, filling a table, or exchanging chips for a patron by displaying and counting the chips in full view of either of the following, in accordance with the facility's procedures:

(a) Surveillance and either the pit manager or an employee in a higher position; or

(b) surveillance and the affected patron. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

**112-108-57. Progressive table games.** (a) A facility manager shall place a table game that offers a progressive jackpot only if the executive director has approved the following:

(1) The initial and reset amounts for the progressive meters;

(2) the system for controlling the keys and applicable logical access controls to the table games;

(3) the proposed rate of progression for each jackpot;

(4) the proposed limit for progressive jackpot, if any; and

(5) the calculated probability of winning each progressive jackpot. The probability shall not exceed 50 million to one.

(b) Progressive meters shall not be reset or reduced unless one of the following occurs:

(1) The amount indicated has been actually paid to a winning patron.

(2) The progressive jackpot amount won by the patron has been recorded in accordance with a system of internal controls approved by the commission.

(3) The progressive jackpot has been transferred to another progressive table game and the transfer has been approved by the executive director.

(4) The change is necessitated by a meter malfunction, and the commission has been notified of the resetting in writing.

(c) A facility manager shall not alter the odds of winning a progressive jackpot unless the jackpot has been transferred to another progressive table game in accordance with subsection (d).

(d) A facility manager may limit, transfer, or terminate a progressive jackpot or progressive game offered on the gaming floor under any of the following circumstances:

(1) A progressive jackpot may be limited if the payout limit is greater than the payout amount displayed on the progressive jackpot meter to patrons. The facility manager shall provide notice to the commission of the imposition or modification of a payout limit on a progressive meter concurrent with the setting of the payout limit.

(2) A progressive jackpot game may be terminated concurrent with the winning of the progressive jackpot if the progressive controller was configured to automatically establish a fixed reset amount with no progressive increment.

(3) A progressive jackpot amount may be transferred from a gaming floor. The facility manager shall give notice to the commission of its intent to transfer the progressive jackpot at least 30 days before the anticipated transfer, and the facility manager shall conspicuously display the facility manager's intent to transfer the progressive jackpot on the front of each affected table game for at least 30 days. To be eligible for transfer, the progressive jackpot shall be transferred in its entirety and shall meet one of the following conditions:

(A) Be transferred to the progressive meter for a table game with the same or greater probability of winning the progressive jackpot, with the same or lower wager requirement to be eligible to win the progressive jackpot, and with the same type of progressive jackpot;

(B) be transferred to the progressive meters of two separate table games if each table game progressive system to which the jackpot is transferred

individually meets the requirements of paragraph (d)(3)(A); or

(C) be transferred to the most similar table game progressive system that is available if approved by the executive director.

(4) A progressive jackpot on a stand-alone progressive table game system may be removed from a gaming floor if notice of intent to remove the progressive jackpot meets the following conditions:

(A) The notice is conspicuously displayed on the front of each table game for at least 30 days.

(B) The notice of intent is provided in writing to the commission at least 30 days before the removal of the progressive jackpot.

(e) The amount indicated on the progressive meter on each table game governed by subsection (a) shall be recorded by the facility manager's accounting department on a progressive electronic gaming summary report at least once every seven calendar days. Each report shall be signed by the person preparing the report. If the report is not prepared by the accounting department, the progressive electronic gaming summary report shall be forwarded to the accounting department at the end of the gaming day on which the report is prepared. An employee of the accounting department shall be responsible for calculating the correct amount that should appear on a progressive meter. If an adjustment to the progressive meters is necessary, the adjustment shall be made by a member of the EGM department as follows:

(1) Supporting documentation shall be maintained to explain any addition or reduction in the registered amount on the progressive meter. The documentation shall include the date, the asset number of the table game, the amount of the adjustment, and the signatures of the accounting department member requesting the adjustment and the EGM department member making the adjustment.

(2) The adjustment shall be effectuated within 48 hours of the meter reading.

(f) Except as otherwise authorized by this regulation, each table game offering a progressive jackpot that is removed from the gaming floor shall be returned to or replaced on the gaming floor within five gaming days. The amount on the progressive meter on the returned or replacement table game shall not be less than the amount on the progressive meter at the time of removal, unless the amount was transferred or paid out in accordance with these regulations. If a table game offering a progressive jackpot is not returned or

replaced, any progressive meter amount at the time of removal shall, within five days of the table game's removal, be added to a table game offering a progressive jackpot approved by the executive director. The table game shall offer the same or greater probability of winning the progressive jackpot and shall require the same or lower denomination of currency to play that was in use on the table game that was removed.

(g) If a table game is located adjacent to a table game offering a progressive jackpot, the facility manager shall conspicuously display on the table game a notice advising patrons that the table game is not participating in the progressive jackpot of the adjacent table game. (Authorized by K.S.A. 2008 Supp. 74-8772; implementing K.S.A. 2008 Supp. 74-8752 and 74-8772; effective Jan. 8, 2010.)

#### Article 110.—TECHNICAL STANDARDS

**112-110-1. Adoptions by reference.** The following texts by gaming laboratories international (GLI) are hereby adopted by reference:

(a) "GLI-11: gaming devices in casinos," version 2.0, dated April 20, 2007, except the following:

(1) Each reference to a "75% payout percentage," which shall be replaced with "an average of not less than 87% of the amount wagered over the life of the machine";

(2) section 1.1;

(3) section 1.2;

(4) section 1.4; and

(5) the section titled "revision history";

(b) "GLI-12: progressive gaming devices in casinos," version 2.0, dated April 20, 2007, except the following:

(1) Section 1.1;

(2) section 1.2;

(3) section 1.4; and

(4) the section titled "revision history";

(c) "GLI-13: on-line monitoring and control systems (MCS) and validation systems in casinos," version 2.0, dated April 20, 2007, except the following:

(1) Section 1.3;

(2) section 1.5;

(3) the "note" in section 3.4.3; and

(4) the section titled "revision history";

(d) "GLI-15: electronic bingo and keno systems," version 1.2, dated April 12, 2002, except the following:

(1) Section 1.3;

(2) section 1.5; and  
 (3) the section titled “revision history”;  
 (e) “GLI-16: cashless systems in casinos,” version 2.0, dated April 20, 2007, except the following:

- (1) Section 1.2;
- (2) section 1.4; and
- (3) the section titled “revision history”;

(f) “GLI-17: bonusing systems in casinos,” version 1.2, dated February 27, 2002, except the following:

- (1) Section 1.2;
  - (2) section 1.4; and
  - (3) the section titled “revision history”;
- (g) “GLI-18: promotional systems in casinos,” version 2.0, dated April 20, 2007, except the following:

- (1) Section 1.2;
- (2) section 1.4; and
- (3) the section titled “revision history”;

(h) “GLI-20: kiosks,” version 1.4, dated July 1, 2006, except the following:

- (1) Section 1.3; and
  - (2) the section titled “revision history”;
- (i) “GLI-21: client-server systems,” version 2.1, dated May 18, 2007, except the following:

- (1) Section 1.1;
- (2) section 1.2;
- (3) section 1.4;

(4) each reference to a “75% payout percentage,” which shall be replaced with “an average of not less than 87% of the amount wagered over the life of the machine”; and (5) the section titled “revision history”;

(j) “GLI-24: electronic table game systems,” version 1.2, dated September 6, 2006, except the following:

- (1) Section 1.1;
- (2) section 1.3;

(3) each reference to “75% payout percentage,” which shall be replaced with “an average of not less than 87% of the amount wagered over the life of the machine”; and

- (4) the section titled “revision history”;

(k) “GLI-25: dealer controlled electronic table games,” version 1.1, dated September 8, 2006, except the following:

- (1) Section 1.1;
- (2) section 1.3; and
- (3) the section titled “revision history”;

(l) “GLI-26: wireless gaming system standards,” version 1.1, dated January 18, 2007, except the following:

- (1) Section 1.1;

(2) section 1.2;

(3) section 1.4; and

(4) the section titled “revision history”; and

(m) “GLI-28: player user interface systems,” version 1.0, dated February 14, 2011, except section 1.1. (Authorized by K.S.A. 2010 Supp. 74-8772; implementing K.S.A. 2010 Supp. 74-8750 and 74-8772; effective May 1, 2009; amended Dec. 9, 2011.)

**112-110-2. Central computer system accounting.** (a) Each central computer system (CCS) provided to the commission shall include an accounting and auditing mechanism.

(b) Each CCS shall be capable of supporting a network of 15,000 EGMs and the location controllers and validation stations needed to support the EGMs.

(c) Each CCS shall meet all of the following requirements:

(1) The CCS computers shall obtain all meter reading data in real time, which shall be no longer than two and one-half minutes after any meter acquisition request.

(2) The CCS shall keep accurate records, maintaining a total of at least 14 digits, including cents, in length for each type of datum required and of all income generated by each electronic gaming machine (EGM).

(3) The CCS shall be capable of monitoring the operation of each game and EGM.

(4) The CCS shall be capable of creating reports from the following information by EGM and by game, if applicable:

(A) The number of cents wagered;

(B) the number of cents won;

(C) the number of cents paid out by a printed ticket;

(D) the number of cents accepted from a printed ticket;

(E) the number of cents accepted from each coin, bill, ticket, or other instrument of value;

(F) the number of cents electronically transferred to the EGM;

(G) the number of cents electronically transferred from the EGM;

(H) the number of cents paid out by hand pay, which means the payment of credits that are not totally and automatically paid directly from an EGM, or canceled credit;

(I) the number of cents paid out by jackpot;

(J) the number of cumulative credits representing money inserted by a player;

- (K) the number of cents on the credit meter;
- (L) the number of games played;
- (M) the number of games won;
- (N) the number of times the logic area was accessed; and
- (O) the number of times the cash door was accessed.

(d) The CCS shall be capable of generating the following reports:

(1) Gaming facility performance reports. The gaming facility performance report for the previous period shall be available to be printed on the first day of the next period. Each gaming facility performance report shall be available to be printed for all facilities and for specific facilities. The report shall include data from each EGM in play at the gaming facility. Each report shall contain the following information:

- (A) EGM serial number;
- (B) the number of cents played;
- (C) the number of cents won;
- (D) net terminal income, which is the amount played minus the amount won;
- (E) Kansas lottery's administrative expenses;
- (F) gross profits;
- (G) drop amount; and
- (H) drop time frame;

(2) a report that calculates the prize payout percentage of each EGM on the basis of cents won divided by cents played;

(3) a report that calculates cents played less cents won, divided by the number of EGMs in play at a facility, during the period;

(4) a report that compares cents played less cents won against total cents in less total cents out by EGMs. This report shall also include the value on the EGM's credit meter;

(5) a daily report showing the total number of EGMs in play and cents played less cents won;

(6) performance reports by brand of EGM, game name, game type, and facility number;

(7) a report by EGM number;

(8) a report of nonreporting EGMs by facility and by EGM supplier, summarizing the last polled date, EGM manufacturer and serial number, reason for error, and poll address;

(9) a report of nonreporting intermediary servers that are communicating with the EGMs but not reporting data by facility and by EGM that summarizes the last polled date, EGM manufacturer and serial number, reason for error, and poll address;

(10) a financial summary report listing facility summaries by date, amount played, amount won,

net revenue, number of EGMs, and average net revenue by EGM;

(11) a transaction report listing facility, by EGM supplier and by EGM, that summarizes the electronic game machine manufacturer and serial number, cents in, cents out, net revenue, amount played, amount won, progressive jackpot contribution, win frequency, payback percentage, net jackpot won, number of times each game was played, and number of times each play resulted in a win;

(12) a report containing a record of all security events by EGM or event type over a specific time range; and

(13) a financial report based upon a user-specified time frame, by EGM, that summarizes cents in, cents out, net revenue, cents played, cents won, progressive jackpot contribution, win frequency, payback percentage, net jackpot won, games played, and games won.

(e) Each report specified in this regulation shall be available on demand and, if applicable, cover a period determined by Kansas lottery or commission auditing staff. On-demand reporting shall be sortable by date, EGM, game, EGM manufacturer, location, and facility. The time period of each report may be daily, weekly, monthly, and yearly, and sufficient data shall be resident on the database to accommodate a facility manager's need to report on a basis specified by the Kansas lottery or commission auditing staff.

(f) Each EGM event and all configuration data, including configurable pay table information, if applicable, shall be retained for each individual EGM in a backed-up CCS system.

(g) All security event data shall be retained for each individual EGM as well as accumulated for each facility.

(h) All game play statistics, EGM event data, and configuration data, including configurable pay table information, if applicable, shall be retained for each EGM in a backed-up CCS system.

(i) All accounting and security event data shall be retained and shall be accessible for at least seven years.

(j) All accounting and security event data shall be retained for each individual EGM and accumulated for each facility.

(k) Each CCS provider shall provide an invoicing software package for facility licensees. That software package shall allow the Kansas lottery to create periodic statements that interface with an electronic funds transfer account. The CCS shall be able to perform the following functions:

(1) Provide a gross terminal income summary to facilitate daily electronic funds transfer (EFT) sweeps that shall, at a minimum, contain the daily number of EGMs reporting, the daily cash in divided by cash out and daily cash played divided by cash won, daily gross EGM income, daily net balances, adjustments, progressive contributions, and jackpot reset values. The gross terminal income summary reports shall show the information by each EGM as well as by track and by total system, retailer, facility manager, and county;

(2) conduct downloading to tape, disk, or other standard data storage devices of the information necessary to facilitate the EFT daily sweep of each facility's net EGM income;

(3) create a balanced data file of general ledger journal entries to record all lottery activities and integrate into general ledger software on a daily basis and on a multiple day basis, as needed;

(4) provide payout analyses that indicate performance by EGM; and

(5) provide reports in a format as specified, by period to period, by the Kansas lottery. (Authorized by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8749 and 74-8772; effective May 1, 2009.)

**112-110-3. Central computer system security.** (a) Each CCS's database shall contain LFG data for at least the prior 24 months. Older data shall also be available from archives for at least seven years. The CCS's vendor shall provide archived data within 24 hours of a request for the data from the Kansas lottery or the commission.

(b) Each CCS shall be capable of the following:

(1) Receiving and retaining a record of events that affect security, including all door openings, stacker access, and signature failure;

(2) receiving and retaining a record of events that affect the LFG state, including power on, power off, and various faults and hardware failures;

(3) receiving and retaining a record of events that affect LFG integrity, including random access memory (RAM) corruption and RAM clear;

(4) receiving and retaining a record of events that affect the status of communication between all components including the LFG, including loss of communication;

(5) reporting of all events specified in this article;

(6) receiving and retaining a record of any other events as specified in writing by the Kansas lottery or the commission; and

(7) automatic reporting of faults that require a manual reactivation of the LFG. These faults shall include the following:

(A) Logic area cabinet access;

(B) LFG RAM reset;

(C) catastrophic software corruption;

(D) unrecoverable hardware faults; and

(E) a failed signature check.

(c)(1) A record of each of the events specified in subsection (b) shall be stored at the central point of the CCS on a hard drive in one or more files of an approved structure.

(2) The record of each stored event shall be marked by a date and time stamp.

(3) Each event shall be detected and recorded to the database and posted to a line printer or terminal monitor within 10 seconds of the occurrence.

(d) Each CCS shall meet the following security requirements:

(1) The ability to deny access to specific databases upon an access attempt, by employing passwords and other system security features. Levels of security and password assignment for all users shall be solely the function of the Kansas lottery;

(2) the ability to allow multiple security-access levels to control and restrict different classes of access to the system;

(3) password sign-on with two level codes comprising the personal identification code and a special password;

(4) system access accounts that are unique to the authorized personnel;

(5) the storage of passwords in an encrypted, nonreversible form;

(6) the requirement that each password be at least 10 characters in length and include at least one nonalphabetic character;

(7) password changes every 30 days;

(8) prevention of a password from being used if the password has been used as any of the previous 10 passwords;

(9) the requirement that the CCS lock a user's access upon three failed attempted log-ins and send a security alert to a line printer or terminal monitor;

(10) the requirement that connectivity to any gaming system from a remote, non-gaming terminal be approved by the executive director and reported to the Kansas lottery, in accordance with K.A.R. 112-107-31. Remote connections shall employ security mechanisms including modems with dial-back, modems with on-off key-

locks, message encryption, logging of sessions, and firewall protection;

(11) the ability to provide a list of all registered users on the CCS, including each user's privilege level;

(12) the requirement that approved software and procedures for virus protection and detection, if appropriate, be used;

(13) the requirement that only programs, data files, and operating system files approved by the Kansas lottery and the commission reside on hard drive or in the memory of the CCS computers;

(14) the requirement that nonroutine access alerts and alarm events be logged and archived for future retrieval;

(15) the requirement that software signatures be calculated on all devices at all facilities and the signatures be validated by devices on the CCS network. These devices shall include gaming equipment, location controllers, and cashier stations. These devices shall exclude non-gaming devices, including dumb terminals;

(16) audit trail functions that are designed to track system changes;

(17) time and date stamping of audit trail entries;

(18) capability of controlling data corruption that can be created by multiple log-ons;

(19) the requirement that the gaming software be maintained under an approved software change control system;

(20) the ability to send an alert to any terminal monitor and line printer for any security event that is generated at an LFG or in the system. The system shall allow the system administrator to determine which events should be posted. The events shall be filtered by location;

(21) equipment with a continuous power supply;

(22) the capability of on-line data redundancy if a hard disk peripheral fails during operation; and

(23) provision of a secure way through a graphic user interface for an auditor to make adjustments to the system. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective May 1, 2009; amended April 1, 2011.)

**112-110-4. Central computer system; configuration and control.** (a) Each CCS shall be able to begin or end gaming functions by a single command for any of the following:

- (1) An EGM;
- (2) a group of EGMs; or
- (3) all EGMs.

(b) Automatic and manual shutdown capabilities shall be available from the CCS.

(c) The software configuration of each CCS gaming system shall be approved by the Kansas lottery and the commission.

(d) Each CCS shall maintain the following information for each EGM or connected device:

- (1) Location;
- (2) device description, including serial number and manufacturer;
- (3) game name;
- (4) game type;
- (5) configuration, including denomination, software identification number, software version installed on all critical components, game titles available, and progressive jackpot status;
- (6) history of upgrades, movements, and reconfigurations; and
- (7) any other relevant information as deemed necessary by the Kansas lottery or the commission.

(e) Each CCS shall be able to individually and collectively enroll EGMs.

(f) Each CCS shall be able to configure each EGM during the initial enrollment process so that the EGM's system-dependent parameters, including denomination, money units, and pay tables, can be programmed or retrieved from the EGMs and validated by the CCS.

(g) Each CCS shall be able to support continuous gaming operations and shall be able to enable and disable electronic gaming machines based on a daily schedule. (Authorized by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8749 and 74-8772; effective May 1, 2009.)

**112-110-5. Central computer system; software validation.** (a) Each CCS shall be programmed to initiate a signature validation when an EGM is enrolled.

(b) If an EGM fails the signature validation, the EGM shall not be placed into gaming mode without manual intervention at the CCS level.

(c) One of the following two methods of storing signature check references shall be implemented in the CCS:

(1) Game software image storage in which game software images existing in the EGM are also stored in the CCS; or

(2) precalculated signature results storage in which the table of signature results have a minimum of five entries and those entries are generated from randomly selected seed values for each

game and repopulated on a daily basis. The utility program used to generate the signature check result table shall be approved by the Kansas lottery and the commission's electronic security staff.

(d) The game software image and precalculated signature results shall be secured, including by means of password protection and file encryption.

(e) If the image used for validating the EGM software is comprised of more than one program, both of the following requirements shall be met:

(1) The CCS shall have a method to allow each component to be loaded individually.

(2) The CCS shall combine the individual images based upon the scheme supplied by the EGM manufacturer to create the combined image. (Authorized by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8749 and 74-8772; effective May 1, 2009.)

**112-110-6. Central computer system communication.** (a) Each CCS provider shall furnish specifications, protocols, and the format of messages to and from the central computer system.

(b)(1) The documentation of the communications protocol shall explain all messages, conventions, and data formats and shall be submitted for approval before delivery of the protocol to EGM manufacturers. Approval shall be obtained before distribution of the communications protocol may commence.

(2) The documentation shall detail the following:

- (A) The data format, including the following:
  - (i) Byte ordering;
  - (ii) bit order where bits are referenced; and
  - (iii) negative number format;
- (B) message framing, including the following:
  - (i) Header field;
  - (ii) address field;
  - (iii) control field;
  - (iv) information or data;
  - (v) frame check sequence; and
  - (vi) trailer field;
- (C) minimum and maximum frame or packet length;
- (D) packet termination indication;
- (E) padding techniques;
- (F) special characters used and the function of each character;
- (G) general principles of data exchange; and
- (H) any other specifications required to support the functionality of the system.

(c) All communications between the host system components shall be encrypted with an encryption tool, which may include data encryption standard approved by the commission's auditing staff. Each proprietary encryption system shall be approved by the Kansas lottery before its use.

(d) If the CCS finds an EGM that is not responding within a set number of retries, the EGM shall be logged as not responding and the system shall continue servicing all other EGMs in the network.

(e) Each CCS shall be wired directly to all EGMs.

(f) Each CCS shall be capable of monitoring the functioning of each EGM.

(g) If a CCS provider proposes a proprietary communications protocol, the provider shall supply a perpetual software license to the Kansas lottery at no additional charge. If a proprietary protocol is utilized, the protocol shall be provided to any vendor designated by the Kansas lottery free of charge within one week of contract signing.

(h) If a CCS uses an industry standard protocol, the provider shall supply and maintain an interoperability document that indicates all of the functionality within the protocol that is used and any additional implementation notes that apply. Each deviation from the protocol shall be approved by the Kansas lottery.

(i) The communication of each CCS shall use cyclic redundancy checks (CRCs).

(j) The communication of each CCS shall withstand error rates based on the protocols in use.

(k) The communications protocol shall provide a method for the recovery of each message received in error or not received at all.

(l) Each CCS shall acknowledge all data messages that the CCS receives.

(m) Any CCS may include a negative acknowledgment (NAK) for messages received in error or messages that are received outside of specified time periods. (Authorized by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8749 and 74-8772; effective May 1, 2009.)

**112-110-7. Central computer system; protocol simulator.** (a) Each CCS shall include a protocol simulator to enable the development of the communications protocol and to assist in acceptance testing.

(b) Each simulator shall support and test all of the transactions and message types that are to be used by the communications protocol.

(c) Each simulator shall be capable of generating common communication errors to confirm that the EGM software is properly handling the event.

(d) Along with the protocol simulator, each CCS provider shall furnish the following:

(1) An operations manual or other suitable documentation;

(2) a definition of the message structure, types, and formats in machine-readable form;

(3) a standard for all program modules, including naming conventions, definitions of module names, and comments; and

(4) a diagram for the communications protocol.

(e) Each simulator shall run on standard computer equipment, including a personal computer.

(f) The communications protocol shall contain only codes or bytes that are defined in the communications protocol. (Authorized by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8749 and 74-8772; effective May 1, 2009.)

**112-110-8. Central computer system; general hardware specifications.**

(a) Each CCS shall be a state-of-the-art, fault-tolerant, redundant, and high-availability system. Any CCS may be configured in a duplex, triplex, or multiredundant configuration. All computer system components and peripheral equipment, including frontend communications processors, system printers, and tape drives, shall be fault-tolerant and redundant and maintain high availability. No performance degradation or loss of system functionality shall occur with the failure of a single system component. The central computer system's storage management solution shall provide fault tolerance and scalability.

(b) The performance of each CCS shall match or exceed the performance of any similar systems installed by North American lotteries or gaming central control systems in casinos in the last three years.

(c) The functions of each CCS shall not interfere with players, employees who require real-time monitoring of security events, cashiers who handle financial transactions of the electronic gaming machines, or attendants who service the EGM.

(d) Performance of each CCS shall not degrade noticeably during ordinary functionality. The CCS shall provide capacity to accommodate EGM populations, play volumes, user sessions, and event recording consistent with all specifications.

(e) All hardware and ancillary peripherals comprising the CCS shall be new equipment that has not previously been used or refurbished.

(f) The supplier of each CCS shall be able to produce system checksums or comparable system file checker reports when requested by Kansas lottery or the commission.

(g) Each supplier of CCS hardware and software shall obtain written approval from the Kansas lottery director or the director's designee before making any enhancement or modification to the operating software.

(h) Each CCS supplier shall provide all hardware, operating system software, third-party software, and application software necessary to operate the CCS.

(i) Each CCS shall be able to operate 24 hours a day, seven days a week, with the database up and running. Off-hours backup shall be able to run without shutting down the database. The Kansas lottery shall be able to do a full system backup, which shall include backing up the operating system and any supplier software.

(j) The central processing unit and peripheral devices of each CCS shall employ physical security measures in the form of sealed casings, lockable containment, or any other means of physical security approved by the Kansas lottery and the commission.

(k) Each CCS shall be able to support gaming in at least seven gaming facilities in the state of Kansas.

(l) Each CCS shall have one or more management terminals located at each of the facilities. Management terminals may be accessed only with the permission of the Kansas lottery. A monitoring terminal shall also be located at the Kansas lottery headquarters.

(m) Each CCS shall have two or more monitoring terminals at each facility, as approved by the commission, with at least one terminal to be utilized by the commission. A monitoring terminal shall be located at the commission headquarters.

(n) The responsibility to audit all lottery gaming facility revenues shall rest with the commission. Each CCS supplier shall provide a separate data feed that contains the original accounting data from the EGM before any adjustments and means to reconcile the values or other means of validating any adjustments are made to any data on the system. This separate data feed shall be approved by the commission. (Authorized by K.S.A. 2007 Supp. 74-8772; implementing

K.S.A. 2007 Supp. 74-8749 and 74-8772; effective May 1, 2009.)

**112-110-9. Central computer system backup.** (a) Each CCS supplier shall provide one or more remote backup systems that will take over for the primary site systems, if necessary. Redundant arrays of inexpensive disks (RAID) shall be used to protect key data at the remote site. Data recorded at the remote site shall always contain the most recent transactions. The facility networks shall be routed to permit transaction processing at the backup site. Other communications to permit Kansas lottery operations shall also connect to the backup site. The backup site system shall be able to be tested monthly to ensure that the remote site is fully functional.

(b) Each remaining system shall assume all system functions in case of a failure in one system, without loss or corruption of any data and transactions received before the time of the failure.

(c) Multiple components in the CCS shall have a time-synchronizing mechanism to ensure consistent time recording and reporting for all events and transactions.

(d) The remote backup systems shall have the same processing capacity and architecture as those of the central site systems.

(e) Primary site system recovery from a one-system failure shall be accomplished in no more than two minutes while still maintaining current transactions, including the ability to fully service the communications network supporting the EGM and management terminals.

(f) Backup site system recovery from a primary site failure shall be accomplished in less than 10 minutes without loss of transactions. (Authorized by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8749 and 74-8772; effective May 1, 2009.)

**112-110-10. Central computer system manuals.** (a) Each CCS supplier shall provide the following manuals and diagrams for the CCS:

- (1) Operation manuals;
- (2) service manuals;
- (3) CCS architecture diagrams; and
- (4) other circuit diagrams.

(b) The required service manuals shall meet the following requirements:

(1) Accurately depict the CCS that the manual is intended to cover;

(2) provide adequate detail and be sufficiently clear in their wording and diagrams to enable

a qualified repairperson to perform repair and maintenance in a manner that is conducive to the long-term reliability of the CCS;

(3) include maintenance schedules outlining the elements of the EGM that require maintenance and the frequency at which that maintenance should be carried out; and

(4) include maintenance checklists that enable EGM maintenance staff to make a record of the work performed and the results of the inspection.

(c) The required CCS architecture diagrams shall meet the following requirements:

(1) Accurately depict the CCS that the diagrams are intended to cover;

(2) provide adequate detail and be sufficiently clear in their wording and depiction to enable qualified technical staff to perform an evaluation of the design of the component; and

(3) be professionally drafted in order to meet the requirements specified in this subsection. (Authorized by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8749 and 74-8772; effective May 1, 2009.)

**112-110-11. Central computer system; support of progressive games.** (a) As used within this regulation, the following terms shall have the meanings specified in this subsection:

(1) “Linked progressive games” means a group of EGMs at a gaming facility that offers the same game and involves a manner of wagering providing the same probability of hitting the combination that will award the progressive jackpot that increases by the same increments as the EGM is played.

(2) A “wide-area progressive game” means a game that consists of a group of EGMs located at two or more gaming facilities, linked to a single CCS computer that has a manner of wagering that will provide the same probability of hitting the combination that will award the progressive jackpot that increases, by the same increments, as the EGM is played.

(b) Each CCS shall be able to support a variety of different progressive jackpot games, including single-machine games, linked games at a gaming facility, and wide-area progressive games shared by two or more gaming facilities.

(c) The CCS communication for the wide-area progressive system shall be by means of dedicated on-line communication lines, satellite, or another preapproved communications system. All communication packets between each participating facility manager and the CCS shall be encrypted,

and the encryption keys shall be alterable upon demand. The protocol shall ensure delivery of all information packets in a valid and correct form.

(d) The CCS computer's wide-area progressive gaming subsystem shall have the ability to monitor the opening of the front door of the EGM and the logic area of the EGM, and to report all these events to the CCS within one polling cycle.

(e) Each CCS shall have the ability to produce reports that demonstrate the method used to calculate the progressive jackpot amount, including the documentation of credits contributed from the beginning of the polling cycle and all credits contributed throughout the polling cycle that includes the jackpot signal. The method shall assume that credits contributed to the system after the jackpot win occurs, in real-time but during the same polling cycle, are contributed to the progressive jackpot amount before the win.

(f) Each CCS shall be able to produce fiscal reports that support and verify the economic activity of the games, indicating the amount of and basis for the current progressive jackpot amount. These reports shall include the following:

(1) An aggregate report to show only the balancing of the progressive link with regard to facility-wide totals;

(2) a detail report in a format that indicates for each EGM, summarized by location, the cash-in, cash-out, credits-played, and credits-won totals, as these terms are commonly understood by the Kansas lottery; and

(3) a jackpot contribution invoice that includes documentation of contributions by the following:

(A) Each of its participating EGMs;

(B) the credits contributed by each EGM to the jackpot for the period for which an invoice is remitted;

(C) the percentage contributed by that gaming facility; and

(D) any other information required by the Kansas lottery or the commission to confirm the validity of the facility manager's aggregate contributions to the jackpot amount.

This report shall be available for any facility manager participating in a wide-area progressive electronic gaming machine system.

(g) Each CCS shall be designed to have continuous operation of all progressive games.

(h) Each CCS shall have a method to transfer the balance of one progressive pool to another.

(i)(1) Each progressive controller linking one or more progressive EGMs shall be housed in a

double-keyed compartment or an alternative approved by the Kansas lottery and the commission.

(2) The Kansas lottery or the Kansas lottery's designee shall be given possession of one of the keys, or the Kansas lottery's designee shall authorize each instance of access to the controller in advance. No person may have access to a controller without notice to the Kansas lottery.

(3) A progressive entry authorization log shall be included with each controller, and the log shall be completed by each person gaining entrance to the controller. The log shall be entered on a form provided by the Kansas lottery.

(4) If a progressive jackpot is recorded on any progressive EGM, the progressive controller shall be able to identify the EGM that caused the progressive meter to activate, and the progressive controller shall display the winning progressive amount.

(5) If more than one progressive EGM is linked to the progressive controller, the progressive controller may automatically reset to the minimum amount and continue normal play only if the progressive meter displays the following information:

(A) The identity of the EGM that caused the progressive meter to activate;

(B) the winning progressive amount; and

(C) the minimum amount that is displayed to the other players on the link.

(6) A progressive meter or progressive controller shall keep the following information in non-volatile memory, which shall be displayed upon demand:

(A) The number of progressive jackpots won on each progressive meter if the progressive display has more than one winning amount;

(B) the cumulative amounts paid on each progressive meter if the progressive display has more than one winning amount;

(C) the maximum amount of the progressive payout for each meter displayed;

(D) the minimum amount or reset amount of the progressive payout for each meter displayed; and

(E) the rate of progression for each meter.

(7) Waivers may be granted by the Kansas lottery to ensure that individual EGMs and multiple EGMs linked to a progressive controller meet the requirements of this regulation. (Authorized by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8749 and 74-8772; effective May 1, 2009.)

**112-110-12. Central computer system; additional functionality.** (a) Each CCS shall be able to support ticket in-ticket out (TITO) processes.

(b) Any CCS may perform the following:

(1) Downloading operating and game software to EGMs that use electronic storage media on which the operation software for all games resides or at a minimum approving, auditing, and verifying the downloading of software to EGMs;

(2) allowing gaming software to be driven by down-line loading on the communications line. Gaming software may be either solicited by the EGM or unsolicited; and

(3) allowing gaming software to be downloaded in a modular fashion with only the modules requiring a change being downloaded. Downloading shall not preclude continuous operation of the EGM network. The CCS provider shall detail for the Kansas lottery and the commission any particular download features of the software, including downloading in the background, eavesdropping, and compression. (Authorized by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8749 and 74-8772; effective May 1, 2009.)

**112-110-13. Central computer system; acceptance testing.** (a) Each CCS supplier shall make that provider's system available for independent acceptance and compatibility testing.

(b) If a CCS fails the acceptance testing, the CCS supplier shall make all necessary modifications required for acceptance by the Kansas lottery and the commission within the time frame specified by the Kansas lottery and the commission.

(c) Each CCS supplier shall provide at least one test system, including all hardware and software, to the commission or its independent testing laboratory for the duration of the contract. The test system shall include any third-party software and licenses used by the system. The test system shall use the identical software that exists on the production system, though the test system may utilize similar but not identical hardware.

(d) Each CCS supplier shall provide a complete set of manuals at the beginning of acceptance testing. Updates to the manuals shall be supplied concurrently with any CCS modifications that result in updating the manual.

(e) A test system in addition to the system required in subsection (b) may be required if the Kansas lottery determines that a system shall be located at the Kansas lottery.

(f) The cost of initial acceptance testing by the Kansas lottery, the commission, and the commission's independent testing laboratory shall be paid by the CCS supplier. The cost of any testing resulting from system modifications or enhancements shall be paid by the CCS supplier. These costs shall include travel time and expenses for functionality that must be tested on-site or at an alternate location.

(g) Each CCS supplier shall be responsible for the consulting costs incurred by the commission and the Kansas lottery to develop the test scripts. (Authorized by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8749 and 74-8772; effective May 1, 2009.)

**112-110-14. Procedures for resolving EGM breaks in communication with the central computing system.** (a) If one or more EGMs have an unscheduled break in communications with the central computer system for more than 60 seconds, unless another time is specified by the executive director, the following requirements shall be met:

(1) The supplier for the central computer system shall notify the lottery gaming facility's surveillance department of the break in communication.

(2) The lottery gaming facility's surveillance department shall notify the slot shift supervisor on duty or the person in an equivalent position of the break in communication.

(3) The lottery gaming facility's EGM department shall perform the following:

(A) Investigate the reason for the break in communication with the central computer system; and

(B) identify the party responsible for correcting the problem and a time frame for correction.

(b)(1) If one or more EGMs have an unscheduled break in communications with the central computer system for longer than 10 minutes, the supplier for the central computer system shall notify the commission personnel on duty.

(2) For communication breaks that last longer than 10 minutes, a determination shall be made by the commission as to whether to cease operation of the EGMs affected by the central communication system's break in communication. The following may be considered by the commission:

(A) The potential for any data loss;

(B) the projected length of outage;

(C) the circumstances of the break in communication;

(D) the proposed solution to the problem; and  
 (E) any other factor that arises.

(c) If one or more EGMs have an unscheduled break in communications with the central computer system for longer than 30 minutes, the supplier for the central computer system shall perform the following:

(1) Contact the facility manager slot shift supervisor on duty or the person in an equivalent position to assist in reestablishing communications; and

(2) send updated notification to the commission personnel on duty of the situation at least every two hours until the situation is resolved. When EGM communications have been restored, the supplier for the central computer system shall notify all parties involved.

(d) For the purpose of this regulation, notification may include automated electronic communications. (Authorized by and implementing K.S.A. 2010 Supp. 74-8772; effective Dec. 9, 2011.)

#### **Article 111.—INVOLUNTARY EXCLUSIONS**

**112-111-1. Involuntary exclusion list.** (a) An “involuntary exclusion list” shall be created by the commission staff and shall consist of the names of people who the executive director determines meet any one of the following criteria:

(1) Any person whose presence in a gaming facility would be inimical to the interest of the state of Kansas or gaming in Kansas, including the following:

(A) Any person who cheats, including by intentionally doing any one of the following:

(i) Altering or misrepresenting the outcome of a game or event on which wagers have been made, after the outcome is determined but before the outcome is revealed to the players;

(ii) placing, canceling, increasing, or decreasing a bet after acquiring knowledge, not available to other players, of the outcome of the game or subject of the bet or of events affecting the outcome of the game or subject of the bet;

(iii) claiming or collecting money or anything of value from a game or authorized gaming facility not won or earned from the game or authorized gaming facility;

(iv) manipulating a gaming device or associated equipment to affect the outcome of the game or the number of plays or credits available on the game; or

(v) altering the elements of chance or methods of selection or criteria that determine the result of the game or amount or frequency of payment of the game;

(B) any person who poses a threat to the safety of the patrons or employees;

(C) persons who pose a threat to themselves;

(D) persons with a documented history of conduct involving the disruption of a gaming facility;

(E) persons included on another jurisdiction’s exclusion list; or

(F) persons subject to an order of the courts of Kansas excluding those persons from any gaming facility;

(2) any felon or person who has been convicted of any crime or offense involving moral turpitude and whose presence in a gaming facility would be inimical to the interest of the state of Kansas or of gaming in Kansas; or

(3) any person who has been identified by the director of security as being a criminal offender or gaming offender and whose presence in a gaming facility would be inimical to the interest of the state of Kansas or of gaming in Kansas.

(b) As used in this article, a person’s presence shall be deemed “inimical to the interest of the state of Kansas or gaming in Kansas” if the presence meets any one of the following conditions:

(1) Is incompatible with the maintenance of public confidence and trust in the integrity of licensed gaming;

(2) is reasonably expected to impair the public perception of or confidence in the regulation or conduct of gaming; or

(3) creates or enhances a risk of unfair or illegal practices in the conduct of gaming.

(c) The executive director’s determination of inimicality may be based upon any of the following:

(1) The nature and notoriety of the person to be excluded from gaming facilities;

(2) the history and nature of the involvement of the person with a gaming facility in Kansas or any other jurisdiction or with any particular licensee or licensees or any related company of any licensee;

(3) the nature and frequency of any contacts or associations of the person with any licensee; or

(4) any other factor reasonably related to the maintenance of public confidence in the regulatory process or the integrity of gaming in Kansas.

(d) The involuntary exclusion list shall contain the following information, if known, for each excluded person:

(1) The full name and all known aliases and the date of birth;

(2) a physical description;

(3) the date the person's name was placed on the list;

(4) a photograph, if available;

(5) the person's occupation and current home and business addresses; and

(6) any other relevant information as deemed necessary by the commission.

(e) The involuntary exclusion list shall be open to public inspection and shall be distributed by the executive director. (Authorized by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8752 and 74-8772; effective May 1, 2009.)

**112-111-2. Inclusion on list; notice.** (a) Upon the executive director's determination that a person meets the criteria for exclusion from gaming facilities in this article, the person's name shall be added to the involuntary exclusion list, and the commission staff shall be directed by the executive director to file a notice of exclusion. The notice of exclusion shall identify all of the following:

(1) The person to be excluded;

(2) the nature and scope of the circumstances or reasons that the person should be placed on the involuntary exclusion list;

(3) the names of potential witnesses;

(4) a recommendation as to whether the exclusion will be permanent; and

(5) the availability of a hearing by the commission.

(b) The notice of exclusion shall be served on the excluded person using any method that is appropriate for service under Kansas law.

(c) A written request for a hearing shall be delivered to the executive director within 10 calendar days from the date the notice of exclusion was served on the person to be excluded. If no request for hearing is made, an order shall be issued by the commission affirming the placement of the person on the involuntary exclusion list. If the excluded person timely requests a hearing, the commission staff shall set the matter for a hearing before the commission. (Authorized by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8752 and 74-8772; effective May 1, 2009.)

**112-111-3. Effect of placement on the exclusion list.** (a) Each excluded person shall be prohibited from entry to a gaming facility.

(b) If the commission or a Kansas court finds that the person does not meet the criteria for exclusion, then the person's name shall be removed from the involuntary exclusion list and the exclusion shall be terminated effective upon the date of the action by the commission or the court. (Authorized by and implementing L. 2007, Ch. 110, § 41; effective May 1, 2009.)

**112-111-4. Facility manager duties.** (a) Each facility manager shall exclude from the gaming facility any person on the involuntary exclusion list.

(b) Each facility manager's director of security shall notify the commission's security staff if an excluded person has attempted entry to the gaming facility.

(c) Each facility manager shall distribute copies of the involuntary exclusion list to its employees.

(d) Each facility manager shall notify the commission in writing of the names of persons the facility manager believes meet the criteria for placement on the involuntary exclusion list. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective May 1, 2009.)

**112-111-5. Petition for removal.** (a) An excluded person shall not petition the commission for removal from the involuntary exclusion list until at least five years have passed from date of the commission's order affirming placement of the person on the list.

(b) Each petition shall be verified with supporting affidavits and shall state in detail the grounds that the petitioner believes constitute good cause for the petitioner's removal from the list.

(c) The petition may be decided by the commission on the basis of the documents submitted by the excluded person. The petition may be granted or summarily denied by the commission or a hearing on the matter may be directed to be held by the commission. The petition may be granted or a hearing may be directed to be held by the commission only upon a finding that there is new evidence that would alter the original decision to affirm the person's placement on the involuntary exclusion list. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective May 1, 2009.)

## Article 112.—RESPONSIBLE GAMBLING

**112-112-1. Office of responsible gambling.** A staff person shall be appointed by the

executive director to direct the office of responsible gambling. This staff person shall administer all of the commission's programs to assist individuals with issues related to gambling and to help prevent problem gambling in Kansas. The office of responsible gambling shall coordinate resources to maximize the efficiency and effectiveness of the programs of other state agencies and private organizations that allocate resources to assisting individuals with issues related to gambling and preventing problem gambling. (Authorized by K.S.A. 2009 Supp. 74-8772 and 74-8804; implementing K.S.A. 2009 Supp. 74-8772 and 74-8773; effective Sept. 26, 2008; amended April 1, 2011.)

**112-112-3. Responsible gambling plan.**

(a) Each applicant for a facility manager certificate shall submit a responsible gambling plan to the commission with its initial application or at least 90 days before opening a racetrack gaming facility. The responsible gambling plan shall not be inconsistent with any facility manager's contractual obligation with the Kansas lottery. A responsible gambling plan shall be approved by the commission before the commission issues or renews a certificate. Each plan shall include the following:

(1) The goals of the plan and the procedures and deadlines for implementation of the plan;

(2) the identification of the individual at each applicant or facility manager location who will be responsible for the implementation and maintenance of the plan;

(3) procedures for maintaining the confidentiality of the information regarding the persons on the self-exclusion list, as specified in K.A.R. 112-112-7;

(4) procedures for informing patrons about self-transaction exclusion programs;

(5) procedures for compliance with the commission's self-exclusion program;

(6) procedures for creating and disseminating promotional material to educate patrons about problem gambling and to inform patrons about treatment services available. The applicant or facility manager shall provide examples of the material to be used as part of its promotional materials, including signs, brochures, and other media, and a description of how the material will be disseminated;

(7) details of the training about responsible gambling for the applicant's or facility manager's employees;

(8) the duties and responsibilities of the employees designated to implement or participate in the plan;

(9) procedures to prevent underage gambling;

(10) procedures to prevent patrons impaired by drugs or alcohol, or both, from gambling;

(11) an estimation of the cost of development, implementation, and administration of the plan; and

(12) any other policies and procedures to prevent problem gambling and encourage responsible gambling.

(b) Each applicant or facility manager shall submit any amendments to the responsible gambling plan to the commission for review and approval before implementing the amendments. Each facility manager shall report to the commission semiannually on the status and success of the responsible gambling plan. (Authorized by K.S.A. 2009 Supp. 74-8772 and K.S.A. 74-8804; implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

**112-112-4. Self-exclusion list.** (a) A "self-exclusion list" shall consist of the names of those persons who have complied with the requirements of this article and have been placed on the list by the executive director. The self-exclusion list shall provide the means for each individual with issues related to gambling to formally notify the commission that the individual has a gambling problem and that the individual will refrain from visiting gaming facilities, parimutuel licensee locations, and fair association race meets in Kansas.

(b) Each facility manager shall be notified by the executive director of the placement of any person on the self-exclusion list. Any or all information contained on the person's application may be disclosed to each facility manager and the facility manager's agents or employees by the executive director. (Authorized by K.S.A. 2009 Supp. 74-8772 and 74-8804; implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

**112-112-7. Confidentiality of the self-exclusion list.** (a)(1) As part of the responsible gambling plan required by K.A.R. 112-112-3(a), each facility manager or applicant for a facility manager certificate shall submit to the commission a plan for maintaining the confidentiality of the information regarding the persons on the self-exclusion list. The plan shall reasonably safe-

guard the confidentiality of the information but shall include dissemination of the information to at least the general manager, facility management, and all security and surveillance personnel. Each plan shall be submitted to the commission for approval.

(2) All information disclosed to any facility manager regarding anyone placed on the self-exclusion list shall be deemed a closed record pursuant to K.S.A. 45-221(a)(30) and amendments thereto. However, the information may be disclosed as authorized by the individual seeking placement on the list, by law, and through the provisions in this article.

(b) Any facility manager may disclose the information contained in the application to the facility manager's affiliates, employees, or agents to the extent necessary under this article.

(c) All information associated with the self-exclusion list, including the identities of individuals who have placed themselves on the list and any personal information about those individuals, shall be considered a closed record under the Kansas open records act pursuant to K.S.A. 45-221(a)(30) and amendments thereto.

(d) For administrative, disciplinary, or penalty proceedings regarding any alleged infraction by an individual on the self-exclusion list, the individual who is on the self-exclusion list shall not be named. An alternate means of identification shall be used to keep that individual's identity confidential. (Authorized by K.S.A. 2007 Supp. 74-8772 and K.S.A. 74-8804; implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

**112-112-9. Procedure for removal from the self-exclusion list.** (a) At any time after two years from the original date of application for placement on the self-exclusion list, any person on the self-exclusion list may petition the executive director for removal from the self-exclusion list. The authority to approve or deny each petition shall rest with the executive director. To be eligible for removal from the self-exclusion list, each person shall provide documentation acceptable to the commission that the applicant has met all of the following conditions:

(1) The person has undergone a problem gambling assessment with a gambling counselor certified by the Kansas department of social and rehabilitation services or through any other method approved by the commission.

(2) The person has completed a commission-approved education program on healthy lifestyle choices and problem gambling awareness.

(3) The person has met any other requirements deemed necessary by the commission.

(4) The person has executed an authorization and release to be removed from the self-exclusion list on a form provided by the commission.

(b) Each facility manager shall retain the ability to deny gambling privileges at a gaming facility, parimutuel licensee location, or fair association race meet to the persons who have been removed from the self-exclusion list for any other reason ordinarily available to the facility manager.

(c) Any person who has been removed from the self-exclusion list may reapply for placement on the list at any time as provided in this article.

(d) Upon approval of a petition for removal from the self-exclusion list, a notice of removal from the self-exclusion list shall be drafted by the executive director. Each notice shall be a closed record pursuant to the Kansas open records act, including K.S.A. 45-221(a)(30) and amendments thereto, except that the notice shall be disclosed to all facility managers and their agents and employees.

(e) A copy of the notice of removal from the self-exclusion list shall be delivered by the executive director to the petitioner by regular U.S. mail to the home address specified on the petition. The petitioner shall be deemed to be removed from the self-exclusion list when the executive director mails the approved notice to the petitioner.

(f) If the executive director finds that a petitioner does not qualify for removal from the self-exclusion list, the petitioner shall be notified by the executive director by regular U.S. mail, using the home address specified on the petition. The petitioner shall remain on the self-exclusion list pursuant to this article. (Authorized by K.S.A. 2009 Supp. 74-8772 and 74-8804; implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

## Article 113.—SANCTIONS

**112-113-1. Sanctions.** (a) Any licensee, certificate holder, permit holder, or applicant may be sanctioned for violating any provision of the act, these regulations, or any other law that directly or indirectly affects the integrity of gaming in Kansas, including a violation of any of the following:

(1) Failing to disclose material, complete, and truthful information to the commission and its staff;

(2) failing to comply with any of the duties in article 101;

(3) being a facility manager and employing unlicensed employees or independent contractors;

(4) being a facility manager and contracting with uncertified gaming or nongaming suppliers;

(5) failing to follow the commission's minimum internal control standards or the facility manager's minimum internal control system;

(6) failing to follow the commission's security regulations or the facility manager's security plan;

(7) failing to follow the commission's surveillance regulations or the facility manager's surveillance plan;

(8) failing to enforce the involuntary exclusion list;

(9) failing to enforce the facility manager's responsible gaming plan or the provisions of article 112;

(10) failing to post signs informing patrons of the toll-free number available to provide information and referral services regarding problem gambling; or

(11) permitting persons who are less than 21 years of age that do not have an occupation license to be in areas where electronic gaming machines or lottery facility games are being conducted.

(b) The commission, disciplinary review board, and executive director shall have the authority to impose any of the following sanctions:

(1) License, certificate, or permit revocation;

(2) license, certificate, or permit suspension;

(3) license, certificate, or permit application denial;

(4) a monetary fine pursuant to K.S.A. 74-8764 and amendments thereto;

(5) warning letters or letters of reprimand or censure. These letters shall be made a permanent part of the file of the licensee, applicant, permit holder, or certificate holder; or

(6) any other remedial sanction agreed to by the licensee, applicant, certificate holder, or permit holder.

(c) Each sanction shall be determined on a case-by-case basis. In considering sanctions, the following may be considered by the executive director, disciplinary review board, or commission:

(1) The risk to the public and to the integrity of gaming operations created by the conduct of the licensee, certificate holder, permit holder, or applicant facing sanctions;

(2) the nature of the violation;

(3) the culpability of the licensee, certificate holder, permit holder, or applicant responsible for the violation;

(4) any justification or excuse for the conduct;

(5) the history of the licensee, certificate holder, permit holder, or applicant with respect to compliance with the act, these regulations, or other law; and

(6) any corrective action taken by the licensee, certificate holder, permit holder, or applicant to prevent future misconduct.

(d) In the case of a monetary fine, the financial means of the licensee, certificate holder, permit holder, or applicant may be considered.

(e) It shall be no absolute defense that the licensee, certificate holder, permit holder, or applicant inadvertently, unintentionally, or unknowingly violated a provision of the act or these regulations. These factors shall affect only the degree of the sanction to be imposed by the commission.

(f) Each violation of any provision of these regulations that is an offense of a continuing nature shall be deemed to be a separate offense on each day during which the violation occurs. The commission shall not be precluded from finding multiple violations within a day of those provisions of the regulations that establish offenses consisting of separate and distinct acts. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective April 17, 2009.)

**Article 114.—RULES OF HEARINGS**

**112-114-1. Definitions.** The following terms as used in these regulations shall have the meanings specified in this regulation, unless the context clearly indicates otherwise:

(a) "Disciplinary review board" means a board established by the executive director. The board members shall be appointed by the executive director to review certain applications and licensee or certificate holder conduct and to ensure compliance by applicants, licensees, and certificate holders with these regulations, the act, and other laws.

(b) "Hearing body" means the commission, disciplinary review board, or executive director, when each of these is conducting a hearing. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective May 1, 2009.)

**112-114-2. Report of an alleged violation.** (a) Any person may file a report of an alleged violation with any commission office.

(b) Each person reporting an alleged violation shall complete the commission-approved report form available online and in commission offices. Substantially incomplete forms shall not be accepted by commission personnel. (Authorized by and implementing K.S.A. 2008 Supp. 74-8751 and 74-8772; effective May 1, 2009.)

**112-114-3. Notice of alleged violation and hearing.** (a) If disposition of the allegation raised in a report could result in suspension or revocation, the respondent shall be provided by the commission with reasonable notice of the alleged violation and hearing.

(b) The notice of alleged violation and hearing shall include the following information:

- (1) The time and location of the hearing;
- (2) the identity of the hearing body;
- (3) the case number and the name of the proceeding;
- (4) a statement of the legal authority and a general description of the allegation, including the time of occurrence;
- (5) a statement that a respondent who fails to attend the hearing may be subject to the entry of an order that is justified by the evidence presented at the hearing; and

(6) a statement that a respondent has the right to appear at the hearing with counsel, the right to produce any evidence and witness on the respondent's behalf, the right to cross-examine any witness who may testify against the respondent, and the right to examine any evidence that may be produced against the respondent. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective May 1, 2009.)

**112-114-4. Waiver.** Except to the extent precluded by another provision of law, a person may waive any right conferred upon that person by these regulations. (Authorized by and implementing L. 2007, Ch. 110, § 20 and § 41; effective May 1, 2009.)

**112-114-5. Informal settlements.** Nothing in these regulations shall preclude the informal settlement of matters that could make a hearing unnecessary. (Authorized by and implementing L. 2007, Ch. 110, § 20 and § 41; effective May 1, 2009.)

**112-114-6. Participation by and representation of respondents.** (a) Whether or not participating in person, any respondent who is a

natural person may be represented by an attorney licensed to practice law in the state of Kansas in any evidentiary hearing conducted before the commission or its designated presiding officer or officers. The attorney shall represent the respondent at the respondent's own expense.

(b) Each for-profit or not-for-profit corporation, unincorporated association, or other respondent who is a non-natural person shall be represented by an attorney licensed to practice law in the state of Kansas in any evidentiary hearing conducted before the commission or its designated presiding officer or officers. The attorney shall represent the respondent at the respondent's own expense. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective May 1, 2009.)

**112-114-8. Presiding officer.** (a) The presiding officer shall be either of the following:

- (1) The executive director or the chairperson of the commission; or
- (2) a person designated by the commission.

(b) For disciplinary review board hearings, if a substitute is required for a presiding officer or other member of the hearing body who is unavailable for any reason, a substitute shall be appointed by the executive director. Each action taken by the duly appointed substitute shall be as effective as if the action had been taken by the unavailable member. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective May 1, 2009.)

**112-114-9. Hearing procedure.** (a) The presiding officer at each hearing shall regulate the course of the proceedings.

(b) To the extent necessary for full disclosure of all relevant facts and issues, the presiding officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence.

(c) Upon the request of the respondent, the presiding officer may conduct all or part of the hearing by telephone or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place.

(d) The presiding officer shall cause the hearing to be recorded at the commission's expense. The commission shall not be required to prepare a transcript at its expense. Subject to any reasonable conditions that the presiding officer may es-

establish, any party may cause a person other than the commission to prepare a transcript of the proceedings.

(e) Each hearing shall be open to public observation, except for deliberations and parts that the presiding officer states are to be closed pursuant to a provision of law expressly authorizing closure. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective May 1, 2009.)

**112-114-10. Evidence.** (a) A presiding officer shall not be bound by technical rules of evidence but shall give the parties reasonable opportunity to be heard and to present evidence. The presiding officer shall act without partiality. The presiding officer shall apply any rules of privilege that are recognized by law. Evidence shall not be required to be excluded solely because the evidence is hearsay.

(b) All testimony of parties and witnesses shall be made under oath or affirmation, and the presiding officer or the presiding officer's designee who is legally authorized to administer an oath or affirmation shall have the power to administer an oath or affirmation for that purpose.

(c) Documentary evidence may be received in the form of a copy or excerpt, including electronically stored information. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

(d) Official notice may be taken of the following:

(1) Any matter that could be judicially noticed in the courts of this state; and

(2) the record of other proceedings before the disciplinary review board or the commission. (Authorized by and implementing L. 2007, Ch. 110, § 20 and § 41; effective May 1, 2009.)

**112-114-11. Orders.** (a) Within 30 days after the hearing, the hearing body shall enter a written order.

(b) Each order shall include a brief statement of the findings of the hearing body and any penalty prescribed. The findings shall be based exclusively upon the evidence of record and on matters officially noticed in the hearing.

(c) For disciplinary review board hearings, the order shall also include a statement that the order is subject to appeal to the commission and the available procedures and time limits for seeking an appeal. The order shall further include a statement that any suspension imposed by the order may be stayed, pending appeal.

(d) For disciplinary review board hearings, the hearing body may impose any penalty authorized by law and may refer the matter to the commission with findings and recommendations for imposition of greater penalties.

(e) Each order shall be effective when rendered.

(f) The presiding officer shall cause copies of the order to be served upon each party to the proceedings. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective May 1, 2009.)

**112-114-12. Service of order.** (a) Service of an order shall be made upon the party and the party's attorney of record, if any.

(b) Service shall be presumed if the presiding officer, or a person directed to make service by the presiding officer, makes a written certificate of service.

(c) Service by mail shall be complete upon mailing.

(d) Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after service of an order is made by mail, three days shall be added to the prescribed period. (Authorized by and implementing L. 2007, Ch. 110, § 20 and § 41; effective May 1, 2009.)

**112-114-14. Appeals of disciplinary review board hearings.** (a) Each order entered by the disciplinary review board that imposes suspension or revocation, or any other sanction shall be subject to appeal to the commission.

(b) Each party who wishes to appeal a disciplinary review board order shall file a notice of appeal and brief on forms provided by the commission during regular office hours within 11 days after service of the order from which the party is appealing. If an order is served by mail, the party shall have 14 days within which to file a notice of appeal and brief.

(c) Each notice of appeal and brief shall be completed by the appealing party upon the form available in the commission's licensing office at the gaming facility. Each notice of appeal and brief shall fully state the basis for appeal and identify the issues upon which the party seeks administrative review. Incomplete forms shall not be accepted by commission personnel.

(d) A notice of appeal and brief shall constitute the appealing party's written brief. An opposing party shall be afforded an opportunity to file a

brief in response to the appealing party's brief within 14 days following the filing of the appealing party's brief.

(e) Each notice of appeal form shall include a statement that, in reviewing any disciplinary review board's order, the following provisions shall apply:

(1) De novo review may be exercised by the commission, one or more commissioners designated by the commission, or a presiding officer designated by the commission.

(2) The disciplinary review board's order may be affirmed, reversed, remanded for further hearing, or modified by the commission, one or more commissioners designated by the commission, or a presiding officer designated by the commission. A new hearing may also be conducted by the commission, one or more commissioners designated by the commission, or a presiding officer designated by the commission. An occupation license may

be suspended or revoked for each violation of the act or these regulations, or both.

(f) Any respondent may be deemed to have timely filed a notice of appeal pursuant to subsection (b) if, after service of the disciplinary review board's order, the respondent performs the following:

(1) Within the appeal time described in subsection (b) of this regulation, files a writing that states an intention to appeal the order and that includes substantially the same information requested in the appeal form available in the commission's licensing office at the gaming facility; and

(2) within a period of time authorized by the disciplinary review board, fully executes and files in the commission's licensing office at the gaming facility the appeal form available in that office. (Authorized by and implementing K.S.A. 2008 Supp. 74-8751 and 74-8772; effective May 1, 2009.)

## Agency 115

# Kansas Department of Wildlife and Parks

**Editor's Note:** The word Tourism was added to this agency's title, Kansas Department of Wildlife, Parks and Tourism, July 1, 2012, when Executive Reorganization Order (ERO) No. 36 transferred the powers, duties, and functions of the Division of Travel and Tourism Development within the Department of Commerce to the Kansas Department of Wildlife and Parks (KDWP). See L. 2012, Ch. 47. On July 1, 2021, ERO No. 48 reversed this transfer removing Tourism from the agency's title and responsibilities and transferring the powers, duties, and functions back to the Division of Tourism within the Department of Commerce. See L. 2021, Ch. 126.

**Editor's Note:** The Department of Wildlife and Parks formerly used agency numbers 23 and 33 and currently uses agency number 115. See K.S.A. 32-801 through 32-806.

**Editor's Note:** Article 25 regulations are exempt from the publication requirements of K.S.A. 77-415 et seq. These regulations fix the seasons and establish creel, size, and possession limits for fish, and bag and possession limits for game birds, game, and fur-bearing animals. Copies of the regulations may be obtained by contacting the Department: Secretary of Wildlife and Parks, Room 200, 1020 S. Kansas, Topeka, KS 66612-1327 or online at <https://ksoutdoors.com/Services/Law-Enforcement/Regulations>.

### Articles

- 115-1. DEFINITIONS.
- 115-2. FEES, REGISTRATIONS AND OTHER CHARGES.
- 115-3. SMALL GAME.
- 115-4. BIG GAME.
- 115-5. FURBEARERS.
- 115-6. FUR DEALERS.
- 115-7. FISH AND FROGS.
- 115-8. DEPARTMENT LANDS AND WATERS.
- 115-9. LICENSES, PERMITS, STAMPS, AND OTHER DEPARTMENT ISSUES.
- 115-11. CONTROLLED SHOOTING AREAS.
- 115-13. TRAINING DOGS AND FIELD TRIAL EVENTS.
- 115-14. FALCONRY.
- 115-15. NONGAME, THREATENED AND ENDANGERED SPECIES.
- 115-16. WILDLIFE DAMAGE CONTROL.
- 115-17. WILDLIFE, COMMERCIAL USES AUTHORIZED.
- 115-18. SPECIAL PERMITS.
- 115-20. MISCELLANEOUS REGULATIONS.
- 115-30. BOATING.
- 115-40. AGRITOURISM.

### Article 1.—DEFINITIONS

**115-1-1. Definitions.** (a) Except as specified in subsection (b), the following definitions shall apply to all of the department's regulations:

(1) "Arrow" means a missile shot from a bow or a crossbow.

(2) "Artificial lure" means a man-made fish-catching device used to mimic a single prey item. Artificial lures may be constructed of nat-

ural, nonedible, or synthetic materials. Multiple hooks, if present, shall be counted as a single hook on an artificial lure.

(3) "Bag limit" means the maximum number of any species, except fish and frogs, that may be taken by a person in a calendar day.

(4) "Bait fish" means a member of the minnow or carp family (*Cyprinidae*), sucker family (*Catostomidae*), top minnows or killifish family (*Cyprinodontidae*), shad family (*Clupeidae*), and

sunfish family (*Centrarchidae*), but excluding black basses and crappie. The fish listed in K.A.R. 115-15-1 and in K.A.R. 115-15-2 shall not be considered as bait fish.

(5) "Bird dog" means a dog used to point, flush, or retrieve game birds, migratory birds, or both.

(6) "Bow" means a handheld device with a cord that connects both of its two ends and that is designed to propel an arrow. This term shall include long, recurve, and compound bows.

(7) "Bridle path" means an established, maintained, and marked pathway for the riding of animals.

(8) "Camping" means erecting a shelter or arranging bedding, or both, or parking a recreation vehicle or other vehicle for the purpose of remaining overnight.

(9) "Camping unit" means any vehicle or shelter specifically used for sleeping upon a portion of department lands or waters.

(10) "Cast net" means a circular or conical weighted net designed to be cast mouth-downward by hand and withdrawn by lines attached to its margin.

(11) "Creel limit" means the maximum total number of any species of fish or frogs that may be taken by a person in a calendar day.

(12) "Crossbow" means a transverse-mounted bow with a cord that connects the two ends and that is designed to propel an arrow, including compound crossbows. The arrow is released by a mechanical trigger.

(13) "Culling" means replacing one live fish held by an angler for another live fish of the same species if the daily creel limit for that species of fish has not been met.

(14) "Department lands and waters" means state parks, state lakes, recreational grounds, wildlife areas, sanctuaries, fish hatcheries, natural areas, historic sites, and other lands, waters, and facilities that are under the jurisdiction and control of the secretary through ownership, lease, license, cooperative agreement, memorandum of understanding, or other arrangement.

(15) "Depth finder" means an electronic device used to locate fish or determine underwater structures.

(16) "Dip net" means a handheld net that has rigid support about the mouth and is used to land fish.

(17) "Draft livestock" means horses, mules, donkeys, and oxen used singly or in tandem with other horses, mules, donkeys, and oxen for pulling purposes.

(18) "Drag event" means a competitive event in which hounds pursue a scent trail. The event may involve a caged, pen-raised furbearer that is not released from the cage during the event.

(19) "Dryland set" means any trapping device that is placed or set on land or is not in contact with water.

(20) "Eyass" means a young of the year raptor not yet capable of flight.

(21) "Falconer" means the holder of a falconry permit.

(22) "Falconry" means the taking of wildlife with a trained raptor.

(23) "Field trial event for dogs" means a competitive event involving at least six dogs that are judged on hunting or running ability.

(24) "Firearm" means a rimfire or centerfire rifle, handgun, or shotgun; a muzzleloading shotgun, rifle, or handgun; or a cap-and-ball pistol.

(25) "Fire ring" means an open-topped, man-made, fire-retaining device.

(26) "Fireplace" means an enclosed, man-made, fire-retaining device.

(27) "Fishing line" means any hand-operated string or cord, utilizing hooks that may be used in conjunction with rods, poles, reels, bows, or spearguns.

(28) "Fish trap" means a device for catching fish consisting of a net or other structure that diverts the fish into an enclosure arranged to make escape more difficult than entry.

(29) "Fully automatic firearm" means a firearm capable of firing more than one round with a single trigger pull.

(30) "Gaff" means a hook attached to a rigid pole.

(31) "Gig" means a hand-operated spear with one or more prongs with or without barbs.

(32) "Group camping area" means any area within a state park designated by posted notice for camping by organized groups.

(33) "Haggard" means an adult raptor in mature plumage.

(34) "Hook" means a device with a single shaft and one or more points with or without barbs, used for catching fish and frogs.

(35) "Imping" means the repair of damaged feathers.

(36) "Kill site" means the location of the wildlife carcass as positioned in the field immediately after being harvested.

(37) "Length limit" means the minimum length of a fish allowed in order to take it and not re-

lease it to the water immediately. For the purpose of this paragraph, the length of the fish shall be measured from the tip of the snout to the end of the tail, with the mouth closed and the tail lobes pressed together.

(38) "Moorage site" means a location designated for the fastening or securing of a vessel.

(39) "Nonsport fish" means common carp, silver carp, bighead carp, black carp, grass carp, drum, threadfin and gizzard shad, goldfish, gar, suckers including carpsuckers and buffalo, eel, sturgeon, goldeye, white perch, and bowfin.

(40) "Orthopedic device" means a device that attaches to the body and is required to enable a handicapped person to walk.

(41) "Overflow camping area" means an area in a state park that is separate from the designated overnight camping area and that may be used for a maximum of 24 continuous hours of camping if no alternative camping facilities are available within reasonable driving distances.

(42) "Passage" means an immature raptor on first fall migration still in immature plumage.

(43) "Pen-raised wildlife" means any wildlife raised in captivity.

(44) "Pets" means domesticated wildlife, including dogs and cats.

(45) "Possession limit" means the maximum total number of a species that can be retained per person at any one time.

(46) "Prime camping site" means any site within a state park so designated by posted notice of the secretary and subject to an additional charge.

(47) "Raptors" means members of the order Falconiformes or Strigiformes and specifically falcons, hawks, and owls.

(48) "Raw pelt" means the undressed skin of an animal with its hair, wool, or fur in its natural state, without having undergone any chemical preservation converting the skin to a leather condition.

(49) "Recreational vehicle" means a vehicle or trailer unit that contains sleeping or housekeeping accommodations, or both.

(50) "Running" means the pursuing or chasing of furbearers or rabbits with hounds. This term shall not include the capturing, killing, injuring, or possessing of furbearers or rabbits or having a firearm or other weapon in possession while running, except during established furbearer or rabbit hunting seasons.

(51) "Sanctioned or licensed coyote field trial" means a competitive event that involves only sight or trail hounds and that has been advertised in

one of the national foxhound journals at least 30 days before the event.

(52) "Sanctioned or licensed furbearer field trial" means a competitive event in which dogs pursue unrestrained furbearers and that is sanctioned or licensed by any of the national kennel or field dog organizations for the express purpose of improving the quality of the breed through the awarding of points or credits toward specific class championships or other national recognition.

(53) "Seine" means a net with a float line and lead line designed to be pulled through the water for the purpose of catching fish.

(54) "Set line" means a string or cord that is anchored at one point by an anchor weighing at least 25 pounds or is attached to a fixed and immovable stake or object, does not have more than two hooks, and is not associated with a hand-operated mechanical reel.

(55) "Sight hound" means a dog used to pursue furbearers, rabbits, hares, or coyotes by sight.

(56) "Skin and scuba diving" means swimming or diving while equipped with a face mask or goggles, allowing underwater vision and possibly involving an underwater breathing apparatus.

(57) "Snagging" means the hooking of a fish in any part of its anatomy other than the inside of the mouth.

(58) "Speargun" means a device used to propel a spear through the water by mechanical means or compressed gas.

(59) "Sport fish" means northern pike, walleye, saugeye, sauger, yellow perch, striped bass, white bass, black bass including largemouth, spotted, and smallmouth bass, striped bass hybrid, trout, muskellunge, tiger muskie, channel catfish, blue catfish, flathead catfish, paddlefish, and panfish including bullhead, black and white crappie, bluegill, redear sunfish, green sunfish, warmouth, and rock bass.

(60) "State fishing lake" means a department facility that contains the words "state fishing lake" in the name of the area.

(61) "Tip-up" means an ice fishing device designed to signal the strike of a fish.

(62) "Trail hound" means a dog used to trail furbearers, rabbits, hares, or coyotes by scent.

(63) "Transfer" means any of the following:

(A) To reassign one's license, permit, or other issue of the department to another individual;

(B) to exchange any license, permit, or other issue of the department between individuals; or

(C) to carry another individual's license, permit,

or other issue of the department when that individual is not present.

(64) "Trot line" means a string or cord anchored at one or more points that does not have more than 25 hooks and is not associated with a hand-operated mechanical reel.

(65) "Turkey" means wild turkey.

(66) "Unattended fishing line" means any fishing line set to catch fish that is not marked or tagged as required by K.A.R. 115-7-2 or K.A.R. 115-17-11 and not immediately attended by the operator of the fishing line.

(67) "Wake" means the waves thrown by a vessel moving on water.

(68) "Water race" means a competitive event in which hounds pursue a scent device or a caged, pen-raised furbearer through water. The furbearer is not released during the event.

(69) "Water set" means any trapping device that has the gripping portion at least half-submerged when placed or set in flowing or pooled water and remains at least half-submerged in contact with the flowing or pooled water.

(b) Exceptions to the definitions in this regulation shall include the following:

(1) The context requires a different definition.

(2) The defined term is specifically defined differently within the department's other regulations. (Authorized by and implementing K.S.A. 2019 Supp. 32-807; effective Dec. 26, 1989; amended June 8, 1992; amended Sept. 19, 1997; amended Nov. 21, 2003; amended July 22, 2011; amended Nov. 26, 2012; amended Nov. 30, 2015; amended Dec. 25, 2020.)

**Article 2.—FEES, REGISTRATIONS AND OTHER CHARGES**

**115-2-1. Amount of fees.** The following fees and discounts shall be in effect for the following licenses, permits, and other issues of the department: (a) Hunting licenses and permits.

Resident hunting license (valid for one year from date of purchase) .....\$25.00  
 Resident hunting license (valid for five years from date of purchase) .....100.00  
 Resident disabled veteran hunting license (valid for one year from date of purchase, 30 percent or more service-connected disabled) .....12.50  
 Resident senior hunting license (valid for one year from date of purchase, 65 years of age through 74 years of age) .....12.50  
 Resident youth hunting license (one-time purchase, valid from 16 years of age through 20 years of age, expiring at the end of that

calendar year).....40.00  
 Nonresident hunting license (valid for one year from date of purchase)..... 95.00  
 Nonresident junior hunting license (under 16 years of age) .....40.00  
 Resident big game hunting permit:  
   General resident: either-sex elk permit ..... 300.00  
   General resident: antlerless-only elk permit .....150.00  
   General resident youth (under 16 years of age): either-sex elk permit.....125.00  
   General resident youth (under 16 years of age): antlerless-only elk permit.....50.00  
   Landowner/tenant: either-sex elk permit..... 150.00  
   Landowner/tenant: antlerless-only elk permit.....75.00  
   Hunt-on-your-own-land: either-sex elk permit.....150.00  
   Hunt-on-your-own-land: antlerless-only elk permit.....75.00  
   General resident: deer permit.....40.00  
   General resident youth (under 16 years of age): deer permit.....10.00  
   General resident: antlerless-only deer permit.....20.00  
   General resident youth (under 16 years of age): antlerless-only deer permit .....7.50  
   Landowner/tenant: deer permit .....20.00  
   Hunt-on-your-own-land: deer permit .....20.00  
   Special hunt-on-your-own-land: deer permit .....85.00  
   General resident: antelope permit .....50.00  
   General resident youth (under 16 years of age): antelope permit .....10.00  
   Landowner/tenant: antelope permit .....25.00  
   Antelope preference point service charge .....10.00  
   Any-deer preference point service charge.....10.00  
   Application fee for elk permit .....10.00  
 Wild turkey permit:  
   General resident: turkey permit (1-bird limit) .....25.00  
   General resident youth (under 16 years of age): turkey permit (1-bird limit) .....5.00  
   Resident landowner/tenant: turkey permit (1-bird limit) .....12.50  
   Nonresident: fall turkey permit (1-bird limit) .....50.00  
   Nonresident tenant: fall turkey permit (1-bird limit) .....25.00  
   Nonresident: spring turkey permit (1-bird limit) .....60.00  
   Nonresident tenant: spring turkey permit (1-bird limit) .....30.00  
   Nonresident youth (under 16 years of age): turkey permit (1-bird limit) .....10.00  
   Resident: turkey preference point service charge.....5.00  
 Wild turkey game tag:  
   Resident: turkey game tag (1-bird limit).....15.00  
   Resident youth (under 16 years of age): turkey game tag (1-bird limit).....5.00  
   Nonresident: turkey game tag (1-bird limit) .....30.00  
   Nonresident youth (under 16 years of age): turkey game tag (1-bird limit).....10.00  
 Spring wild turkey permit and game tag combination (2-bird limit, must be purchased before April 1 of year of use):  
   General resident: turkey permit and game tag combination (2-bird limit) .....35.00  
   General resident youth (under 16 years of age): turkey permit and game tag combination (2-bird limit) .....10.00  
   Resident landowner/tenant: turkey permit and game tag combination (2-bird limit).....17.50  
   Nonresident: turkey permit and game tag combination (2-bird limit).....85.00

Nonresident tenant: turkey permit and game tag combination (2-bird limit).....	42.50
Nonresident youth (under 16 years of age): turkey permit and game tag combination (2-bird limit) .....	20.00
Nonresident big game hunting permit:	
Nonresident hunt-on-your-own-land: deer permit .....	85.00
Nonresident tenant: deer permit .....	85.00
Nonresident: deer permit (antlered deer).....	400.00
Nonresident youth (under 16 years of age): deer permit (antlered deer) .....	75.00
Nonresident: deer permit (antlerless only).....	50.00
Nonresident: combination 2-deer permit (antlered deer and antlerless white-tailed deer).....	415.00
Nonresident youth (under 16 years of age): combination 2-deer permit (antlered deer and antlerless white-tailed deer).....	90.00
Nonresident: antelope permit (archery only) .....	300.00
Nonresident tenant: antelope permit.....	85.00
Nonresident youth (under 16 years of age): antelope (archery only) .....	100.00
Nonresident tenant: either-sex elk permit.....	300.00
Nonresident tenant: antlerless-only elk permit .....	150.00
Nonresident: deer permit application fee.....	25.00
Nonresident: mule deer stamp.....	150.00
Field trial permit: game birds.....	20.00
Lifetime hunting license .....	500.00
or eight quarterly installment payments of.....	67.50
Migratory waterfowl habitat stamp.....	8.00
Sandhill crane hunting permit: validation fee.....	5.00
Disabled person hunt-from-a-vehicle permit .....	0

(b) Fishing licenses and permits.

Resident fishing license (valid for one year from date of purchase) .....	25.00
Resident fishing license (valid for five years from date of purchase) .....	100.00
Resident disabled veteran fishing license (valid for one year from date of purchase, 30 percent or more service-connected disabled) .....	12.50
Resident senior fishing license (valid for one year from date of purchase, 65 years of age through 74 years of age) .....	12.50
Resident youth fishing license (one-time purchase, valid from 16 years of age through 20 years of age, expiring at the end of that calendar year) .....	40.00
Nonresident fishing license (valid for one year from date of purchase) .....	50.00
Resident calendar day fishing license .....	3.50
Nonresident calendar day fishing license .....	7.50
Three-pole permit (valid for one year from date of purchase).....	6.00
Tournament bass pass (valid for one year from date of purchase) .....	12.00
Paddlefish permit (six carcass tags) .....	10.00
Paddlefish permit youth (under 16 years of age) (six carcass tags) .....	5.00
Hand fishing permit .....	25.00
Lifetime fishing license .....	500.00
or eight quarterly installment payments of.....	67.50
Five-day nonresident fishing license .....	25.00
Institutional group fishing license .....	100.00
Special nonprofit group fishing license .....	50.00

Trout permit (valid for one year from date of purchase).....	12.00
Youth trout permit (under 16 years of age, valid for one year from date of purchase).....	4.50

(c) Combination hunting and fishing licenses and permits.

Resident combination hunting and fishing license (valid for one year from date of purchase) .....	45.00
Resident combination hunting and fishing license (valid for five years from date of purchase).....	180.00
Resident disabled veteran combination hunting and fishing license (valid for one year from date of purchase, 30 percent or more service-connected disabled).....	22.50
Resident senior combination hunting and fishing license (valid for one year from date of purchase, 65 years of age through 74 years of age).....	22.50
Resident combination youth hunting and fishing license (one-time purchase, valid from 16 years of age through 20 years of age, expiring at the end of that calendar year) .....	70.00
Resident lifetime combination hunting and fishing license .....	960.00
or eight quarterly installment payments of.....	130.00
Resident senior lifetime combination hunting and fishing license (one-time purchase, valid 65 years of age and older).....	40.00
Nonresident combination hunting and fishing license (valid for one year from date of purchase) .....	135.00

(d) Furharvester licenses.

Resident furharvester license (valid for one year from date of purchase).....	25.00
Resident junior furharvester license (valid for one year from date of purchase) .....	12.50
Lifetime furharvester license .....	500.00
or eight quarterly installment payments of.....	67.50
Nonresident furharvester license (valid for one year from date of purchase) .....	250.00
Nonresident bobcat permit (1-bobcat limit per permit).....	100.00
Resident fur dealer license .....	100.00
Nonresident fur dealer license .....	400.00
Field trial permit: furbearing animals .....	20.00

(e) Commercial licenses and permits.

Controlled shooting area hunting license (valid for one year from date of purchase).....	25.00
Resident mussel fishing license .....	75.00
Nonresident mussel fishing license .....	1,000.00
Mussel dealer permit .....	200.00
Missouri river fishing permit .....	25.00
Game breeder permit .....	10.00
Controlled shooting area operator license .....	200.00
Commercial dog training permit .....	20.00
Commercial fish bait permit (three-year permit) .....	50.00
Commercial prairie rattlesnake harvest permit (without a valid Kansas hunting license).....	20.00
Commercial prairie rattlesnake harvest permit (with a valid Kansas hunting license or exempt from this license requirement).....	5.00

Commercial prairie rattlesnake dealer permit.....	50.00
Prairie rattlesnake round-up event permit.....	25.00

(f) Collection, scientific, importation, rehabilitation, and damage-control permits.

Scientific, educational, or exhibition permit .....	10.00
Raptor propagation permit .....	0
Rehabilitation permit .....	0
Wildlife damage-control permit .....	0
Wildlife importation permit.....	10.00
Threatened or endangered species: special permits.....	0

(g) Falconry.

Apprentice permit.....	75.00
General permit.....	75.00
Master permit.....	75.00
Testing fee .....	50.00

(h) Miscellaneous fees.

Duplicate license, permit, stamp, and other issues of the department.....	0
Special departmental services, materials, or supplies.....	At cost
Vendor bond	
For bond amounts of \$5,000.00 and less .....	50.00
For bond amounts of more than \$5,000.00 .....	50.00
plus \$6.00 per additional \$1,000.00 coverage or any fraction thereof.	

(i) Discounts.

Discount for five or more licenses, permits, stamps, or other issues of the department purchased by an individual at the same time.....	five percent of the total price
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This regulation shall be effective on and after January 1, 2021. (Authorized by K.S.A. 2019 Supp. 32-807 and K.S.A. 2019 Supp. 32-988; implementing K.S.A. 2019 Supp. 32-807, K.S.A. 2019 Supp. 32-988, and K.S.A. 2019 Supp. 32-9,100; effective Dec. 4, 1989; amended Sept. 10, 1990; amended Jan. 1, 1991; amended June 8, 1992; amended Oct. 12, 1992; amended April 11, 1994; amended Aug. 29, 1994; amended June 5, 1995; amended Aug. 21, 1995; amended Feb. 28, 1997; amended July 30, 1999; amended Jan. 2, 2002; amended Jan. 1, 2003; amended Jan. 1, 2004; amended Feb. 18, 2005; amended Jan. 1, 2006; amended May 1, 2006; amended Jan. 1, 2007; amended Jan. 1, 2008; amended Jan. 1, 2009; amended Jan. 1, 2010; amended Aug. 1, 2010; amended Jan. 1, 2011; amended Jan. 1, 2013; amended April 19, 2013; amended Nov. 15, 2013; amended Jan. 1, 2015; amended Jan. 1, 2016; amended Jan. 1, 2018; amended April 26, 2019; amended Sept. 20, 2019; amended Jan. 1, 2021.)

**115-2-2. Motor vehicle permit fees.** (a) The following motor vehicle permit fees shall be in effect for state parks and for other areas requiring a motor vehicle permit:

Daily motor vehicle permit .....	\$3.50
Senior or disabled daily motor vehicle permit.....	1.75
Annual motor vehicle permit .....	22.50
Senior or disabled annual motor vehicle permit .....	11.25
Easy pass annual motor vehicle permit.....	15.00
Unconventional motor vehicle permit .....	50.00

(b) Each daily motor vehicle permit shall expire at 2:00 p.m. on the day following its effective date.

(c) Annual motor vehicle permits shall not be valid during designated special events.

This regulation shall be effective on and after January 1, 2017. (Authorized by and implementing K.S.A. 2015 Supp. 8-134, K.S.A. 2015 Supp. 32-807, and K.S.A. 2015 Supp. 32-901; effective Jan. 22, 1990; amended Oct. 12, 1992; amended Aug. 21, 1995; amended Jan. 1, 2001; amended Jan. 1, 2003; amended Jan. 1, 2005; amended Jan. 1, 2007; amended April 8, 2011; amended Jan. 1, 2012; amended Jan. 1, 2013; amended Jan. 1, 2017.)

**115-2-3. Camping, utility, and other fees.**

(a) Each overnight camping permit shall be valid only for the state park for which the permit is purchased and shall expire at 2:00 p.m. on the day following its effective date.

(b) Any annual camping permit may be used in any state park for unlimited overnight camping, subject to other laws and regulations of the secretary. This permit shall expire on December 31 of the year for which the permit is issued.

(c) Any 14-night camping permit may be used in any state park. This permit shall expire when the permit has been used a total of 14 nights, or on December 31 of the year for which the permit is issued, whichever is first.

(d) Camping permits shall not be transferable.

(e) The fee for a designated prime camping area permit shall be in addition to the overnight, annual, 14-night, or other camping permit fee and shall apply on a nightly basis.

(f) Fees shall be due at the time of campsite occupancy and by noon of any subsequent days of campsite occupancy.

(g) Fees set by this regulation shall be in addition to any required motor vehicle permit fee specified in K.A.R. 115-2-2.

(h) The following fees shall be in effect for state parks and for other designated areas for which camping and utility fees are required:

Camping—per camping unit (April 1 through September 30):

Annual camping permit .....	\$ 250.00
Overnight camping permit .....	9.00
14-night camping permit .....	110.00
Prime camping area permit .....	2.00

Camping—per camping unit (October 1 through March 31):

Annual camping permit .....	200.00
Overnight camping permit .....	9.00
14-night camping permit .....	110.00
Overflow primitive camping permit, per night .....	5.00

Recreational vehicle seasonal camping permit, except for Clinton, El Dorado, Milford, Sand Hills, and Tuttle Creek State Parks (includes utilities)—per month, per unit (annual camping permit and annual vehicle permit required):

One utility .....	370.50
Two utilities .....	430.50
Three utilities .....	490.50

Recreational vehicle seasonal camping permit for Clinton, Milford, Sand Hills, and Tuttle Creek State Parks (includes utilities)—per month, per unit (annual camping permit and annual vehicle permit required):

One utility .....	460.50
Two utilities .....	520.50
Three utilities .....	580.50

Recreational vehicle seasonal camping permit for El Dorado State Park (includes utilities)—per month, per unit (annual camping permit and annual vehicle permit required):

One utility .....	485.50
Two utilities .....	545.50
Three utilities .....	605.50
Recreational vehicle short-term parking—per month .....	50.00

Utilities—electricity, water, and sewer hookup per night, per unit:

One utility .....	9.00
Two utilities .....	11.00
Three utilities .....	12.00

Youth group camping permit in designated areas, per camping unit—per night..... 2.50

Group camping permit in designated areas, per person—per night..... 1.50

Reservation fee, per reservation (camping, special use, or day use).....	10.00
Rent-a-camp: equipment rental per camping unit—per night .....	15.00
Special event permit negotiated based on event type, required services, and lost revenue—maximum .....	200.00

(Authorized by and implementing K.S.A. 2018 Supp. 32-807 and 32-988; effective Jan. 22, 1990; amended Jan. 28, 1991; amended June 8, 1992; amended Oct. 12, 1992; amended Aug. 21, 1995; amended Sept. 19, 1997; amended Jan. 1, 1999; amended Jan. 1, 2001; amended Jan. 1, 2003; amended Jan. 1, 2005; amended Jan. 1, 2009; amended Jan. 1, 2011; amended April 8, 2011; amended Jan. 1, 2012; amended May 24, 2013; amended Feb. 7, 2014; amended Jan. 1, 2015; amended Jan. 1, 2017; amended Jan. 1, 2018; amended Jan. 1, 2019; amended April 26, 2019.)

**115-2-3a.** This regulation shall be revoked on and after September 15, 2011. (Authorized by and implementing K.S.A. 32-807 and K.S.A. 2009 Supp. 32-988; effective Jan. 1, 2005; amended Jan. 1, 2007; amended July 25, 2007; amended Jan. 1, 2008; amended May 16, 2008; amended Dec. 1, 2008; amended Nov. 20, 2009; amended Jan. 1, 2011; revoked Sept. 15, 2011.)

**115-2-4. Boating fees.** The following boating fees shall be in effect for vessel registrations and related issues for which a fee is charged:

Testing or demonstration boat registration .....	\$30.00
Additional registration .....	5.00
Vessel registration: each vessel.....	40.00
Water event permit .....	25.00
Special services, materials, or supplies ....	at cost

(Authorized by and implementing K.S.A. 2018 Supp. 32-1172; effective Aug. 1, 1990; amended Oct. 12, 1992; amended Jan. 1, 2002; amended Jan. 1, 2006; amended May 1, 2006; amended Jan. 1, 2018; amended April 26, 2019.)

**115-2-5.** This regulation shall be revoked on and after January 1, 2019. (Authorized by and implementing K.S.A. 32-807, K.S.A. 32-901, and K.S.A. 2007 Supp. 32-988; effective April 1, 1996; amended Aug. 2, 1996; amended Jan. 1, 2009; revoked Jan. 1, 2019.)

**115-2-6. Other fees.** (a) The following fees shall be in effect for state parks and for other designated areas for which fees are required:

- (1) Annual private boat dock fee..... \$25.00
- (2) Private cabin, club, and organization site assignment transfer fee ..... 25.00
- (3) Private cabin, club, and organization site annual fee.

(A) The annual fee for private cabin, club, and organization sites shall be adjusted when the lease agreement for a site is newly assigned, transferred, or renewed, unless the existing lease agreement specifies a fee applicable for the renewal term.

(B) The annual fee shall be adjusted on January 1, 2018, January 1, 2019, January 1, 2020, January 1, 2021, and January 1, 2022, as specified in subsection (b).

(b) The following fees shall apply for calendar years 2018 through 2022:

(1) Cedar Bluff:

(A) North shore cabin lot.

2018.....	490.00
2019.....	980.00
2020.....	1,470.00
2021.....	1,960.00
2022.....	2,450.00

(B) South shore club lot.

2018.....	500.00
2019.....	1,000.00
2020.....	1,500.00
2021.....	2,000.00
2022.....	2,500.00

(C) South shore cabin lot.

2018.....	440.00
2019.....	880.00
2020.....	1,320.00
2021.....	1,760.00
2022.....	2,200.00

(2) Lovewell:

(A) Club lot.

2018.....	580.00
2019.....	1,160.00
2020.....	1,740.00
2021.....	2,320.00
2022.....	2,900.00

(B) Cabin lot.

2018.....	500.00
2019.....	1,000.00
2020.....	1,500.00

2021.....	2,000.00
2022.....	2,500.00

(C) Mobile home space.

2018.....	250.00
2019.....	500.00
2020.....	750.00
2021.....	1,000.00
2022.....	1,250.00

(3) Webster:

(A) Club lot.

2018.....	500.00
2019.....	1,000.00
2020.....	1,500.00
2021.....	2,000.00
2022.....	2,500.00

(B) Cabin lot.

2018.....	440.00
2019.....	880.00
2020.....	1,320.00
2021.....	1,760.00
2022.....	2,200.00

(c) The annual fee for private cabin, club, and organization sites shall be recalculated on January 1, 2023, January 1, 2028, and January 1, 2033, using the equation and terms specified in this subsection.

$$\text{Annual Fee} = \text{Previous Annual Fee} \times \frac{(\text{New CPI})}{(\text{Previous CPI})}$$

(1) "CPI" shall mean the "consumer price index for all urban consumers" (CPI-U) for the midwest region average for all items, 1982-1984 = 100, as published in the "CPI detailed report" by the bureau of labor statistics of the U.S. department of labor.

(2) "Previous annual fee" shall mean the amount specified in subsection (b) for each location for the year 2022 for the recalculation of the annual fee on January 1, 2023, and for each recalculation thereafter shall mean the annual fee calculated five years previous to the new calculation, using the equation in subsection (c).

(3) "New CPI" shall mean the CPI on July 1 immediately preceding the January 1 date for a newly calculated annual fee.

(4) "Previous CPI" shall mean the CPI on July 1, 2017 for the recalculation of the annual fee on January 1, 2023, the CPI on July 1, 2022 for the recalculation of the annual fee on January 1, 2028, and the CPI on July 1, 2027 for the recalculation of the annual fee on January 1, 2033.

(d) Each private cabin, club, and organization site lease and each private boat dock permit shall expire on the date specified in the respective lease or permit.

This regulation shall be effective on and after January 1, 2018. (Authorized by and implementing K.S.A. 2016 Supp. 32-807 and K.S.A. 2016 Supp. 32-988; effective Jan. 1, 1999; amended July 1, 2002; amended Jan. 1, 2018.)

**115-2-7.** (Authorized by and implementing K.S.A. 2018 Supp. 32-807; effective Jan. 11, 2019; revoked Sept. 20, 2019.)

### Article 3.—SMALL GAME

**115-3-2. Rabbits, hares, and squirrels; legal equipment, taking methods, and possession.** (a) Legal hunting equipment for rabbits, hares, and squirrels shall consist of the following:

(1) Firearms, except fully automatic rifles and handguns and except shotguns and muzzleloading shotguns larger than 10 gauge or using other than shot ammunition;

(2) pellet and BB guns;

(3) archery equipment;

(4) crossbows;

(5) falconry equipment;

(6) projectiles hand-thrown or propelled by a slingshot;

(7) box traps for rabbits only;

(8) optical scopes or sights that project no visible light toward the target and do not electronically amplify visible or infrared light;

(9) lures, decoys except live decoys, and calls, including electric calls; and

(10) other equipment or methods as allowed by permit.

(b) The use of dogs, horses, and mules shall be permitted while hunting, but no person shall shoot while mounted on a horse or mule.

(c) Legal hours for the hunting and taking of rabbits, hares, and squirrels shall be from ½ hour before sunrise to sunset during established hunting seasons, except that legal hours for the running and box-trapping of rabbits shall be 24 hours per day during established running seasons.

(d) Any type of apparel may be worn while hunting or running rabbits.

(e) Legally taken rabbits, hares, and squirrels may be possessed without limit in time and may be given to another if accompanied by a dated written notice that includes the donor's printed

name, signature, address, and permit or license number. The person receiving the meat shall retain the notice until the meat is consumed, given to another, or otherwise disposed of. (Authorized by and implementing K.S.A. 2018 Supp. 32-807 and K.S.A. 2018 Supp. 32-1002; effective, T-115-7-27-89, July 27, 1989; effective Sept. 18, 1989; amended, T-115-12-28-89, Dec. 28, 1989; amended Jan. 22, 1990; amended Sept. 19, 1997; amended June 1, 2001; amended July 23, 2004; amended Feb. 18, 2005; amended April 26, 2019.)

### Article 4.—BIG GAME

**115-4-2. Big game and wild turkey; general provisions.** (a) Possession.

(1) Each permittee shall meet either of the following requirements:

(A) Nonelectronic carcass tags. The permittee shall sign, record the county, the date, and the time of kill, and attach the carcass tag to the carcass in a visible manner immediately following the kill and before moving the carcass from the site of the kill. The carcass tag shall remain attached to the carcass or in the possession of the permittee if transporting a quartered or deboned animal until the animal reaches the permittee's residence or a commercial place of processing or preservation and is processed for consumption. The permittee shall retain the carcass tag until the animal is consumed, given to another, or otherwise disposed of.

(B) Electronic carcass tags. Using the department's electronic carcass tag system, the permittee shall record the county, the date, and the time of kill and enter a photograph of the entire carcass, with sufficient clarity to display the species and the antlered or antlerless condition of the big game animal or the beard of the wild turkey, immediately following the kill and before moving the carcass from the site of the kill. The permittee shall possess the confirmation number until the animal reaches the permittee's residence or a commercial place of processing or preservation and is processed for consumption. The permittee shall retain the confirmation number until the animal is consumed, given to another, or otherwise disposed of.

(2) Except for a wild turkey or big game animal taken with an "either sex" permit, the beard of the wild turkey shall remain naturally attached to the breast and the visible sex organs of the big game animal shall remain naturally attached

to the carcass, or a quartered portion of the carcass, while in transit from the site of the kill to the permittee's residence or to a commercial place of processing or preservation, unless the carcass has been tagged with a department check station tag, the permittee is using the department's electronic carcass tag system and has submitted the information required in paragraph (a)(1)(B), the permittee has obtained a transportation confirmation number after electronically registering the permittee's big game animal or wild turkey on the department's electronic registration site, or the permittee retains photographs necessary for electronic registration until registration occurs. "Electronically registering" shall mean submitting any necessary and relevant information and digital photographs of the big game head or turkey breast and of the completed carcass tag of sufficient clarity to display the species and the antlered or antlerless condition of the big game animal, the beard of the wild turkey, and the transaction number and signature on a completed carcass tag.

(3) Any legally acquired big game or wild turkey meat may be given to and possessed by another, if a dated written notice that includes the donor's printed name, signature, address, and permit number accompanies the meat. The person receiving the meat shall retain the notice until the meat is consumed, given to another, or otherwise disposed of.

(4) Any person may possess a salvaged big game or wild turkey carcass if a department salvage tag issued to the person obtaining the carcass is affixed to the carcass. The salvage tag shall be retained as provided in paragraph (a)(1). Big game or wild turkey meat may be donated as specified in paragraph (a)(3) using the salvage tag number. Each salvage tag report prepared by the department agent issuing the tag shall be signed by the individual receiving the salvaged big game or wild turkey carcass. Each salvage tag shall include the following information:

(A) The name and address of the person to whom the tag is issued;

(B) the salvage tag number;

(C) the species and sex of each animal for which the tag is issued;

(D) the location and the date, time, and cause of death of each animal; and

(E) the date of issuance and the signature of the department agent issuing the salvage tag.

(b) Big game and wild turkey permits and game tags.

(1) Big game and wild turkey permits and game tags shall not be transferred to another person, unless otherwise authorized by law or regulation.

(2) In addition to other penalties prescribed by law, each big game and wild turkey permit or game tag shall be invalid from the date of issuance if obtained by an individual under any of these conditions:

(A) Through false representation;

(B) through misrepresentation; or

(C) in excess of the number of permits or game tags authorized by regulations for that big game species or wild turkey.

(3) No individual shall copy, reproduce, or possess any copy or reproduction of a big game or wild turkey permit or carcass tag.

(c) Hunting assistance. Subject to the hunting license requirements of K.S.A. 32-919 and amendments thereto, the license requirements of the implementing regulations, and the provisions of paragraphs (c)(1), (c)(2), and (c)(3), any individual may assist any holder of a big game or wild turkey permit or game tag during the permittee's big game or wild turkey hunting activity. This assistance may include herding, driving, or calling.

(1) An individual assisting the holder of a big game or wild turkey permit or game tag shall not perform the actual shooting of big game or wild turkey for the permittee. However, a permittee who is, because of disability, unable to pursue a wounded big game animal or wild turkey may designate any individual to assist in pursuing and dispatching a big game animal or wild turkey wounded by the disabled permittee.

(2) The designated individual shall carry the disabled permittee's big game or wild turkey permit or game tag and shall utilize the applicable procedure specified in subsection (a).

(3) The designated individual shall use only the type of equipment authorized for use by the disabled permittee. (Authorized by and implementing K.S.A. 2019 Supp. 32-807, K.S.A. 2019 Supp. 32-933, K.S.A. 2019 Supp. 32-937, and K.S.A. 2019 Supp. 32-969; effective June 1, 2001; amended April 22, 2005; amended April 16, 2010; amended April 20, 2012; amended July 18, 2014; amended April 21, 2017; amended Dec. 20, 2019; amended May 22, 2020.)

**115-4-4. Big game; legal equipment and taking methods.** (a) Hunting equipment for the taking of big game during a big game archery season shall consist of the following:

(1) Archery equipment.

(A) No bow or arrow shall have any electronic device attached to the bow or arrow that controls the flight of the arrow. Devices that may be attached to a bow or arrow shall include lighted pin, dot, or holographic sights; illuminated nocks; rangefinders; film or video cameras; locking draws; and radio-frequency location devices.

(B) Each arrow used for hunting shall be equipped with a broadhead point incapable of passing through a ring with a diameter of three-quarters of an inch when fully expanded. A big game hunter using archery equipment may possess non-broadhead-tipped arrows while hunting if the arrows are not used to take or attempt to take big game animals.

(2) Crossbows using arrows that are equipped with broadhead points incapable of passing through a ring with a diameter of three-quarters of an inch when fully expanded. A big game hunter using crossbow equipment may possess non-broadhead-tipped arrows while hunting if the arrows are not used to take or attempt to take big game animals.

No crossbow or arrow shall have any electronic device attached to the crossbow or arrow that controls the flight of the arrow. Devices that may be attached to a crossbow or arrow shall include lighted pin, dot, or holographic sights; illuminated nocks; rangefinders; film or video cameras; and radio-frequency location devices.

(b) Hunting equipment for the taking of big game during a big game muzzleloader-only season shall consist of the following:

(1) Archery and crossbow equipment as authorized in subsection (a); and

(2) muzzleloading rifles, pistols, and muskets that can be loaded only through the front of the firing chamber with separate components and are .40 inches in diameter bore or larger. Only tumble-on-impact, hard-cast solid lead, conical lead, or sabot bullets shall be used with muzzleloading rifles, pistols, and muskets.

(c) Hunting equipment for the taking of big game during a big game firearm season shall consist of the following:

(1) Archery and crossbow equipment as authorized in subsection (a);

(2) muzzleloader-only season equipment as authorized in subsection (b);

(3) centerfire rifles and handguns that are not fully automatic, while using only tumble-on-impact, hard-cast solid lead, soft point, hollow point, or other expanding bullets; and

(4) shotguns using only slugs.

(d)(1) Each individual hunting deer or elk during a firearms deer or elk season and each individual assisting an individual hunting deer or elk as authorized by K.A.R. 115-4-2 or K.A.R. 115-18-15 during a firearms deer or elk season shall wear outer clothing of a bright orange color commonly referred to as daylight fluorescent orange, hunter orange, blaze orange, or safety orange. This bright orange color shall be worn as follows:

(A) A hat with the exterior of not less than 50 percent of the bright orange color, an equal portion of which is visible from all directions; and

(B) at least 100 square inches of the bright orange color that is on the front of the torso and is visible from the front and at least 100 square inches that is on the rear of the torso and is visible from the rear.

(2) Lures, decoys except live decoys, and non-electric calls shall be legal while hunting big game.

(3) Any individual may use blinds and stands while hunting big game.

(4) Optical scopes or sights that project no visible light toward the target and do not electronically amplify visible light or detect infrared light or thermal energy may be used.

(5) Any range-finding device, if the device does not project visible light toward the target, may be used.

(6) Devices capable of dispensing lethal, debilitating, or immobilizing chemicals to take big game animals shall not be used.

(e) Shooting hours for deer, antelope, and elk during each day of any deer, antelope, or elk hunting season shall be from one-half hour before sunrise to one-half hour after sunset.

(f) Horses and mules may be used while hunting big game, except that horses and mules shall not be used for herding or driving big game.

(g) Firearm report-suppressing devices may be used.

(h) Handguns may be possessed during all big game seasons. However, no handgun shall be used to take deer except as legal equipment specified in subsection (c) during a big game firearms season.

(i) Dogs may be used to retrieve dead or wounded big game animals if the following requirements are met:

(1) Each dog shall be maintained on a hand-held leash at all times while tracking the big game animal.

(2) An individual tracking big game animals outside of legal shooting hours shall not carry any

equipment capable of harvesting the big game animal.

(3) Each individual harvesting a big game animal shall be limited to the equipment type for the permit and the season that is authorized.

(4) Each individual participating in the tracking of the big game animal shall have a hunting license, unless the individual is exempt by law or regulation. (Authorized by and implementing K.S.A. 2019 Supp. 32-807 and K.S.A. 2019 Supp. 32-937; effective June 1, 2001; amended April 19, 2002; amended April 22, 2005; amended June 2, 2006; amended April 13, 2007; amended April 11, 2008; amended May 21, 2010; amended April 20, 2012; amended April 19, 2013; amended Sept. 4, 2014; amended April 26, 2019; amended May 22, 2020.)

**115-4-4a. Wild turkey; legal equipment and taking methods.** (a) Hunting equipment for the taking of wild turkey during a wild turkey archery season shall consist of the following:

(1) Archery equipment.

(A) No bow or arrow shall have any electronic device attached to the bow or arrow that controls the flight of the arrow. Devices that may be attached to a bow or arrow shall include lighted pin, dot, or holographic sights; illuminated nocks; rangefinders; film or video cameras; and radio-frequency location devices.

(B) Each arrow used for hunting shall be equipped with a broadhead point incapable of passing through a ring with a diameter of three-quarters of an inch when fully expanded. A wild turkey hunter using archery equipment may possess non-broadhead-tipped arrows while hunting if the arrows are not used to take or attempt to take wild turkeys.

(2) Crossbows using arrows that are equipped with broadhead points incapable of passing through a ring with a diameter of three-quarters of an inch when fully expanded. A wild turkey hunter using crossbow equipment may possess non-broadhead-tipped arrows while hunting if the arrows are not used to take or attempt to take wild turkeys.

No crossbow or arrow shall have any electronic device attached to the crossbow or arrow that controls the flight of the arrow. Devices that may be attached to a crossbow or arrow shall include lighted pin, dot, or holographic sights; illuminated nocks; rangefinders; film or video cameras; and radio-frequency location devices.

(b) Hunting equipment for the taking of wild turkey during a wild turkey firearm season shall consist of the following:

(1) Archery and crossbow equipment as authorized in subsection (a); and

(2) shotguns and muzzleloading shotguns using only size two shot through size nine shot.

(c) Legal accessory equipment for the taking of wild turkey during any wild turkey season shall consist of the following:

(1) Lures; decoys, except live decoys; and non-electric calls;

(2) blinds and stands;

(3) range-finding devices, if the devices do not project visible light toward the target; and

(4) optical scopes or sights that project no visible light toward the target and do not electronically amplify visible light or detect infrared light or thermal energy.

(d) Shooting hours for wild turkey during each day of any turkey hunting season shall be from one-half hour before sunrise to sunset.

(e) Each individual hunting turkey shall shoot or attempt to shoot a turkey only while the turkey is on the ground or in flight.

(f) Dogs may be used while hunting turkey, but only during the fall turkey season.

(g) Firearm report-suppressing devices may be used.

(h) Handguns may be possessed during all wild turkey seasons. However, no handgun shall be used to take wild turkeys. (Authorized by and implementing K.S.A. 2019 Supp. 32-807 and K.S.A. 2019 Supp. 32-969; effective April 22, 2005; amended April 13, 2007; amended April 11, 2008; amended May 21, 2010; amended April 20, 2012; amended April 19, 2013; amended Dec. 25, 2020.)

**115-4-6. Deer; management units.** Each of the following subsections shall designate a deer management unit: (a) High Plains; unit 1: that part of Kansas bounded by a line from the Nebraska-Kansas state line south on federal highway US-283 to its junction with interstate highway I-70, then west on interstate highway I-70 to the Colorado-Kansas state line, then north along the Colorado-Kansas state line to its junction with the Nebraska-Kansas state line, then east along the Nebraska-Kansas state line to its junction with federal highway US-283, except federal and state sanctuaries.

(b) Smoky Hill; unit 2: that part of Kansas bounded by a line from the Colorado-Kansas state

line east on interstate highway I-70 to its junction with state highway K-147, then south on state highway K-147 to its junction with state highway K-4, then west on state highway K-4 to its junction with federal highway US-83, then south on federal highway US-83 to its junction with state highway K-96, then west on state highway K-96 to its junction with the Colorado-Kansas state line, then north along the Colorado-Kansas state line to its junction with interstate highway I-70, except federal and state sanctuaries.

(c) Kirwin-Webster; unit 3: that part of Kansas bounded by a line from the Nebraska-Kansas state line south on state highway K-8 to its junction with federal highway US-36, then east on federal highway US-36 to its junction with federal highway US-281, then south on federal highway US-281 to its junction with interstate highway I-70, then west on interstate highway I-70 to its junction with federal highway US-283, then north on federal highway US-283 to its junction with the Nebraska-Kansas state line, then east along the Nebraska-Kansas state line to its junction with state highway K-8, except federal and state sanctuaries.

(d) Kanopolis; unit 4: that part of Kansas bounded by a line from the interstate highway I-70 and state highway K-147 junction, then east on interstate highway I-70 to its junction with federal highway US-81, then south on federal highway US-81 to its junction with state highway K-4, then west on state highway K-4 to its junction with state highway K-147, then north on state highway K-147 to its junction with interstate highway I-70, except federal and state sanctuaries.

Smoky Hill Air National Guard Range; subunit 4a. The following described area shall be designated a subunit of unit 4, and, with approval of air national guard command, the area shall be open for the taking of deer during the firearm season: United States government land lying entirely within the boundaries of the Smoky Hill Air National Guard Range. Each person hunting in this subunit during the firearm deer season shall be in possession of any permits and licenses required by the air national guard.

(e) Pawnee; unit 5: that part of Kansas bounded by a line from the state highway K-4 and state highway K-14 junction, then south on state highway K-14 to its junction with federal highway US-50, then west on federal highway US-50 to its junction with federal highway US-183, then northeast and north on federal highway US-183 to its junction with federal highway US-156, then

west on federal highway US-156 to its junction with federal highway US-283, then north on federal highway US-283 to its junction with state highway K-4, then east on state highway K-4 to its junction with state highway K-14, except federal and state sanctuaries.

(f) Middle Arkansas; unit 6: that part of Kansas bounded by a line from the state highway K-4 and federal highway US-77 junction, then south on federal highway US-77 to its junction with federal highway US-50, then west on federal highway US-50 to its junction with state highway K-14, then north on state highway K-14 to its junction with state highway K-4, then east on state highway K-4 to its junction with federal highway US-77, except federal and state sanctuaries.

(g) Solomon; unit 7: that part of Kansas bounded by a line from the Nebraska-Kansas state line south on federal highway US-81 to its junction with interstate highway I-70, then west on interstate highway I-70 to its junction with federal highway US-281, then north on federal highway US-281 to its junction with federal highway US-36, then west on federal highway US-36 to its junction with state highway K-8, then north on state highway K-8 to its junction with the Nebraska-Kansas state line, then east along the Nebraska-Kansas state line to its junction with federal highway US-81, except federal and state sanctuaries.

(h) Republican; unit 8: that part of Kansas bounded by a line from the Nebraska-Kansas state line south on federal highway US-77 to its junction with federal highway US-24, then south on federal highway US-24 to its junction with state highway K-177, then south on state highway K-177 to its junction with interstate highway I-70, then west on interstate highway I-70 to its junction with federal highway US-77, then south on federal highway US-77 to its junction with state highway K-4, then west on state highway K-4 to its junction with federal highway US-81, then north on federal highway US-81 to its junction with the Nebraska-Kansas state line, then east along the Nebraska-Kansas state line to its junction with federal highway US-77, except federal and state sanctuaries.

Fort Riley; subunit 8a. The following described area shall be designated a subunit of unit 8, and, with approval of Fort Riley command, the area shall be open for the taking of deer during the firearm deer season: United States government land lying entirely within the boundaries of the Fort Riley military reservation. Each person hunt-

ing in this subunit during the firearm deer season shall be in possession of any permits and licenses required by Fort Riley.

(i) Tuttle Creek; unit 9: that part of Kansas bounded by a line from the Nebraska-Kansas state line, south on federal highway US-75 to its junction with interstate highway I-70, then west on interstate highway I-70 to its junction with state highway K-177, then north on state highway K-177 to its junction with federal highway US-24, then north on federal highway US-24 to its junction with federal highway US-77, then north on federal highway US-77 to its junction with the Nebraska-Kansas state line, then east along the Nebraska-Kansas state line to its junction with federal highway US-75, except federal and state sanctuaries.

(j) Kaw; unit 10: that part of Kansas bounded by a line from the Nebraska-Kansas state line south on federal highway US-75 to its junction with interstate highway I-35, then northeast on interstate highway I-35 to its junction with state highway K-150, then east on state highway K-150 to the Missouri-Kansas state line, then north along the Missouri-Kansas state line to its junction with the Nebraska-Kansas state line, then west along the Nebraska-Kansas state line to its junction with federal highway US-75, except federal and state sanctuaries.

Fort Leavenworth urban; subunit 10a. The following described area shall be designated a subunit of unit 10, and, with approval of Fort Leavenworth command, the area shall be open for the taking of deer during the firearm deer season: United States government land lying entirely within the boundaries of the Fort Leavenworth military reservation. Each person hunting in this subunit during the firearm deer season shall be in possession of any permits and licenses required by Fort Leavenworth.

(k) Osage Prairie; unit 11: that part of Kansas bounded by a line from the Oklahoma-Kansas state line north on federal highway US-169 to its junction with state highway K-47, then west on state highway K-47 to its junction with federal highway US-75, then north on federal highway US-75 to its junction with interstate highway I-35, then northeast on interstate highway I-35 to its junction with state highway K-150, then east on state highway K-150 to its junction with the Missouri-Kansas state line, then south along the Missouri-Kansas state line to its junction with the Oklahoma-Kansas state line, then west along the

Oklahoma-Kansas state line to its junction with federal highway US-169, except federal and state sanctuaries.

(l) Chautauqua Hills; unit 12: that part of Kansas bounded by a line from the Oklahoma-Kansas state line north on federal highway US-169 to its junction with state highway K-47, then west on state highway K-47 to its junction with federal highway US-75, then north on federal highway US-75 to its junction with federal highway US-54, then west on federal highway US-54 to its junction with state highway K-99, then south on state highway K-99 to its junction with federal highway US-160, then west on federal highway US-160 to its junction with state highway K-15, then east and south on state highway K-15 to its junction with the Oklahoma-Kansas state line, then east along the Oklahoma-Kansas state line to its junction with federal highway US-169, except federal and state sanctuaries.

(m) Lower Arkansas; unit 13: that part of Kansas bounded by a line from the Oklahoma-Kansas state line north on federal highway US-81 to its junction with state highway K-53, then east on state highway K-53 to its junction with state highway K-15, then southeasterly on state highway K-15 to its junction with the Oklahoma-Kansas state line, then west along the Oklahoma-Kansas state line to its junction with federal highway US-81, except federal and state sanctuaries.

(n) Flint Hills; unit 14: that part of Kansas bounded by a line from the junction of interstate highway I-70 and federal highway US-75, then south on federal highway US-75 to its junction with federal highway US-54, then west on federal highway US-54 to its junction with state highway K-99, then south on state highway K-99 to its junction with federal highway US-160, then west on federal highway US-160 to its junction with federal highway US-77, then north on federal highway US-77 to its junction with interstate highway I-70, then east on interstate highway I-70 to its junction with federal highway US-75, except federal and state sanctuaries.

(o) Ninnescah; unit 15: that part of Kansas bounded by a line from the Oklahoma-Kansas state line north on state highway K-179 to its junction with state highway K-14, then continuing north on state highway K-14 to its junction with state highway K-42, then west on state highway K-42 to its junction with federal highway US-281, then north on federal highway US-281 to its junction with federal highway US-50, then east on

federal highway US-50 to its junction with federal highway US-77, then south on federal highway US-77 to its junction with state highway K-15, then west and northwest on state highway K-15 to its junction with state highway K-53, then west on state highway K-53 to its junction with federal highway US-81, then south on federal highway US-81 to the Oklahoma-Kansas state line, then west along the Oklahoma-Kansas state line to its junction with state highway K-179, except federal and state sanctuaries.

(p) Red Hills; unit 16: that part of Kansas bounded by a line from the Oklahoma-Kansas state line north on federal highway US-283 to its junction with federal highway US-54, then east on federal highway US-54 to its junction with federal highway US-183, then north on federal highway US-183 to its junction with federal highway US-50, then east on federal highway US-50 to its junction with federal highway US-281, then south on federal highway US-281 to its junction with state highway K-42, then east on state highway K-42 to its junction with state highway K-14, then south on state highway K-14 to its junction with state highway K-179, then south on state highway K-179 to the Oklahoma-Kansas state line, then west along the Oklahoma-Kansas state line to its junction with federal highway US-283, except federal and state sanctuaries.

(q) West Arkansas; unit 17: that part of Kansas bounded by a line from the Colorado-Kansas state line east on state highway K-96 to its junction with federal highway US-83, then north on federal highway US-83 to its junction with state highway K-4, then east on state highway K-4 to its junction with federal highway US-283, then south on federal highway US-283 to its junction with federal highway US-156, then east on federal highway US-156 to its junction with federal highway US-183, then south on federal highway US-183 to its junction with federal highway US-54, then southwest on federal highway US-54 to its junction with federal highway US-283, then north on federal highway US-283 to its junction with federal highway US-56, then southwest on federal highway US-56 to its junction with state highway K-144, then west on state highway K-144 to its junction with federal highway US-160, then continuing west on federal highway US-160 to the Colorado-Kansas state line, then north along the Colorado-Kansas state line to its junction with state highway K-96, except federal and state sanctuaries.

(r) Cimarron; unit 18: that part of Kansas bounded by a line from the Colorado-Kansas state line east on federal highway US-160 to its junction with state highway K-144, then east on state highway K-144 to its junction with federal highway US-56, then east on federal highway US-56 to its junction with federal highway US-283, then south on federal highway US-283 to its junction with the Oklahoma-Kansas state line, then west along the Oklahoma-Kansas state line to its junction with the Colorado-Kansas state line, then north along the Colorado-Kansas state line to its junction with federal highway US-160, except federal and state sanctuaries.

(s) Kansas City urban; unit 19: that part of Kansas bounded by a line from the Missouri-Kansas state line west on Johnson County 199 Street to its junction with interstate highway I-35, then southwest on interstate highway I-35 to its junction with federal highway US-75, then north on federal highway US-75 to its junction with South Topeka Boulevard, then north on South Topeka Boulevard to its junction with Shawnee County SW 93 Street, then west on Shawnee County SW 93 Street to its junction with Shawnee County SW Auburn Road, then north on Shawnee County SW Auburn Road to its junction with interstate highway I-70, then west on interstate highway I-70 to its junction with NW Carlson-Rossville Road, then north on NW Carlson-Rossville Road to its junction with Shawnee County NW 62 Street, then east on Shawnee County NW 62 Street to its junction with Shawnee County NW Hoch Road, then north on Shawnee County NW Hoch Road to its junction with Shawnee County NW 66 Street, then east on Shawnee County NW 66 Street to its junction with Shawnee County NW Humphrey Road, then south on Shawnee County NW Humphrey Road to its junction with Shawnee County NW 62 Street, then east on Shawnee County NW 62 Street to its junction with state highway K-4, then north on state highway K-4 to its junction with state highway K-92, then east on state highway K-92 to its junction with Leavenworth County 207 Street, then north on Leavenworth County 207 Street to its junction with state highway K-192, then northeast on state highway K-192 to its junction with federal highway US-73, then east on federal highway US-73 to the Missouri-Kansas state line, and then south on the Missouri-Kansas state line to Johnson County 199 Street, except federal and state sanctuaries and department-owned or -managed properties. (Authorized by K.S.A. 2019

Supp. 32-807; implementing K.S.A. 2019 Supp. 32-807 and K.S.A. 2019 Supp. 32-937; effective April 30, 1990; amended June 8, 1992; amended June 1, 1993; amended June 13, 1994; amended May 30, 1995; amended June 6, 1997; amended July 21, 2000; amended April 18, 2003; amended July 25, 2003; amended Feb. 18, 2005; amended April 14, 2006; amended Feb. 8, 2008; amended April 16, 2010; amended May 22, 2020.)

**115-4-6b. Elk; management units.** Each of the following subsections shall designate an elk management unit: (a) Cimarron; unit 1: that part of Kansas bounded by a line from the Oklahoma-Kansas state line north on county road CR-24 to its junction with state highway K-51, then north on state highway K-51 to its junction with road U, then west on state highway K-51 to its junction with road 9, then north on road 9 to its junction with road V, then west on road V to its junction with the Colorado-Kansas state line, then south along the Colorado-Kansas border to its junction with the Oklahoma-Kansas border, and then east along the Oklahoma-Kansas border to its junction with county road CR-24, except federal and state sanctuaries.

(b) Republican-Tuttle; unit 2: That part of Kansas bounded by a line from the federal highway US-77 and interstate highway I-70 junction, then northeast along interstate highway I-70 to its junction with state highway K-177, then north along state highway K-177 to its junction with state highway K-24, then west along state highway K-24 to its junction with state highway K-77, then north along state highway K-77 to its junction with barton road, then west along barton road to its junction with state highway 24, then west along state highway 24 to its junction with state highway 15, then south along state highway K-15 to its junction with state highway K-18, then east along state highway K-18 to its junction with state highway K-77, and then south along state highway K-77 to its junction with interstate highway I-70, except federal and state sanctuaries.

Fort Riley; subunit 2a: The following described area shall be designated a subunit of unit 2, and, with approval of Fort Riley command, the area shall be open for the taking of elk during the elk season: United States government land lying entirely within the boundaries of the Fort Riley military reservation. Each person hunting in this subunit shall be in possession of any permits and licenses required by Fort Riley.

(c) Kansas; unit 3: statewide except for the areas described in units 1 and 2. (Authorized by K.S.A. 2017 Supp. 32-807; implementing K.S.A. 2017 Supp. 32-807 and K.S.A. 2017 Supp. 32-937; effective April 8, 2011; amended July 20, 2018.)

**115-4-11. Big game and wild turkey permit applications.** (a) General application provisions.

(1) Unless otherwise authorized by law or regulation, an individual shall not apply for or obtain more than one antlered or horned big game or wild turkey permit for each big game species or wild turkey, except when the individual is unsuccessful in a limited quota drawing and alternative permits for the species are available at the time of subsequent application or when the individual is the final recipient of a commission permit.

(2) Unless otherwise authorized by law or regulation, each big game or wild turkey permit application shall be signed by the individual applying for the permit.

(3) Subject to any priority draw system established by this regulation, if the number of permit applications of a specific species and type received by the designated application deadline exceeds the number of available permits of that species and type, a random drawing to issue permits of that species and type shall be conducted by the secretary.

(4) A hunt-on-your-own-land permit shall not be tabulated in a priority draw system if the permit would otherwise reduce the applicant's odds of receiving a big game permit through that draw system.

(b) Deer permit applications.

(1) Subject to any priority draw system established by this subsection, in awarding deer permits in units having a limited number of permits, the first priority shall be given to those applicants who did not receive, in the previous year, a deer permit that allowed the taking of an antlered deer. All other deer permit applicants shall be given equal priority.

(2) In awarding a limited number of deer permits by a priority draw system, the first priority shall be given to those individuals who have earned the highest number of preference points. Preference points shall be awarded as follows:

(A) One point shall be awarded to an individual for each year the individual is unsuccessful in obtaining, by a priority draw system, a deer permit that allows the taking of an antlered deer.

(B) If the individual fails to make at least one application or purchase one preference point within a period of five consecutive years, all earned points shall be lost.

(C) If an applicant obtains, by a priority draw system, a deer permit that allows the taking of an antlered deer, all earned points shall be lost.

(D) If the number of applicants with the most preference points exceeds the number of permits for specified units or permit types, then a drawing shall be held to determine the successful applicants.

(E) If an individual desires to apply for a preference point for a deer permit that allows the taking of antlered deer and not receive a permit, the person may apply for and receive a preference point by paying the proper application or preference point fee and submitting an application during the application period specified in this regulation. No individual may apply for more than one preference point in the same calendar year, and no individual shall apply for a preference point in the same calendar year as the calendar year in which the individual is applying for a permit.

(3) If an individual is a final recipient of a commission deer permit, the individual shall not possess more than one regular antlered deer permit and one commission deer permit.

(4) Applications for nonresident limited-quota antlered deer permits shall be accepted in the Pratt office from the earliest date that applications are available through the last Friday of April each year. Any nonresident applicant may select, at the time of application, one deer management unit and up to one adjacent management unit where that permit shall be valid.

(5) Applications for resident firearms either-species, either-sex permits shall be accepted at designated locations from the earliest date that applications are available through the second Friday of June.

(6) Applications for resident any-season white-tailed either-sex deer permits, resident archery deer permits, resident muzzleloader either-species either-sex permits, and hunt-on-your-own-land deer permits shall be accepted at designated locations from the earliest date that applications are available through December 30.

(7) Each resident applicant for either-species, either-sex muzzleloader or firearm deer permits shall select, at the time of application, the unit where the permit shall be valid. The west unit permit shall be valid in units 1, 2, 17, and 18. The

east unit permit shall be valid in units 3, 4, 5, 7, and 16.

(8) Applications for antlerless white-tailed deer permits shall be accepted at designated locations from the earliest date that applications are available through January 30 of the following year.

(9) Each nonresident applicant for a regular deer permit shall have purchased a nonresident hunting license before submitting the application or shall purchase a nonresident hunting license when submitting the application.

(c) Firearm antelope permit applications. In awarding firearm antelope permits, the first priority shall be given to those individuals who have earned the highest number of preference points. Preference points shall be awarded as follows:

(1) One point shall be awarded to an individual for each year the individual is unsuccessful in obtaining a firearm antelope permit.

(2) If the individual fails to make at least one application or purchase one preference point within a period of five consecutive years, all earned points shall be lost.

(3) If an applicant obtains a firearm permit by a priority draw system, all earned points shall be lost.

(4) If the number of applicants with the most preference points exceeds the number of permits for specified units or permit types, then a drawing shall be held to determine the successful applicants.

(5) If an individual desires to apply for a preference point for an antelope firearms permit that allows the taking of an antelope and not receive a permit, the person may apply for and receive a preference point by paying the preference point fee and submitting an application during the application period specified in this regulation. No individual may apply for more than one preference point in the same calendar year, and no individual shall apply for a preference point in the same calendar year as the calendar year in which the individual is applying for a permit.

(6) Applications for resident firearm and muzzleloader permits shall be accepted in the Pratt office from the earliest date that applications are available through the second Friday of June.

(7) Applications for resident and nonresident archery permits shall be accepted at designated locations from the earliest date that applications are available through October 30.

(8) If there are any unfilled permits after all timely applications have been considered, the application period may be extended by the secretary.

(9) Any applicant unsuccessful in obtaining a permit through a drawing may apply for any permit made available during an extended application period, or any other permit that is available on an unlimited basis.

(d) Elk permit applications.

(1) An individual receiving a limited-quota elk permit shall not be eligible to apply for or receive an elk permit in subsequent seasons, with the following exceptions:

(A) An individual receiving an any-elk or a bull-only elk permit may apply for and receive an antlerless-only elk permit in subsequent seasons.

(B) An individual receiving a limited-quota, antlerless-only elk hunting permit shall not be eligible to apply for or receive a limited-quota, antlerless-only elk permit for a five-year period thereafter. Subject to this subsection, however, this individual may apply for and receive an any-elk or bull-only elk permit without a waiting period.

(C) When a limited number of elk permits are awarded by a random draw system, each individual shall have an additional opportunity of drawing for each bonus point earned by the individual in addition to the current application. Bonus points shall be awarded as follows:

(i) One bonus point shall be awarded to an individual for each year the individual is unsuccessful in obtaining, by a random draw system, an elk permit that allows the taking of an elk.

(ii) If an individual fails to make at least one application or purchase one bonus point within a period of five consecutive years, all earned bonus points shall be lost.

(iii) If an applicant obtains, by a random draw system, an elk permit that allows the taking of an elk, all earned points shall be lost.

(iv) If an individual desires to apply for a bonus point for an elk permit that allows the taking of elk and not receive a permit, the person may apply for and receive a bonus point by paying the proper application or bonus point fee and submitting an application during the application period specified in this regulation. No individual may apply for more than one bonus point in the same calendar year, and no individual shall apply for a bonus point in the same calendar year as the calendar year in which the individual is applying for a permit.

(D) Each individual who is the final recipient of a commission elk permit shall be eligible for a limited-quota elk permit, subject to the provisions of this subsection.

(E) Limited-quota antlerless-only elk permits and limited-quota either-sex elk permits shall be awarded from a pool of applicants who are Fort Riley military personnel and applicants who are not Fort Riley military personnel.

(2) Applications for hunt-on-your-own-land and unlimited over-the-counter elk permits shall be accepted at designated locations from the earliest date that applications are available through March 14 of the following year.

(3) Applications for limited-quota antlerless-only elk permits and limited-quota either-sex elk permits shall be accepted at designated locations from the earliest date that applications are available through the second Friday in June.

(4) If there are leftover limited-quota antlerless-only elk permits or limited-quota either-sex permits after all timely applications have been considered, the application periods for those permits may be reopened by the secretary. Leftover permits shall be drawn and issued on a daily basis for those application periods reopened by the secretary. Any applicant unsuccessful in obtaining a permit through a drawing may apply for any leftover permit or any other permit that is available on an unlimited basis.

(5) Any individual may apply for or obtain no more than one permit that allows the taking of an elk, unless the individual is unsuccessful in a limited-quota drawing and alternative permits for elk are available at the time of subsequent application or the individual obtains a commission permit pursuant to this subsection.

(e) Wild turkey permit applications.

(1) When awarding wild turkey permits in units having a limited number of permits, the first priority shall be given to those individuals who did not receive a permit in a limited wild turkey unit during the previous year. All other applicants shall be given equal priority.

(2) In awarding a limited number of wild turkey permits by a priority draw system, the first priority shall be given to those individuals who have earned the highest number of preference points. Preference points shall be awarded as follows:

(A) One point shall be awarded to an individual for each year the individual is unsuccessful in obtaining, by a priority draw system, a wild turkey permit.

(B) If the individual fails to make at least one application or purchase one preference point within a period of five consecutive years, all earned points shall be lost.

(C) If an applicant obtains, by a priority draw system, a wild turkey permit, all earned points shall be lost.

(D) If the number of applicants with the most preference points exceeds the number of permits for specified units or permit types, then a drawing shall be held to determine the successful applicants.

(E) If an individual desires to apply for a preference point for a wild turkey permit and not receive a permit, the person may apply for and receive a preference point by paying the preference point fee and submitting an application during the application period specified in this regulation. No individual may apply for more than one preference point in the same calendar year, and no individual shall apply for a preference point in the same calendar year as the calendar year in which the individual is applying for a permit.

(3) Fall wild turkey permits for unit 1, unit 2, unit 3, unit 5, and unit 6, youth turkey permits, and game tags for unit 2, unit 3, unit 5, and unit 6 may be purchased over the counter at designated locations, from the earliest date in the year that applications are available through 5:00 p.m. on January 30 of the following year.

(4) Applications for spring wild turkey permits in unit 4 shall be accepted by the department from the earliest date that applications are available until midnight on the second Friday of February. If there are turkey permits left over after all timely applications have been considered, the application period may be reopened by the secretary. Leftover turkey permits shall be issued on a daily competitive basis until the day before the last day of the turkey season or until all turkey permits are issued.

(5) Spring wild turkey permits in unit 1, unit 2, unit 3, unit 5, and unit 6, youth turkey permits, and game tags in unit 1, unit 2, unit 3, unit 5, and unit 6 may be purchased over the counter at designated locations from the earliest date that applications are available until midnight on the day before the closing date for the season. (Authorized by K.S.A. 2018 Supp. 32-807, K.S.A. 2018 Supp. 32-937, K.S.A. 2018 Supp. 32-969, and K.S.A. 2018 Supp. 32-970; implementing K.S.A. 2018 Supp. 32-937, K.S.A. 2018 Supp. 32-969, and K.S.A. 2018 Supp. 32-970; effective Sept. 10, 1990; amended May 27, 1991; amended June 1, 2001; amended April 18, 2003; amended Feb. 18, 2005; amended May 15, 2009; amended Feb. 5,

2010; amended April 8, 2011; amended May 24, 2013; amended Nov. 30, 2015; amended April 21, 2017; amended April 26, 2019.)

**115-4-13. Deer permits; descriptions and restrictions.** Except as otherwise specified or further restricted by law or regulation, the following deer permit descriptions, provisions, and restrictions shall be in effect.

(a) White-tailed deer permits.

(1) Resident any-season white-tailed deer permit. This permit shall be valid for the hunting of white-tailed deer statewide during the established muzzleloader-only, archery, and firearms deer seasons using equipment that is legal during the established season.

(2) Antlerless white-tailed deer permit. This permit shall be valid for the hunting of antlerless white-tailed deer statewide during the established muzzleloader-only, archery, and firearms deer seasons using equipment that is legal during the established season. The first antlerless white-tailed deer permit issued to an applicant shall be valid statewide on all lands and waters, unless otherwise specified in these regulations. If any subsequent antlerless white-tailed deer permit is issued to the same applicant, that permit shall be valid in designated management units but shall not be valid on department lands and waters, unless otherwise specified in these regulations.

(3) Nonresident white-tailed deer permit. This permit shall be valid for the hunting of white-tailed deer within a designated management unit and one additional adjoining management unit using legal equipment for one of the following deer seasons, which shall be selected at the time of application: muzzleloader-only, archery, or firearms deer season. Muzzleloader-only permits may be used in the early muzzleloader season and during the regular firearms season, using equipment that is legal during the muzzleloader deer season.

(b) Either-species, either-sex deer permits.

(1) Resident archery either-species, either-sex deer permit. This permit shall be valid for the hunting of any antlered or antlerless white-tailed deer or mule deer statewide during the established archery deer season, using equipment that is legal during the archery deer season.

(2) Resident firearm either-species, either-sex deer permit. This permit shall be valid for the hunting of any antlered or antlerless white-tailed deer or mule deer during the established firearms deer season within designated management units,

using equipment that is legal during the firearms deer season.

(3) Resident muzzleloader either-species, either-sex deer permit. This permit shall be valid for the hunting of any antlered or antlerless white-tailed deer or mule deer during the established muzzleloader-only and firearms deer seasons within designated management units, using muzzleloader equipment that is legal during the muzzleloader-only deer season.

(4) Nonresident either-species, either-sex deer permit. Any nonresident possessing a nonresident archery or muzzleloader-only white-tailed deer permit valid for a management unit designated by the department as a mule deer unit may apply for one of a limited number of mule deer stamps that, if drawn, will convert the applicant's white-tailed deer permit to an either-species, either-sex deer permit.

(5) Antlerless either-species permit. This permit shall be valid for the hunting of any antlerless white-tailed deer or mule deer within a designated management unit or units during the established muzzleloader-only, archery, and firearms deer seasons, using equipment that is legal during the established season.

(c) Hunt-on-your-own-land deer permits. Each hunt-on-your-own-land permit shall be valid for any white-tailed deer or mule deer, unless otherwise specified in these regulations.

(1) Resident hunt-on-your-own-land deer permit. This permit shall be available to individuals who qualify as resident landowners or as resident tenants or as family members domiciled with the resident landowner or with the resident tenant. This permit shall be valid during the muzzleloader-only, archery, and firearms deer seasons, using equipment that is legal during the established season. This permit shall be valid only on lands owned or operated by the resident landowner or resident tenant.

(2) Special resident hunt-on-your-own-land deer permit. This permit shall be available to individuals who qualify as lineal ascendants or descendants and their spouses, or as siblings of resident landowners or resident or nonresident tenants. This permit shall be valid during the muzzleloader-only, archery, and firearms deer seasons, using equipment that is legal during the established season. This permit shall be valid only on lands owned or operated by the resident landowner or resident or nonresident tenant.

(3) Nonresident hunt-on-your-own-land deer permit. This permit shall be available to nonres-

ident individuals who qualify as Kansas landowners or nonresident tenants. This permit shall be valid during the muzzleloader-only, archery, and firearms deer seasons, using equipment that is legal during the established season. This permit shall be valid only on lands owned or operated by the nonresident landowner or nonresident tenant.

(d) Each deer permit shall be valid only for the species of deer specified and only for the antler category of deer specified by regulation or on the permit.

(1) An either-sex deer permit shall be valid for deer of either sex.

(2) An antlerless deer permit shall be valid only for a deer without a visible antler plainly protruding from the skull.

(3) An either-species, either-sex deer permit shall be valid for a white-tailed deer of either sex or a mule deer of either sex, except that an antlerless either-species deer permit shall be valid only for a deer of either species without a visible antler plainly protruding from the skull. (Authorized by and implementing K.S.A. 2014 Supp. 32-807 and K.S.A. 2014 Supp. 32-937; effective Jan. 30, 1995; amended June 6, 1997; amended July 30, 1999; amended June 1, 2001; amended April 22, 2005; amended July 20, 2007; amended April 11, 2008; amended April 24, 2015; amended Nov. 30, 2015.)

**115-4-15. Restitution scoring system; white-tailed deer; mule deer; elk; antelope.**

(a) For the purpose of establishing restitution values, each of the following terms shall have the meaning specified in this subsection:

(1) "Abnormal point" means a point that is non-typical in shape or location.

(2) "Antler burr" means the elevated bony rim around the antler base of a deer or elk that is just above the skin of the pedicle.

(3) "First normal point" means the longest, first point immediately above, but not part of, the antler burr. If this point is branched, the longest and straightest portion of the point shall be used for measurement. All other points branching from this point shall be considered abnormal points.

(4) "Gross score" means the number derived by totaling certain measurements taken from the antlers or horns of a big game animal in accordance with this regulation.

(5) "Inside spread of the main antler beams" means the measurement at right angles to the center line of the skull at the widest point between main antler beams.

(6) "Length of the main antler beam" means the measurement from the lowest outside edge of the antler burr over the outer curve to the most distant point of what is or appears to be the main antler beam beginning at the place on the antler burr where the center line along the outer curve of the beam intersects the antler burr.

(7) "Normal point" means a point that projects from the main antler beam in a typical shape or location.

(8) "Point" means a projection on the antler of a deer or elk that is at least one inch long as measured from its tip to the nearest edge of the antler beam and the length of which exceeds the width at one inch or more of length. "Point" shall not include an antler beam tip.

(b) All measurements shall be made to the nearest  $\frac{1}{8}$  of an inch using a flexible steel tape that is  $\frac{1}{4}$  inch wide.

(c) The gross score of an antlered whitetail deer shall be determined by adding together all of the following measurements:

(1) The inside spread of the main antler beams, not to exceed the length of the longest main antler beam;

(2) the length of the main antler beam on the deer's right side;

(3) the length of the main antler beam on the deer's left side;

(4) the total length of all abnormal points on the right and left antlers;

(5) the total length of all normal points on the right and left antlers as measured from the nearest edge of the main antler beam over the outer curve to the tip. To determine the baseline for normal point measurement, the tape shall be laid along the outer curve of the antler beam so that the top edge of the tape coincides with the top edge of the antler beam on both sides of the point; and

(6) the following circumference measurements from the right and left antlers:

(A) The circumference taken at the smallest place between the antler burr and the first normal point on the main antler beam. If the first normal point is missing, the circumference shall be taken at the smallest place between the antler burr and the second normal point;

(B) the circumference taken at the smallest place between the first normal point and the second normal point on the main antler beam. If the first normal point is missing, the circumference shall be taken at the smallest place between the antler burr and the second normal point;

(C) the circumference taken at the smallest place between the second normal point and the third normal point on the main antler beam; and

(D) the circumference taken at the smallest place between the third normal point and the fourth normal point on the main antler beam. If the fourth normal point is missing, the circumference shall be taken halfway between the third normal point and the tip of the main antler beam.

(d) The gross score of an antlered mule deer shall be determined by adding together all of the following measurements:

(1) The inside spread of the main antler beams, not to exceed the length of the longest main antler beam;

(2) the length of the main antler beam on the deer's right side;

(3) the length of the main antler beam on the deer's left side;

(4) the total length of all abnormal points on the right and left antlers;

(5) the total length of all normal points on the right and left antlers as measured from the nearest edge of the main antler beam over the outer curve to the tip. To determine the baseline for normal point measurement, the tape shall be laid along the outer curve of the antler beam so that the top edge of the tape coincides with the top edge of the antler beam on both sides of the point; and

(6) the following circumference measurements from the right and left antlers:

(A) The circumference taken at the smallest place between the antler burr and the first normal point on the main antler beam. If the first normal point is missing, the circumference shall be taken at the smallest place between the antler burr and the second normal point;

(B) the circumference taken at the smallest place between the first normal point and the second normal point on the main antler beam. If the first normal point is missing, the circumference shall be taken at the smallest place between the antler burr and the second normal point;

(C) the circumference taken at the smallest place between the main antler beam and the third normal point; and

(D) the circumference taken at the smallest place between the second normal point and the fourth normal point. If the fourth normal point is missing, the circumference shall be taken halfway between the second normal point and the tip of the main antler beam.

(e) The gross score of an antlered elk shall be determined by adding together all of the following measurements:

(1) The inside spread of the main antler beams, not to exceed the length of the longest main antler beam;

(2) the length of the main antler beam on the elk's right side;

(3) the length of the main antler beam on the elk's left side;

(4) the total length of all abnormal points on the right and left antlers;

(5) the total length of all normal points on the right and left antlers as measured from the nearest edge of the main antler beam over the outer curve to the tip. To determine the baseline for normal point measurement, the tape shall be laid along the outer curve of the antler beam so that the top edge of the tape coincides with the top edge of the antler beam on both sides of the point; and

(6) the following circumference measurements from the right and left antlers:

(A) The circumference taken at the smallest place between the first normal point and the second normal point on the main antler beam;

(B) the circumference taken at the smallest place between the second normal point and the third normal point on the main antler beam;

(C) the circumference taken at the smallest place between the third normal point and the fourth normal point on the main antler beam; and

(D) the circumference taken at the smallest place between the fourth normal point and the fifth normal point on the main antler beam. If the fifth normal point is missing, the circumference shall be taken halfway between the fourth normal point and the tip of the main antler beam.

(f) The gross score of an antelope shall be determined by adding together all of the following measurements:

(1) The length of the right horn measured along the center of the outer curve from the tip of the horn to a point in line with the lowest edge of the base, using a straight edge to establish the line end;

(2) the length of the left horn measured along the center of the outer curve from the tip of the horn to a point in line with the lowest edge of the base, using a straight edge to establish the line end;

(3) the circumference of the base of each horn, measured at a right angle to the axis of the horn, not to follow the irregular edge of the horn. The line of the measurement shall be entirely on horn material;

(4) three circumference measurements on each horn based on the criteria specified in this paragraph. The length of the longest horn shall be divided by four. Starting at the base, each horn shall be marked at these quarters, even though the other horn may be shorter. The circumference shall be measured at these marks at a right angle to the axis of the horn. If the prong of the horn interferes with the first measurement from the base, this measurement shall be taken immediately below the swelling of the prong. If the second measurement from the base falls in the swelling of the prong, this measurement shall be taken immediately above the swelling of the prong; and

(5) the length of the prong measured from the tip of the prong along the upper edge of the outer side to the horn, then continuing around the horn, at a right angle to the long axis of the horn, to a point at the rear of the horn where a straight edge crossing the back of both horns touches the horn. If there is a crack where the prong extends from the horn, the length of the prong shall be taken passing over the entire crack. Once the initial prong length is taken, the width of the crack shall be measured and deducted from the initial prong length. The adjusted length shall be the recorded length of the prong. (Authorized by and implementing K.S.A. 2013 Supp. 32-807 and 32-1032; effective Jan. 1, 2013; amended Feb. 7, 2014.)

## Article 5.—FURBEARERS

**115-5-1. Furbearers and coyotes; legal equipment, taking methods, and general provisions.** (a) Hunting equipment permitted during furbearer hunting seasons and during coyote hunting seasons shall consist of the following:

(1) Firearms, except fully automatic firearms;

(2) archery equipment;

(3) crossbows; and

(4) optical scopes or sights that project no visible light toward the target and do not electronically amplify visible or infrared light, except as specified in subsection (d).

(b) Trapping equipment permitted during furbearer and coyote trapping seasons shall consist of the following:

(1) Smooth-jawed foothold traps, except that all types of foothold traps may be used in water sets;

(2) body-gripping traps;

(3) box traps;

(4) cage traps;

- (5) colony traps;
- (6) snares; and
- (7) deadfalls.
- (c) The following general provisions shall apply to the taking of furbearers and coyotes:
  - (1) Calls may be used in the taking of furbearers and coyotes.
  - (2) Handheld, battery-powered flashlights, hat lamps, and handheld lanterns may be used while trapping furbearers or coyotes or while running furbearers.
  - (3) Any .22 or .17 caliber rimfire rifle or handgun may be used to take trapped furbearers or trapped coyotes when using a light to check traps.
  - (4) Any .22 or .17 caliber rimfire rifle or handgun may be used while using a handheld, battery-powered flashlight, hat lamp, or handheld lantern to take furbearers treed with the aid of dogs.
  - (5) Lures, baits, and decoys may be used in the taking of furbearers and coyotes.
  - (6) The use of horses and mules shall be permitted while hunting, trapping, or running furbearers and coyotes.
  - (7) The use of motor vehicles for taking coyotes shall be permitted while hunting coyotes, except as provided in subsection (d).
  - (8) The use of radios in land or water vehicles shall be permitted for the taking of coyotes.
  - (9) The use of dogs for hunting and during running seasons shall be permitted.
  - (10) Each body-gripping trap with an inside jawsread of eight inches or greater, when measured across the jaws at a 90-degree angle, shall be used only in a water set.
  - (11) Only landowners or tenants of land immediately adjacent to the right-of-way of a public road, or their immediate family members or authorized agents, may set slide-locking wire or snare-type cable traps as dryland sets within five feet of a fence bordering a public road or within 50 feet of the outside edge of the surface of a public road. Only these landowners or tenants, or their immediate family members or authorized agents, may possess the fur, pelt, skin, or carcass of any furbearer or coyote removed from these devices located within these specified limits.
  - (12) A person shall not have in possession any equipment specified in subsection (a) while pursuing or chasing furbearers with hounds during the running season.
  - (13) All trapping devices included in subsection (b) shall be tagged with either the user's name and address or the user's department-issued identifi-

cation number and shall be tended and inspected at least once every calendar day.

(14) Each foothold trap that has an outside jawsread greater than seven inches, when measured across the jaws at a 90-degree angle, shall be used only in a water set.

(d) From January 1 through March 31, the following provisions shall apply to the hunting of coyotes:

(1) Artificial light, scopes and equipment that amplify visible light, and thermal-imaging scopes and thermal-imaging equipment may be used for hunting.

(2) The use of vehicles when hunting with the equipment specified in paragraph (d)(1) shall be prohibited.

(3) The use of the equipment specified in paragraph (d)(1) shall not be authorized on department lands and waters.

(4) Each person using the equipment specified in paragraph (d)(1) in the manner prescribed in this subsection shall first obtain a permit from the department. (Authorized by and implementing K.S.A. 2019 Supp. 32-807 and 32-1003; effective March 19, 1990; amended Nov. 15, 1993; amended July 19, 2002; amended Feb. 18, 2005; amended Sept. 4, 2009; amended July 22, 2011; amended July 26, 2013; amended May 31, 2019; amended Sept. 18, 2020.)

**115-5-2. Furbearers and coyotes; possession, disposal, and general provisions.** (a) Legally taken raw furs, pelts, skins, carcasses, or meat of furbearers may be possessed without limit in time.

(b) Live furbearers legally taken during a furbearer season may be possessed only through the last day of the season in which taken.

(c) Legally acquired skinned carcasses and meat of furbearers may be sold or given to and possessed by another, and legally acquired raw furs, pelts, and skins of furbearers may be given to and possessed by another, if a written notice that includes the seller's or donor's name, address, and furharvester license number accompanies the carcass, pelt, or meat. A bobcat, otter, or swift fox tag as described in subsection (f) shall meet the requirements of written notice.

(d) Legally taken raw furs, pelts, skins, or carcasses of coyotes or legally taken live coyotes may be possessed without limit in time.

(e) Any person in lawful possession of raw furbearer or coyote furs, pelts, skins, or carcasses

may sell or ship or offer for sale or shipment the same to licensed fur dealers or any person legally authorized to purchase raw furbearer or coyote furs, pelts, skins, or carcasses.

(f) Each bobcat, otter, or swift fox pelt legally taken in Kansas shall be submitted to the department so that an export tag provided by the department can be affixed to the pelt.

(1) The pelt of any bobcat, otter, or swift fox taken in Kansas shall be presented to the department for tagging within seven days following closure of the bobcat, otter, or swift fox hunting and trapping season.

(2) Each pelt presented for tagging shall be accompanied by the furharvester license number under which the pelt was taken.

(g) Properly licensed persons may legally salvage furbearers and coyotes found dead during the established open seasons for hunting or trapping of furbearers or coyotes. Salvaged furbearers and coyotes may be possessed or disposed of as authorized by this regulation. (Authorized by and implementing K.S.A. 2018 Supp. 32-807 and K.S.A. 32-942; effective March 19, 1990; amended Oct. 17, 1994; amended Nov. 29, 1999; amended July 19, 2002; amended Sept. 4, 2009; amended July 22, 2011; amended July 26, 2013; amended May 31, 2019.)

**115-5-3. Furbearers, except otters, and coyotes; management units.** The management unit for furbearers, except otters, and coyotes shall be statewide. (Authorized by and implementing K.S.A. 2018 Supp. 32-807; effective Oct. 17, 1994; amended July 19, 2002; amended Sept. 20, 2019.)

**115-5-3a. Otters; management units.** The management units for otters shall be as follows:

(a) Missouri unit: Doniphan, Brown, Atchison, Leavenworth, Jefferson, Wyandotte, Douglas, and Johnson counties;

(b) Marais des Cygnes unit: Osage, Franklin, Miami, Anderson, Linn, and Bourbon counties;

(c) Lower Neosho unit: Allen, Neosho, Crawford, Labette, and Cherokee counties;

(d) Big Blue unit: Washington, Marshall, and Nemaha counties;

(e) Kansas unit: Riley, Pottawatomie, Jackson, Geary, Wabaunsee, and Shawnee counties;

(f) Upper Neosho unit: Morris, Marion, Chase, Lyon, Coffey, and Woodson counties;

(g) Verdigris unit: Greenwood, Elk, Wilson, Chautauqua, and Montgomery counties;

(h) Lower Arkansas unit: Harvey, Sedgwick, Butler, Sumner, and Cowley counties;

(i) Republican unit: Jewell, Republic, Cloud, and Clay counties;

(j) Solomon unit: Smith, Osborne, Mitchell, and Ottawa counties;

(k) Smoky-Saline unit: Russell, Lincoln, Ellsworth, Saline, McPherson, and Dickinson counties;

(l) Middle Arkansas unit: Barton, Rice, Stafford, Reno, Pratt, Kingman, Barber, and Harper counties; and

(m) Western unit: that part of Kansas including Phillips, Rooks, Ellis, Rush, Pawnee, Edwards, Kiowa, and Comanche counties and all counties west. (Authorized by and implementing K.S.A. 2018 Supp. 32-807; effective Sept. 20, 2019.)

**115-5-4. Nonresident bobcat hunting permit; tagging, disposal, legal equipment, shooting hours, and general provisions.** (a) Each permittee shall sign, record the county, date, and time of kill, and attach the carcass tag to the carcass immediately following the kill and before moving the carcass from the site of the kill.

(b) The carcass tag shall remain attached to the carcass or pelt until presented to the department for tagging with an export tag. The export tagging shall occur within seven calendar days of the harvest of the bobcat.

(c) Nonresident bobcat hunting permits shall be valid only for the hunting season specified in K.A.R. 115-25-11.

(d) Nonresident bobcat hunting permits shall not be transferred to another person.

(e) Legally acquired, skinned carcasses and meat of bobcats taken with a nonresident bobcat hunting permit may be sold or given to and possessed by another, and legally acquired raw furs, pelts, and skins of bobcats may be given to and possessed by another, if a written notice that includes the seller's or donor's name, address, and nonresident bobcat hunting permit number accompanies the carcass, pelt, or meat. A bobcat export tag as described in subsection (b) shall meet the requirements of written notice.

(f) Hunting equipment permitted during bobcat hunting season for use with a nonresident bobcat hunting permit shall consist of the following:

(1) Firearms, except fully automatic firearms;

(2) archery equipment;

(3) crossbows; and

(4) optical scopes or sights that project no visible light toward the target and do not electronically amplify visible or infrared light.

(g) The following general provisions shall apply to the hunting of bobcats with a nonresident bobcat hunting permit:

(1) Calls, lures, baits, and decoys may be used in the hunting of bobcats.

(2) Shooting hours shall be one-half hour before sunrise to one-half hour after sunset.

(3) The bag limit shall be one bobcat for each nonresident bobcat hunting permit purchased. (Authorized by and implementing K.S.A. 2018 Supp. 32-807; effective May 20, 2005; amended May 31, 2019.)

## Article 6.—FUR DEALERS

**115-6-1. Fur dealer license; application, authority, possession of furs, records, and revocation.** (a) Each application shall be submitted on a form provided by the department. Each applicant shall provide the following information:

(1) Name of applicant;  
 (2) residential address;  
 (3) the address of each business location;  
 (4) an inventory of raw furs, pelts, skins, and carcasses of furbearing animals and coyotes on hand at time of application; and  
 (5) any other relevant information as required by the secretary.

(b) Each fur dealer license shall expire on June 30 following the date of issuance.

(c) Each fur dealer shall deal only with properly licensed persons and only at authorized fur dealer business locations.

(d) Any fur dealer may buy, purchase, or trade in the furs, pelts, skins, or carcasses of coyotes.

(e) Any fur dealer may possess legally acquired furs, pelts, skins, or carcasses of furbearing animals for no more than 30 days after the expiration date of the fur dealer's license. Coyote furs, pelts, skins, or carcasses may be possessed without limit in time.

(f) Each fur dealer shall purchase or acquire only those bobcat, otter, and swift fox pelts that have been tagged with a department export tag or with the official export tag provided by the wildlife agency of another state, except for any legally harvested swift fox pelt originating from a state that does not require an official export tag.

(g) Each fur dealer shall maintain a furharvester record book and a fur dealer book provided by the department or shall use a department-approved

electronic record system. Entries shall be made in the appropriate record book or electronic record system whenever receiving, shipping, or otherwise disposing of furs, pelts, skins, or carcasses of furbearing animals or coyotes. Each record book or electronic record system, all receipts, and all furs, pelts, skins, and carcasses in the fur dealer's possession shall be subject to inspection upon demand by any conservation officer. Each record book or electronic record and all receipts shall be subject to copying upon demand by any conservation officer. Each fur dealer shall forward all record books or electronic records to the department annually on or before May 1.

(1) The furharvester record book or electronic record system shall include the following information:

(A) The name of the fur dealer;  
 (B) residential address;  
 (C) fur dealer license number;  
 (D) the date of each receipt of furs, pelts, skins, or carcasses;  
 (E) name, address, and license number of each person from whom furs, pelts, skins, or carcasses were acquired;  
 (F) name of the state where the furs, pelts, skins, or carcasses were harvested;  
 (G) number of each species of furs, pelts, skins, or carcasses acquired; and  
 (H) any other relevant information as required by the secretary.

(2) The fur dealer record book or electronic record system shall include the following information:

(A) The name of the fur dealer;  
 (B) residential address;  
 (C) fur dealer license number;  
 (D) date of each receipt or disposal of furs, pelts, skins, or carcasses;  
 (E) name, address, and fur dealer license number of each fur dealer from which furs, pelts, skins, or carcasses are acquired or to which they are sold;  
 (F) number and species of furs, pelts, skins, or carcasses acquired or sold; and  
 (G) any other relevant information as required by the secretary.

(h) In addition to other penalties prescribed by law, a fur dealer's license may be refused issuance or revoked by the secretary under any of the following circumstances:

(1) The application is incomplete or contains false information.

(2) The fur dealer fails to meet reporting requirements.

(3) The fur dealer violates license conditions.

(4) The fur dealer has violated department laws or regulations or has had any other department license or permit revoked or suspended. (Authorized by and implementing K.S.A. 2019 Supp. 32-807 and K.S.A. 32-942; effective March 19, 1990; amended Sept. 4, 2009; amended July 26, 2013; amended May 31, 2019; amended Sept. 18, 2020.)

## Article 7.—FISH AND FROGS

**115-7-1. Fishing; legal equipment, methods of taking, and other provisions.** (a) Legal equipment and methods for taking sport fish shall be the following:

(1) Fishing lines with not more than two baited hooks or artificial lures per line;

(2) trotlines, except that any float material used with a trotline shall be constructed only from plastic, wood, or foam and shall be a closed-cell construction. A “closed-cell” construction shall mean a solid body incapable of containing water;

(3) setlines, except that any float material used with a setline shall be constructed only from plastic, wood, or foam and shall be a closed-cell construction. A “closed-cell” construction shall mean a solid body incapable of containing water;

(4) tip-ups;

(5) using a person’s hand or hands for flathead catfish in waters designated as open to hand fishing, subject to the following requirements:

(A) An individual hand fishing shall not use hooks, snorkeling or scuba gear, or other man-made devices while engaged in hand fishing;

(B) an individual hand fishing shall not possess fishing equipment, other than a stringer, while engaged in hand fishing and while on designated waters or adjacent banks;

(C) stringers shall not be used as an aid for hand fishing and shall not be used until the fish is in possession at or above the surface of the water;

(D) each individual hand fishing shall take fish only from natural objects or natural cavities;

(E) an individual hand fishing shall not take fish from any man-made object, unless the object is a bridge, dock, boat ramp, or riprap, or other similar structure or feature;

(F) no part of any object shall be disturbed or altered to facilitate the harvest of fish for hand fishing; and

(G) an individual hand fishing shall not take fish within 150 yards of any dam;

(6) snagging for paddlefish in waters posted or designated by the department as open to the snagging of paddlefish, subject to the following requirements:

(A) Each individual with a filled creel limit shall cease all snagging activity in the paddlefish snagging area until the next calendar day;

(B) each individual taking paddlefish to be included in the creel and possession limit during the snagging season shall sign the carcass tag, record the county, the date, and the time of harvest on the carcass tag, and attach the carcass tag to the lower jaw of the carcass immediately following the harvest and before moving the carcass from the site of the harvest; and

(C) each individual snagging for paddlefish shall use barbless hooks while snagging for paddlefish. “Barbless hook” shall mean a hook without barbs or upon which the barbs have been bent completely closed;

(7) floatlines in waters posted or designated by the department as open to floatline fishing, which shall be subject to the following requirements:

(A) All floatlines shall be under the immediate supervision of the angler setting the floats. “Immediate supervision” shall mean that the angler has visual contact with the floatlines set while the angler is on the water body where the floatlines are located;

(B) all floatlines shall be removed when float fishing ceases;

(C) floatlines shall not contain more than one line per float, with not more than two baited hooks per line;

(D) all float material shall be constructed only from plastic, wood, or foam and shall be a closed-cell construction. A “closed-cell” construction shall mean a solid body incapable of containing water;

(8) bow and arrow with a barbed head and a line attached from bow to arrow; and

(9) crossbow and arrow with a barbed head and a line attached from arrow to crossbow.

(b) Legal equipment and methods for taking non-sport fish shall be the following:

(1) Fishing lines with not more than two baited hooks or artificial lures per line;

(2) trotlines;

(3) setlines;

(4) tip-ups;

(5) bow and arrow with a barbed head and a line attached from bow to arrow;

(6) crossbow and arrow with a barbed head and a line attached from arrow to crossbow;

(7) spear gun, without explosive charge, while skin or scuba diving. The spear, without explosive charge, shall be attached to the speargun or person by a line;

(8) gigging;

(9) snagging in waters posted by the department as open to snagging; and

(10) floatlines in waters posted or designated by the department as open to floatline fishing, which shall be subject to the requirements specified in paragraphs (a)(7)(A) through (D).

(c) Dip nets and gaffs may be used to land any legally caught or hooked fish.

(d) Fish may be taken by any method designated by the secretary when a fish salvage order has been issued by the secretary through public notice or posting the area open to fish salvage.

(e) Fish may be taken with the aid of boats, depth finders, artificial lights, sound attracters, and scents.

(f) Fish may be taken by legal means from vehicles.

(g) The following additional requirements shall apply in the flowing portions and backwaters of the Missouri river and in any oxbow lake through which the Kansas-Missouri boundary passes:

(1) Each individual shall place all legally caught fish on a stringer, cord, cable, or chain, or in a basket, sack, cage, or other holding device, separate from those fish caught by any other individual.

(2) The equipment and methods specified in paragraphs (b)(5) and (b)(6) shall be legal only from sunrise to midnight.

(3) The equipment and method specified in paragraphs (b)(9) and (b)(10) shall be legal only from sunrise to sunset.

(h) The equipment and method specified in paragraphs (a)(8) and (a)(9) shall be legal, except on rivers and streams, only for the following species of sport fish where no size limit exists for any of these species of fish:

(1) Blue catfish;

(2) channel catfish; and

(3) flathead catfish.

(i) Optical scopes or sights that project no visible light toward the target and do not electronically amplify visible or infrared light shall be valid for use on bows and crossbows. (Authorized by and implementing K.S.A. 2018 Supp. 32-807;

effective Dec. 26, 1989; amended Feb. 10, 1992; amended Oct. 1, 1999; amended Dec. 8, 2000; amended Sept. 27, 2002; amended Nov. 29, 2004; amended Nov. 27, 2006; amended Nov. 16, 2007; amended Dec. 1, 2008; amended Nov. 20, 2009; amended April 16, 2010; amended Nov. 19, 2010; amended Nov. 30, 2015; amended Nov. 28, 2016; amended Dec. 22, 2017; amended Jan. 11, 2019; amended Dec. 20, 2019.)

**115-7-2. Fishing; general provisions.** (a) Except as authorized in this regulation, any person may operate or set two fishing lines and, in addition, one trotline, eight floatlines, or eight setlines.

(b) Each fishing line, trotline, and setline shall be checked at least once every 24 hours.

(c) Each trotline, setline, tip-up, floatline, and unattended fishing line shall have a tag or label securely attached, designating either the name and address of the operator or the operator's department-issued identification number. No trotline, floatline, or setline shall be set within 150 yards of any dam.

(d) Sport fish shall be deemed legally taken by hook and fishing line only when hooked within the mouth, except paddlefish, which may be snagged as authorized by K.A.R. 115-7-1. Other sport fish hooked elsewhere shall be returned unrestrained to the water immediately.

(e) Fish may be taken by legal methods through the ice, unless the area is closed to ice fishing by posted notice or otherwise prohibited by regulation. Ice holes used for ice fishing shall not exceed 12 inches in diameter or 144 square inches.

(f) For ice fishing, a tip-up may be used on each of the allowed eight setlines, unless otherwise posted.

(g) Bow and arrow fishing and crossbow and arrow fishing shall be permitted in all waters of the state except those waters posted as closed to such fishing and except all waters within 50 yards of an occupied boat dock or ramp, occupied swimming area, occupied picnic or camping area, or other occupied public use area.

(h) Speargun fishing shall be permitted on waters open to skin and scuba diving, unless prohibited by posted notice or regulation. By posted notice, certain water areas may be opened by the department for the taking of one or more species of sport fish by spearguns during a specified time period.

(i) Unless otherwise prohibited by regulation, in the flowing portions and backwaters of the Mis-

souri river and in any oxbow lake through which the Kansas-Missouri boundary passes, any person may operate or set three fishing lines and, in addition, one trotline, eight floatlines, or eight setlines.

(j) Unless otherwise prohibited by regulation, in the waters of the state other than those waters specified in subsection (i), any person in possession of a three-pole permit may operate or set three fishing lines and, in addition, one trotline, eight floatlines, or eight setlines. (Authorized by and implementing K.S.A. 2014 Supp. 32-807; effective Dec. 26, 1989; amended Sept. 27, 2002; amended Feb. 18, 2005; amended Dec. 1, 2008; amended Feb. 20, 2015.)

**115-7-3. Fish; taking and use of baitfish or minnows.** (a) Baitfish may be taken for noncommercial purposes by any of the following means:

(1) A seine not longer than 15 feet and four feet deep with mesh not larger than  $\frac{1}{4}$  inch;

(2) a fish trap with mesh not larger than  $\frac{1}{4}$  inch and a throat not larger than one inch in diameter;

(3) a dip or cast net with mesh not larger than one inch; or

(4) a fishing line.

(b) Each fish trap shall be tagged with the operator's name and address when the fish trap is in use.

(c) Baitfish taken, except gizzard shad, silver carp, and bighead carp, shall not exceed 12 inches in total length. Silver carp and bighead carp shall not be transported from the water alive.

(d) The possession limit shall be 500 baitfish.

(e) For the species specified in this subsection, the department's applicable creel and possession limits shall apply.

Live baitfish, crayfish, leeches, amphibians, and mussels, except for bluegill and green sunfish from non-designated aquatic nuisance waters and baitfish, crayfish, leeches, amphibians, and mussels from designated aquatic nuisance waters, may be caught and used as live bait only within the common drainage where caught. However, live baitfish, crayfish, leeches, amphibians, and mussels shall not be transported and used above any upstream dam or barrier that prohibits the normal passage of fish. Bluegill and green sunfish collected from non-designated aquatic nuisance waters may be possessed or used as live bait anywhere in the state. Live baitfish, crayfish, leeches, amphibians, and mussels collected from designated aquatic nuisance waters shall be possessed or used

as live bait only while on that water and shall not be transported from the water alive.

(f) No person shall import live baitfish that does not meet the requirements of K.A.R. 115-17-2 and K.A.R. 115-17-2a.

This regulation shall be effective on and after January 1, 2021. (Authorized by and implementing K.S.A. 2019 Supp. 32-807; effective Sept. 10, 1990; amended Nov. 20, 2009; amended Jan. 1, 2012; amended Jan. 1, 2013; amended Jan. 1, 2015; amended Jan. 1, 2019; amended Dec. 20, 2019; amended Jan. 1, 2021.)

**115-7-4. Fish; processing and possession.**

(a) Each person who takes any fish from a body of water shall leave the head, body, and tail fin attached while the person has possession of the fish on the water.

(b) Each person who has taken any fish shall retain the fish in that person's possession until any of the following occurs:

(1) The fish is consumed or processed for consumption.

(2) The fish is transported to the person's domicile or given to another person. Legally taken sport fish may be possessed without limit in time and may be given to another if accompanied by a dated written notice that includes the donor's printed name, signature, address, and permit or license number.

(3) The fish is transported to a place of commercial preservation or place of commercial processing for consumption.

(4) The fish is returned unrestrained to the waters from which the fish was taken.

(5) The fish is disposed of at a location designated for fish disposal or at a designated fish cleaning station.

(c) Each paddlefish permittee shall meet either of the following requirements:

(1) Nonelectronic carcass tags. The paddlefish permittee shall sign, record the county, the date, and the time of kill, and attach the carcass tag to the carcass in a visible manner immediately before reducing the paddlefish to permanent possession. The carcass tag shall remain attached to the carcass until the conditions of paragraphs (b) (1), (b)(2), (b)(3), or (b)(5) are met. The paddlefish permittee shall retain the carcass tag until the paddlefish is consumed, given to another, or otherwise disposed of.

(2) Electronic carcass tags. Using the department's electronic carcass tag system, the paddle-

fish permittee shall record the county, the date, and the time of kill and enter a photograph of the entire carcass, with sufficient clarity to display the species immediately before reducing the paddlefish to permanent possession. The paddlefish permittee shall possess the confirmation number until the conditions of paragraph (b)(1), (b)(2), (b)(3), or (b)(5) are met. The paddlefish permittee shall retain the confirmation number until the paddlefish is consumed, given to another, or otherwise disposed of.

(d) For paddlefish parts, the following additional requirements shall apply:

(1) No person shall possess any eggs that are attached to the egg membrane of more than one paddlefish.

(2) No person shall possess more than three pounds of processed paddlefish eggs or fresh paddlefish eggs removed from the membrane. "Processed paddlefish eggs" shall mean any eggs taken from a paddlefish that have gone through a process that turns the eggs into caviar or into a caviar-like product.

(3) No person shall ship into or out of, transport into or out of, have in possession with the intent to transport, or cause to be removed from this state any raw unprocessed paddlefish eggs, processed paddlefish eggs, or frozen paddlefish eggs.

(4) Each harvested paddlefish carcass shall have all internal organs removed before transporting the carcass from Kansas. (Authorized by and implementing K.S.A. 2019 Supp. 32-807; effective Dec. 26, 1989; amended Nov. 27, 2006; amended Dec. 22, 2017; amended Jan. 11, 2019; amended Dec. 20, 2019.)

**115-7-6. Fishing; bait.** (a) The following types of bait may be used for the taking of fish, frogs, or turtles by legal means and methods:

- (1) Artificial lures;
- (2) bait fish;
- (3) prepared bait;
- (4) vegetable material;
- (5) material or artificial matter attached to a hook; and
- (6) other wildlife, except those species specifically prohibited as bait and those species listed in K.A.R. 115-15-1 or K.A.R. 115-15-2.

(b) Animal, vegetable, and other nontoxic material may be used as fish attractants.

This regulation shall be effective on and after January 1, 2012. (Authorized by and implementing K.S.A. 32-807; effective Sept. 10, 1990; amended Jan. 1, 2012.)

**115-7-8.** This regulation shall be revoked on and after January 1, 2011. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 2006 Supp. 32-1002; effective Nov. 27, 2006; amended Nov. 16, 2007; amended April 11, 2008; revoked Jan. 1, 2011.)

**115-7-9. Weigh-in black bass fishing tournaments.** (a) Each individual or organization conducting a weigh-in black bass fishing tournament shall ensure that all of the following minimum requirements are met when conducting weigh-in procedures:

(1) One individual shall provide work crew support for each 10 registered anglers.

(2) One weigh-in tank filled with an electrolyte chemical-water solution and fitted with recirculation and aeration accessories shall be maintained for each 25 registered anglers.

(3) If the water temperature at the tournament location is 75 degrees Fahrenheit or cooler, the water contained in the weigh-in tank shall be maintained at the same temperature as that of the tournament location water.

(4) If the water temperature at the tournament location is warmer than 75 degrees Fahrenheit, the water in the weigh-in tank shall be maintained at a temperature that is between five and 10 degrees Fahrenheit cooler than the tournament location water but shall not exceed 85 degrees Fahrenheit at any time.

(5) Not more than four anglers shall be in the weigh-in line at any one time.

(6) Each weigh-in bag containing water from the well of the vessel shall be reinforced, reusable, and capable of holding up to 15 pounds of live fish and two gallons of water.

(7) The weigh-in site shall meet the following requirements:

(A) Be located near the vessel mooring site and the release site, vehicle, or vessel; and

(B) be located at all times under a portable awning, in an event tent, or in the shade.

(8) Only fish that meet the special length limit for the specific body of water where the weigh-in tournament is being conducted shall be weighed within the period beginning June 16 and ending August 31.

(b) Each individual or organization conducting the tournament shall ensure that all of the following minimum requirements are met when conducting the release procedures:

(1) The direct release of fish into the tourna-

ment location water after the weigh-in shall not be permitted.

(2) If the tournament is conducted with release tubes, vehicles, or vessels, the holding tanks shall contain a one-half percent noniodized salt solution.

(3) If the tournament is conducted without release tubes, vehicles, or vessels, the fish shall be dipped, for a period ranging from 10 seconds to 15 seconds before release, in a three percent noniodized salt solution having the same temperature as that of the water in the weigh-in tank.

(4) The release site shall meet the following conditions:

(A) Be located in water reaching at least three feet in depth with good circulation and a hard bottom; and

(B) be located away from vessel traffic and public-use vessel ramps.

(c) Each tournament participant shall meet the following requirements:

(1) Ensure that each well in the participant's vessel used in the tournament is properly working and contains an electrolyte chemical-water solution; and

(2) ensure that the participant's vessel used in the tournament is cleaned before and after the tournament in compliance with department guidelines regarding the prevention of aquatic nuisance species.

(d) The provisions of paragraph (a)(7)(A) may be waived by the secretary within the period beginning September 1 and extending through June 15 if the proximity proposed to the release site does not pose an inordinate risk to the wildlife resource and all other requirements of this regulation are met. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 2010 Supp. 32-1002; effective Jan. 1, 2008; amended April 11, 2008; amended Nov. 19, 2010; amended May 20, 2011.)

**115-7-10. Fishing; special provisions.** (a) A person who takes any fish from a body of water shall not tag, mark, brand, clip any fin of, mutilate, or otherwise disfigure any fish in a manner that would prevent species identification, examination of fins, recovery of tags, or determination of sex, age, or length of the fish before releasing the fish back into the body of water, unless a permit authorizing this activity has been issued to that person by the department.

(b) No person may possess any live fish upon departure from any designated aquatic nuisance body of water, except during a department-permitted

fishing tournament. During a department-permitted fishing tournament, any individual may possess live fish upon departure from designated aquatic nuisance waters along the most direct route to the weigh-in site if the individual possesses a department authorization certificate as a participant in the tournament. Designated aquatic nuisance species waters shall be those specified in the department's "Kansas aquatic nuisance species designated waters," dated October 16, 2020, which is hereby adopted by reference.

(c) No person may fish or collect bait within, from, or over a fish passage, fish ladder, fish steps, or fishway. "Fish passage, fish ladder, fish steps, or fishway" shall mean a structure that facilitates the natural migration of fish upstream on, through, or around an artificial barrier or dam. (Authorized by and implementing K.S.A. 2019 Supp. 32-807; effective Nov. 20, 2009; amended Jan. 1, 2012; amended Jan. 1, 2013; amended Nov. 15, 2013; amended Nov. 14, 2014; amended Nov. 30, 2015; amended Nov. 28, 2016; amended Dec. 22, 2017; amended Jan. 11, 2019; amended Dec. 20, 2019; amended Dec. 25, 2020.)

## Article 8.—DEPARTMENT LANDS AND WATERS

**115-8-1. Department lands and waters; hunting, furharvesting, and discharge of firearms.** (a) Subject to provisions and restrictions as established by posted notice or as specified in the document adopted by reference in subsection (e), the following activities shall be allowed on department lands and waters:

(1) Hunting during open seasons for hunting on lands and waters designated for public hunting;

(2) furharvesting during open seasons for furharvesting on lands and waters designated for public hunting and other lands and waters as designated by the department;

(3) target practice in areas designated as open for target practice; and

(4) noncommercial training of hunting dogs.

(b) Other than as part of an activity under subsection (a), the discharge of firearms and other sport hunting equipment capable of launching projectiles shall be allowed on department lands and waters only as specifically authorized in writing by the department.

(c) The discharge of fully automatic rifles or fully automatic handguns on department lands and waters shall be prohibited.

(d) Department lands and waters shall be open neither for commercial rabbit and hare furharvesting nor for commercial harvest of amphibians and reptiles.

(e) The department's "KDWP public lands division special use restrictions," dated January 30, 2019, is hereby adopted by reference. (Authorized by and implementing K.S.A. 2018 Supp. 32-807; effective Dec. 4, 1989; amended July 13, 2001; amended May 16, 2008; amended May 15, 2009; amended July 23, 2010; amended Nov. 14, 2011; amended Jan. 1, 2013; amended July 26, 2013; amended July 18, 2014; amended April 22, 2016; amended May 19, 2017; amended July 20, 2018; amended May 31, 2019.)

**115-8-2. Blinds, stands, and decoys.** Subject to provisions and restrictions as established by posted notice, blinds, stands, and decoys shall be allowed on department lands and waters as follows: (a) Floating blinds and portable stands used for hunting may be placed not more than 14 days before the hunting season for which the blind or stand will be used and shall be removed from department property within 14 days after the hunting season for which the blind or stand was placed has ended.

(b) Floating blinds and portable stands used for purposes other than hunting may be placed for a period not to exceed 14 days and shall be removed from department property at the conclusion of 14 days or after the intended use of the blind or stand has ended, whichever time period is less.

(c) Ladders, screw-in metal steps, and steps attached by ropes, cables, or chains may be used for access to portable stands and shall be removed when the portable stand is removed as required by subsection (a) or (b).

(d) Natural blinds may be used for any authorized activity and shall be constructed of natural herbaceous materials or woody debris, or both, that are present at the site of the natural blind.

(e) Any individual may use a placed portable blind, floating blind, portable stand, or natural blind when the blind or stand is not occupied.

(f) Any blind, stand, or climbing device not in conformance with regulations or posted notice provisions or restrictions may be removed or destroyed by the department.

(g) Each portable blind, floating blind, and portable stand shall be marked with either the user's name and address or the user's department-issued identification number in a visible, legible, and weatherproof manner.

(h) No individual shall place more than two portable blinds or stands on any single department-owned or department-managed property.

(i) Portable blinds shall not be left unattended overnight.

(j) Decoys shall not be left unattended overnight. (Authorized by and implementing K.S.A. 2012 Supp. 32-807; effective April 30, 1990; amended July 20, 2012; amended July 26, 2013.)

**115-8-6. Fishing, fish bait, and seining.** Fishing and the taking of fishing bait shall be allowed on department lands and waters, subject to the following general restrictions:

(a) Fishing shall be prohibited at boat ramps and boat docks closed to fishing by posted notice.

(b) Fishing shall be prohibited at swimming areas and swimming beaches that are posted as swimming areas or swimming beaches and delineated by buoys or other markers.

(c) Minnows, bait fish, and other fishing bait may be taken for use as fishing bait only on a non-commercial basis and may be used only in the department-managed water where taken.

(d) Seining in department-managed waters shall be prohibited.

(e) The cleaning of fish in state parks shall occur only at designated fish-cleaning stations or other locations as established by the department.

(f) The use of trot lines and set lines shall be prohibited in the waters of Crawford state park, Meade state park, Scott state park, and all department-managed impoundments under 1,201 surface acres in size.

(g) Additional restrictions may be established by posted notice.

This regulation shall be effective on and after January 1, 2012. (Authorized by and implementing K.S.A. 32-807; effective Dec. 4, 1989; amended Dec. 28, 1992; amended Nov. 29, 1999; amended Nov. 20, 2009; amended Jan. 1, 2012.)

**115-8-9. Camping.** (a) Camping shall be allowed only in designated areas on department lands and waters and shall be subject to provisions or restrictions as established by posted notice.

(b) All campers and camping units shall be limited to a stay of not more than 14 consecutive days in a campground unless otherwise established by posted notice or as otherwise authorized by the department.

(c) Upon completing 14 consecutive days in a campground, each person and all property of each

person shall be absent from that campground for at least five days.

(d) One extended camping stay of not more than 14 additional consecutive days at the same campground may be granted through a written permit issued by the department if vacant camping sites are available. Upon completing 28 consecutive days at the same campground, each person and all property of each person shall be absent from the department-managed area for at least five days, except as authorized in subsection (e).

(e) Long-term camping in state parks shall be allowed on designated camping sites for six consecutive months through a written permit issued by the department if vacant long-term camping sites are available. Upon completing six consecutive months at the same state park, each person and all property of each person shall be absent from the state park for at least five days.

(f) Unless authorized by the department or located on a prepaid state park campsite reserved through the department's electronic reservation system, camping units shall not be left unoccupied in a campground for more than 24 hours.

(g) Unless authorized by the department or located on a prepaid state park campsite reserved through the department's electronic reservation system, vehicles or other property shall not be left unattended upon department lands or waters for more than 24 hours.

(h) Except as authorized by the department, any property unoccupied or unattended for more than 48 hours, unless the property is on a prepaid state park campsite reserved through the department's electronic reservation system, and any property abandoned upon department lands or waters shall be subject to removal by the department and may be reclaimed by the owner upon contacting the department.

(i) A campsite shall not be left unoccupied in a campground for more than 24 hours, unless the department so authorizes or the campsite is a prepaid state park campsite reserved through the department's electronic reservation system. (Authorized by and implementing K.S.A. 32-807; effective March 19, 1990; amended Feb. 10, 1992; amended Oct. 12, 1992; amended Sept. 12, 2008; amended Nov. 14, 2011.)

**115-8-10. Pets; provisions and restrictions.** (a) Pets shall be allowed but shall not be permitted to enter into any of the following:

(1) Areas that are posted as swimming beaches

or swimming areas that are delineated by buoys or other markers;

(2) public buildings, except designated public-use department cabins; or

(3) public structures.

(b) Pets shall be controlled at all times by using any of the following:

(1) Hand-held lead not more than 10 feet in length;

(2) tethered chain or leash not more than 10 feet in length. The pet shall be under the direct observation of and control by the owner; or

(3) confined to a cage, pen, vehicle, trailer, privately owned cabin, or designated public-use department cabin.

(c) The requirements of subsection (b) shall not apply to dogs while being used during and as a part of any of the following acts or activities:

(1) Hunting during open hunting seasons on lands or waters open for hunting;

(2) authorized field trial events;

(3) noncommercial training of hunting dogs subject to any provisions or restrictions as established by posted notice;

(4) special events or activities as authorized by the department; or

(5) working as a "guide dog," "hearing assistance dog," or "service dog," as defined in K.S.A. 39-1113 and amendments thereto.

(d) Guide dogs, hearing assistance dogs, and service dogs shall not be restricted by the requirements of subsection (a). (Authorized by and implementing K.S.A. 32-807; effective Dec. 4, 1989; amended Sept. 12, 2008; amended Nov. 14, 2011.)

**115-8-12. Stocking or releasing of wildlife.** Wildlife may be stocked or released on department lands or waters, navigable publicly owned rivers, and federal reservoirs only as authorized by any of the following:

(a) A written agreement issued by the department;

(b) a permit issued by the department;

(c) a department-approved management plan;

(d) regulations; or

(e) posted notice.

This regulation shall be effective on and after January 1, 2012. (Authorized by and implementing K.S.A. 32-807; effective Dec. 4, 1989; amended July 13, 2001; amended Jan. 1, 2012.)

**115-8-13. Motorized vehicles and aircraft; authorized operation.** (a) Motorized vehicles shall be operated only on department roads

and parking areas, except as otherwise established by this regulation or posted notice or as approved by the secretary.

(b) Motorized vehicles shall be operated at speeds not in excess of 25 miles per hour or as otherwise established by posted notice.

(c) Motorized vehicles shall be operated in accordance with load limits as established by posted notice for roads or bridges.

(d) Motorized aircraft landings and takeoffs shall be allowed in designated areas only or as authorized by the secretary.

(e) Except as otherwise specified in K.A.R. 115-8-1, posted notice, or this regulation, motorized electric or gasoline-powered two-wheeled vehicles, all-terrain vehicles, work-site utility vehicles, golf carts, and snowmobiles may be operated on ice-covered department waters only for the purpose of ice fishing from one-half hour before sunrise to one-half hour after sunset. These vehicles shall enter onto the ice only from boat ramps and points of entry as established by posted notice.

(f) (1) Except as provided in this regulation, each motorized vehicle that meets either of the following conditions shall be prohibited from being operated on all department lands and roads:

(A) Is not registered with one of the following:

(i) The director of vehicles pursuant to K.S.A. 8-127 and amendments thereto; or

(ii) the corresponding authority in another state or country; or

(B) is unlawful to be operated on any interstate highway, federal highway, or state highway pursuant to K.S.A. 8-15,100 and K.S.A. 8-15,109, and amendments thereto.

(2) The term "motorized vehicle" shall include cars, trucks, all-terrain vehicles, work-site utility vehicles, golf carts, go-carts, and electric or gasoline-powered two-wheeled vehicles.

(3) Any person desiring to operate an unconventional motorized vehicle on department roads within state parks may purchase an annual unconventional motorized vehicle permit from the secretary.

(A) The term "unconventional motorized vehicle" shall include work-site utility vehicles and golf carts.

(B) Unconventional motorized vehicles shall be operated only from sunrise to sunset by a holder of a valid driver's license.

(g) Any person with a disability, as defined by K.S.A. 8-1,124 and amendments thereto, may annually request a permit from the secretary to

utilize a motorized vehicle for accessing certain department lands and roads to provide access to recreational opportunities that would otherwise be unavailable to disabled persons. Each written request shall include the following:

(1) The name, address, and telephone number of the applicant;

(2) the name and location of the property to be accessed;

(3) the date or duration of the entry requested; and

(4) documentation of that person's disability in the form of a disabled accessible parking placard, disabled motor vehicle license plate, or disabled identification card issued by the director of vehicles of the department of revenue pursuant to K.S.A. 8-1,125 and amendments thereto, or similar documentation issued by another state.

(h) No person who is in possession of a motorized vehicle and has a permit to operate the motorized vehicle on department lands and roads shall perform either of the following:

(1) Allow another person to operate the vehicle on department lands and roads unless that other person has a permit issued by the department; or

(2) operate the vehicle on department lands and roads unless that person is in possession of a permit issued by the department.

(i) Each permit issued by the department that authorizes the operation of a motorized vehicle on department lands and roads shall expire on the last day of the calendar year in which the permit was issued, unless otherwise specified on the permit.

(j) A permit that authorizes the operation of a motorized vehicle on department lands and roads shall not be issued or shall be revoked by the secretary for any of the following reasons:

(1) The disability does not meet the requirements for the permit.

(2) The application is incomplete or contains false information.

(3) The disability under which the permit was issued no longer exists.

(4) The documentation of disability in the form of a disabled accessible parking placard, disabled motor vehicle license plate, or disabled identification card issued by the director of vehicles of the department of revenue pursuant to K.S.A. 8-1,125 and amendments thereto, or similar documentation issued by another state, has expired.

(5) The permit holder fails to comply with the terms and limitations of the permit or with the requirements specified in this regulation.

(6) The issuance or continuation of the permit would be contrary to the preservation of habitat or species located on or in department lands or waters.

(k) This regulation shall not apply to any motorized vehicle that is owned by the department or a designated agent and is used in the operation and maintenance of department lands and roads. (Authorized by and implementing K.S.A. 2015 Supp. 32-807; effective Dec. 4, 1989; amended Feb. 8, 2008; amended Sept. 9, 2011; amended Nov. 28, 2016.)

**115-8-13a. Electric-assisted bicycles.** (a) For the purposes of this regulation, the term “electric-assisted bicycle” shall have the meaning specified in K.S.A. 8-1489, and amendments thereto.

(b) A motor vehicle pass shall not be required to operate an electric-assisted bicycle in any state park. (Authorized by and implementing K.S.A. 2018 Supp. 32-807 and 32-901; effective Oct. 18, 2019.)

**115-8-19. Personal conduct on department lands and waters; provisions, restrictions and penalties.** (a) The conduct, actions, or activities of persons on department lands and waters shall be subject to provisions and restrictions as established by posted notice. The following general provisions and restrictions shall apply:

(1) No person shall advertise, engage in, or solicit any business, or make a charge for any event or service except as authorized by the department.

(2) Quiet hours shall be observed between the hours of 11:00 p.m. and 6:00 a.m. Except as authorized by the department, each action that will alarm, anger, or disturb others shall be prohibited during quiet hours. Any individual who has knowledge or probable cause to believe that the individual's actions will alarm, anger, or disturb others or who engages in noisy conduct during quiet hours may be subject to the provisions of subsection (b).

(3) Subject to the provisions of K.A.R. 115-8-21 and K.A.R. 115-8-1 and to other posted provisions or restrictions, any individual may possess, consume, or drink alcoholic liquor, as defined in K.S.A. 41-102 and amendments thereto.

(b) In addition to penalties prescribed by law or regulation, failure to comply with laws, regulations, permit conditions, or posted restrictions by an individual may result in the individual or equipment of the individual being removed from departmental lands or waters.

This regulation shall be effective on and after January 1, 2013. (Authorized by and implementing K.S.A. 32-807, as amended by L. 2012, Ch. 47, Sec. 25, and L. 2012, Ch. 144, Sec. 29; effective Jan. 30, 1995; amended Jan. 1, 2013.)

**115-8-23. Bait; hunting.** (a) No person shall place, deposit, expose, or scatter bait while hunting or preparing to hunt on department lands or place, deposit, expose, or scatter bait in a manner that causes another person to be in violation of this regulation.

(b) Hunting shall be prohibited within 100 yards of any bait placed, deposited, exposed, or scattered on department lands. Bait shall be considered placed, deposited, exposed, or scattered on department lands for 10 days following complete removal of the bait.

(c) (1) Nothing in this regulation shall prohibit the hunting or taking of wildlife over any of the following:

(A) Standing crops or flooded standing crops, including aquatic crops;

(B) standing, flooded, or manipulated natural vegetation;

(C) flooded harvested croplands;

(D) lands or areas where seeds or grains have been scattered solely as the result of normal agricultural planting, harvesting, postharvest manipulation, or soil stabilization practice; or

(E) standing or flooded standing agricultural crops over which grain is inadvertently scattered solely as a result of a hunter entering or exiting a hunting area, placing decoys, or retrieving downed wildlife.

(2) The taking of wildlife, except migratory waterfowl, coots, and cranes, on or over any lands or areas meeting the following conditions shall not be prohibited:

(A) Are not otherwise baited; and

(B) have grain or other feed that has been distributed or scattered solely as the result of manipulation of an agricultural crop or other feed on the land where grown, scattered solely as the result of normal agricultural operations, or scattered solely as the result of normal weather conditions.

(d) For the purposes of this regulation, “bait” shall mean any grain, fruit, vegetable, nut, hay, salt, sorghum, feed, other food, or mineral that is capable of attracting wildlife. Liquid scents and sprays shall not be considered bait. (Authorized by and implementing K.S.A. 2012 Supp. 32-807; effective July 20, 2012; amended July 26, 2013.)

**115-8-24.** This regulation shall be revoked on and after August 1, 2016. (Authorized by and implementing K.S.A. 32-807; effective July 20, 2012; revoked Aug. 1, 2016.)

**Article 9.—LICENSES, PERMITS,  
STAMPS, AND OTHER  
DEPARTMENT ISSUES**

**115-9-5. Hunting, fishing, and furharvester licenses; state park permits; effective dates.** (a) Any individual may purchase an annual hunting, fishing, or furharvester license or a state park annual permit for the next calendar year on and after a mid-December date determined annually by the secretary.

(b) Each hunting, fishing, or furharvester license or state park annual permit purchased on or after the date specified in subsection (a) shall be valid from the date purchased through the expiration date as stated on the license or permit. (Authorized by and implementing K.S.A. 2018 Supp. 32-807, K.S.A. 2018 Supp. 32-906, K.S.A. 32-911, and K.S.A. 2018 Supp. 32-919; effective Dec. 4, 1989; amended Aug. 15, 1994; amended Sept. 19, 1997; amended April 26, 2019.)

**115-9-6. Vehicle permits; display.** Each person who purchases a vehicle permit for entry into a state park or other area requiring a vehicle permit shall affix the permit to the lower corner of the windshield on the driver's side of the vehicle for which the vehicle permit was purchased. Annual vehicle permits shall be permanently affixed. (Authorized by K.S.A. 2014 Supp. 32-807; implementing K.S.A. 2014 Supp. 32-807 and 32-901; effective, T-115-7-27-89, July 27, 1989; effective Sept. 18, 1989; amended Feb. 20, 2015.)

**115-9-8. Migratory bird harvest information program; requirements, exemptions.** (a) As used in this regulation, "migratory game bird" shall mean any wild duck, goose, merganser, crane, dove, rail, snipe, woodcock, or other migratory bird for which a hunting season is established in the state of Kansas.

(b) Each person hunting migratory game birds in the state of Kansas shall be required to complete a Kansas migratory bird harvest information survey, as provided by the secretary.

(c) Upon completion of a Kansas migratory bird harvest information survey, a harvest information program permit shall be issued by the secretary or

the secretary's designee to the person completing the survey.

(1) Each person required to comply with subsection (b) shall be in possession of a valid harvest information program permit issued to that person while hunting any migratory game bird within the state of Kansas.

(2) Each harvest information program permit shall be validated by the signature of the permit holder written in the signature block of the permit.

(3) Each harvest information program permit shall be valid from the date of issuance through June 30 following the date of issuance.

(4) A harvest information program permit shall not be transferable.

(d) The provisions of subsection (b) shall not apply to the hunting of any migratory game bird by either of the following:

(1) Tribal members on federal Indian reservations or tribal members hunting on ceded lands; or

(2) a resident of this state not required by K.S.A. 32-919, and amendments thereto, to hold a hunting license.

(e) This regulation shall be effective on and after April 1, 2013. (Authorized by and implementing K.S.A. 32-807, as amended by L. 2012, ch. 47, sec. 25; effective July 1, 1998; amended April 1, 2013.)

**115-9-9. Electronic licenses, permits, stamps, tags, and other issues of the department; other requirements.** The requirements in this regulation shall apply to licenses, permits, stamps, tags, and other issues of the department purchased from electronic or telephone license vendors or by electronic means. These requirements shall consist of the following:

(a) Each individual who receives or prints a hard copy of an issue of the department purchased from an electronic or telephone license vendor or by electronic means shall sign the issue, attesting that all information on the issue is true and correct.

(b) Each individual who purchases a departmental issue from a telephone vendor shall carry the confirmation number while actively engaged in any activity authorized by the departmental issue. When the individual receives the hard copy of any issue received from a telephone vendor, the individual shall sign and carry the hard copy of the departmental issue while actively engaged in any activity authorized by the departmental issue.

(c) Each individual who receives an electronic version of a departmental issue shall attest that all information contained in the issue is true and correct at the time of purchase. A digital file or portable document format file of the departmental issue shall be stored on the licensee's mobile device, which the licensee shall carry while actively engaged in any activity authorized by the departmental issue.

(d) Each hard-copy stamp received from an electronic or telephone license vendor or by electronic means shall be validated if the individual signs the issue displaying the valid stamp purchase. The confirmation number of each stamp purchased from an electronic or telephone license vendor shall be proof of signature until the individual receives the hard copy of the stamp purchased from the license vendor.

(e) Any current issue of the department that is destroyed or lost may be replaced by electronic means. Each individual whose current issue was destroyed or lost shall sign the new hard-copy issue, attesting to the destruction or loss of the current issue.

(f) An application form shall not be required for an individual to purchase any issue from an electronic or telephone license vendor or by electronic means. The signature on the issue by the individual receiving the issue shall meet the signature requirement on application forms.

(g) The removal of the carcass tag from any big game or wild turkey permit or game tag purchased from an electronic license vendor or by electronic means shall not invalidate the permit, game tag, or carcass tag for hunting. However, signing any carcass tag before harvesting an animal for which the carcass tag was issued shall invalidate the carcass tag and either the permit or the game tag for use.

(h) Each temporary annual park permit purchased from an electronic or telephone license vendor or by electronic means shall be valid only if visibly displayed on the vehicle or camping unit for which the annual park permit was purchased. Each individual with a temporary annual park permit purchased from an electronic license vendor or by electronic means shall exchange the permit for a permanent annual park permit at a department office or automated park license vendor.

(i) Each person required to provide the identifying number of a license, permit, tag, stamp, or other issue of the department shall use the transaction number of the electronic license, permit, tag, stamp, or other issue. (Authorized by K.S.A.

2018 Supp. 32-807 and K.S.A. 2018 Supp. 32-980; implementing K.S.A. 2018 Supp. 32-980; effective July 22, 2005; amended May 18, 2007; amended Dec. 20, 2019.)

## Article 11.—CONTROLLED SHOOTING AREAS

**115-11-2. Controlled shooting areas; operational requirements.** (a) Each controlled shooting area shall be posted as follows:

(1) Signs shall be made of metal, plastic, or wood and shall be not less than 15 inches by 15 inches.

(2) Signs shall legibly display the words "controlled shooting area" in block lettering that is not less than two inches in height.

(3) Signs shall be placed along the boundary of the controlled shooting area, at intervals of not more than 500 feet.

(b) The licensee shall keep the license and a copy of the laws and regulations pertaining to the controlled shooting areas posted in a conspicuous and readily available place at the headquarters of the area.

(c) If the license of the controlled shooting area is cancelled or revoked, the licensee shall remove all controlled shooting area signs from the boundary of the area within 30 days of the cancellation or revocation date.

(d) If a licensee fails to renew a controlled shooting area license, all controlled shooting area signs shall be removed from the boundary of the area before September 1.

(e) Only those game birds released on the controlled shooting area from August 15 through April 30 of the license period shall be credited toward the allowable take for the area.

(f) The licensee shall not take or permit the taking of more than 100 percent of the number of each species of game bird released on the controlled shooting area. These game bird species shall not be hunted on the area until a release of the game bird species has been made.

(g) The shooting hours for the taking of game birds released on controlled shooting areas shall be from ½ hour before sunrise to sunset.

(h) Game birds taken on a controlled shooting area shall be accompanied during transportation from the area by a form provided by the department and completed by the licensee, which shall include the number and species of game birds being transported, the name and license number

of the licensee, the date of harvest, and any other relevant information required by the secretary.

(i) Except as authorized under Kansas dog training and field trial regulations, only hand-reared mallard ducks may be recaptured by trapping after release.

(j) Hunting during the established seasons and in compliance with all laws and regulations governing the hunting activity may occur on a controlled shooting area for wildlife species not included in K.S.A. 32-943, and amendments thereto, and for any wildlife species not included in the license issued for that controlled shooting area, including big game animals and wild turkeys for which the hunter has a valid permit issued by the department. The hunting, shooting, or taking of wild migratory waterfowl, however, shall be prohibited on each controlled shooting area used for the shooting of hand-reared mallard ducks.

This regulation shall be effective on and after March 1, 2019. (Authorized by K.S.A. 32-948; implementing K.S.A. 2018 Supp. 32-945, K.S.A. 2018 Supp. 32-946, K.S.A. 2018 Supp. 32-947, and K.S.A. 32-948; effective Dec. 4, 1989; amended Aug. 31, 1992; amended July 1, 1999; amended July 1, 2002; amended April 1, 2005; amended March 1, 2019.)

### Article 13.—TRAINING DOGS AND FIELD TRIAL EVENTS

**115-13-4. Field trial permit; furbearers and coyotes.** (a) Each application for a furbearer or coyote field trial permit shall be submitted on a form provided by the department. Each applicant shall provide the following information:

- (1) The name of the applicant;
- (2) the address of the applicant;
- (3) the telephone number of the applicant;
- (4) the location of the event headquarters and the specific counties where the furbearer or coyote field trial will occur;
- (5) the estimated number of individuals and dogs participating;
- (6) the requested dates of the furbearer or coyote field trial;
- (7) the daily starting time or times;
- (8) a description of the furbearer or coyote field trial event, including information on the proposed use of wildlife during the event; and
- (9) a copy of the furbearer or coyote sanction or license authorization if the event has been sanctioned or licensed.

(b) Each application for a furbearer or coyote field trial permit shall be submitted at least 15 days before an event. This application deadline may be waived by the secretary for extenuating circumstances, if all other application requirements are met. "Extenuating circumstances" shall mean any condition that is caused by an unexpected event that is beyond the applicant's control.

(c) Any applicant for a furbearer or coyote field trial permit may include in the application a listing of all field trial events for the calendar year if the information required under subsection (a) is provided for each event.

(d) Issuance of a furbearer or coyote field trial permit may be denied by the secretary, or approval for a specific furbearer or coyote field trial event requested by the applicant under the furbearer or coyote field trial permit may be withheld by the secretary, under any of the following circumstances:

(1) The permit application is unclear or incomplete.

(2) The requirements of K.A.R. 115-8-21 are not met.

(3) The event does not conform to the requirements of a furbearer or coyote field trial event.

(4) Issuance of a furbearer or coyote field trial permit would pose an inordinate risk to the public or to wildlife resources.

(e) Subject to all federal and state laws and regulations, wildlife may be used during a furbearer or coyote field trial event as follows:

(1) Pen-raised red fox, gray fox, raccoon, opossum, and coyotes may be released and pursued, but shall not be shot, killed, or possessed except during established seasons for the taking and possession of that species by hunting methods.

(2) Wild or legally trapped and released red fox, gray fox, raccoon, opossum, and coyotes may be pursued, but shall not be shot, killed, or possessed except during established seasons for the taking and possession of that species by hunting methods.

(f) Each separate furbearer or coyote field trial event conducted under a furbearer or coyote field trial permit shall be no longer than seven days in duration and shall be conducted only within the area specified in the permit.

(g) Each permittee shall keep a register of the names and addresses of all participants in each field trial event and, upon demand, shall make this register available for inspection to the department and any law enforcement officer authorized to enforce the laws of this state or the regulations of the secretary.

(h) No furbearer field trial event shall be held between the close of the fall running season established by K.A.R. 115-25-11 and the opening of the season established by K.A.R. 115-25-11 for the taking and possession of red fox, gray fox, raccoon, or opossum by hunting methods.

(i) No individual participating in a furbearer field trial shall possess a firearm except during the seasons established by K.A.R. 115-25-11 for the taking and possession of that species of furbearer.

(j) A coyote field trial event shall not be held during any closed season for the pursuing, shooting, killing, or possession of coyotes.

(k) In addition to other penalties prescribed by law, a furbearer or coyote field trial permit may be revoked by the secretary under either of the following circumstances:

(1) The permit was secured through false representation.

(2) The permittee fails to meet permit requirements or violates permit conditions.

(l) A furbearer or coyote field trial event permit shall not be required for water races or drag events. The following provisions shall apply to water races and drag events:

(1) A water race or drag event may be held at any time of the year if only coyotes or pen-raised furbearers are used in the event.

(2) A water race or drag event in which wild or wild-trapped furbearers or coyotes are used shall be held only during the established trapping season or season established for the taking and possession by hunting methods for the species of wildlife used.

(3) A water race or drag event shall be restricted to a contiguous area that does not exceed 640 acres.

(4) The person holding the water race or drag event shall notify the department at least 10 days before the event and provide a description of the event to be conducted. This notification deadline may be waived by the secretary for extenuating circumstances. "Extenuating circumstances" shall mean any condition that is caused by an unexpected event that is beyond the applicant's control. (Authorized by and implementing K.S.A. 2018 Supp. 32-807 and 32-954; effective Aug. 5, 1991; amended Sept. 27, 2002; amended May 31, 2019.)

#### Article 14.—FALCONRY

**115-14-1.** This regulation shall be revoked on and after December 31, 2012. (Authorized by

K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002; effective Nov. 12, 1991; amended Aug. 15, 1994; revoked Dec. 31, 2012.)

**115-14-2.** This regulation shall be revoked on and after December 31, 2012. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807, K.S.A. 32-1001 and K.S.A. 32-1002; effective Nov. 12, 1991; amended Aug. 15, 1994; amended Oct. 5, 2001; revoked Dec. 31, 2012.)

**115-14-3.** This regulation shall be revoked on and after December 31, 2012. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002; effective Nov. 12, 1991; amended Aug. 1, 1997; amended Oct. 5, 2001; revoked Dec. 31, 2012.)

**115-14-4.** This regulation shall be revoked on and after December 31, 2012. (Authorized by K.S.A. 1990 Supp. 32-807; implementing K.S.A. 1990 Supp. 32-807, K.S.A. 1990 Supp. 32-1001; effective Nov. 12, 1991; revoked Dec. 31, 2012.)

**115-14-5.** This regulation shall be revoked on and after December 31, 2012. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807, K.S.A. 32-1002; effective Nov. 12, 1991; amended Oct. 5, 2001; revoked Dec. 31, 2012.)

**115-14-6.** This regulation shall be revoked on and after December 31, 2012. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807, K.S.A. 32-1002; effective Nov. 12, 1991; amended Oct. 5, 2001; revoked Dec. 31, 2012.)

**115-14-8.** This regulation shall be revoked on and after December 31, 2012. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807, K.S.A. 32-1001, and K.S.A. 32-1002; effective Nov. 12, 1991; amended Aug. 15, 1994; revoked Dec. 31, 2012.)

**115-14-9.** This regulation shall be revoked on and after December 31, 2012. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807, K.S.A. 32-919, and K.S.A. 32-1002; effective Nov. 12, 1991; amended Aug. 15, 1994; amended Aug. 1, 1997; amended Oct. 5, 2001; revoked Dec. 31, 2012.)

**115-14-10.** This regulation shall be revoked on and after December 31, 2012. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807, K.S.A. 32-1001, K.S.A. 32-1002 and K.S.A. 32-1047; effective Nov. 12, 1991; amended Aug. 15, 1994; amended Oct. 5, 2001; revoked Dec. 31, 2012.)

**115-14-11. Falconry; general provisions.**

(a) Each falconer hunting or trapping raptors in Kansas shall possess any current hunting license, unless exempt pursuant to K.S.A. 32-919 and amendments thereto, and any other state or federal stamp, permit, certificate, or other issuance that may be required for hunting the species that the falconer is hunting. In addition, each nonresident falconer shall possess a current nonresident hunting license while participating in a falconry field trial or a department-approved special event.

(b) Any falconry raptor may kill wildlife, including animals killed outside the established hunting season, if it was not the intent of the falconry permittee to kill the wildlife. The falconry raptor may be allowed to feed on the wildlife, but the permittee shall not take the wildlife, or any part of the wildlife, into possession.

(1) The falconry permittee shall report the take of any federally listed threatened or endangered species to the ecological services field office of the United States fish and wildlife service and provide the location where the take took place.

(2) The falconry permittee shall report the take of any wildlife designated as endangered or threatened in K.A.R. 115-15-1 or as a species in need of conservation as listed in K.A.R. 115-15-2 to the environmental services section of the department and provide the location where the take took place.

(c) Any falconry permittee may take nuisance and depreeding birds with a falconry raptor in accordance with K.A.R. 115-16-3 if the permittee is not paid for that individual's services.

(d) Any falconry permittee may conduct commercial abatement activities in accordance with the following provisions:

(1) Any master falconer may conduct commercial abatement activities with permitted falconry raptors if the master falconer possesses a special purpose abatement permit issued by the United States fish and wildlife service.

Any master falconer, general falconer, or apprentice falconer may conduct commercial abatement activities as a subpermittee of a properly permitted master falconer.

(2) Any falconry permittee holding a special abatement permit may receive payment for that individual's commercial services.

(e) Feathers molted by a falconry raptor shall be possessed or disposed of in accordance with the following provisions:

(1) Any falconry permittee may possess flight feathers for each species of raptor legally possessed or previously held for the duration of time the permittee holds a valid falconry permit.

(A) The permittee may receive feathers for imping from other permitted falconers, wildlife rehabilitators, or propagators in the United States. The permittee may give feathers for imping to other permitted falconers, wildlife rehabilitators, or propagators in the United States.

(B) It shall be unlawful to buy, sell, or barter the feathers.

(2) Any permittee may donate feathers from a falconry raptor, except golden eagle feathers, to any person or institution with a valid permit to possess the feathers issued by the United States fish and wildlife service or to any persons exempted by federal regulation from having the permit.

(3) Except for the primary or the secondary flight feathers and the retrices from a golden eagle, a falconry permittee shall not be required to gather feathers that are molted or otherwise lost by a falconry bird. These feathers may be left where they fall, stored for imping, or destroyed. All molted flight feathers and retrices from a golden eagle shall be collected by the permittee and, if not kept for imping, shall be sent to the national eagle repository.

(4) Each falconry permittee whose permit expires or is revoked shall donate the feathers of any species of falconry raptor, except a golden eagle, to any person or institution exempted from federal possession permit requirements or to any person or institution authorized by federal permit to acquire and possess the feathers. If the feathers cannot be donated, they shall be burned, buried, or otherwise destroyed.

(f) The carcass of each falconry raptor shall be disposed of in accordance with the following provisions:

(1) The entire body of each golden eagle, including all feathers, talons, and other parts, shall be sent to the national eagle repository.

(2) The body or feathers of any species of falconry raptor, excluding a golden eagle, may be donated to any person or institution exempted from federal possession permit requirements or to any person or institution authorized by federal permit to acquire and possess the body or feathers.

(3) The body of any falconry raptor, other than a golden eagle, that was banded or was implanted with a microchip before its death may be kept by

the falconry permittee in accordance with the following provisions:

(A) The feathers from the body may be used for imping.

(B) The body may be prepared and mounted by a taxidermist. The mounted body may be used by the permittee as part of a conservation education program.

(C) If the raptor was banded, the band shall remain on the body. If the raptor was implanted with a microchip, the microchip shall remain implanted in place.

(4) The body or feathers of any raptor that is not donated or retained by the permittee shall be burned, buried, or otherwise destroyed within 10 days of the death of the bird or after final examination by a veterinarian to determine the cause of death.

(5) The carcass of each euthanized raptor shall be disposed of in a manner that prevents the secondary poisoning of eagles or other scavengers.

(6) For any falconry raptor other than a golden eagle, if the body or feathers are not donated or mounted by a taxidermist as authorized by this subsection, the falconry permittee may possess the raptor for as long as the permittee maintains a valid falconry permit. The falconry permittee shall keep all the paperwork documenting the acquisition and possession of the raptor.

(g) A falconry raptor may be used in conservation education programs presented in public venues in accordance with the following provisions:

(1) Any general falconer or master falconer may conduct or participate in such a program without the need for any other type of permit. Any apprentice falconer may conduct or participate in such a program while under the direct supervision of a general falconer or master falconer during the program.

The falconer presenting the program shall be responsible for all liability associated with falconry and conservation education activities for which the falconer is the instructor.

(2) The raptor shall be used primarily for falconry.

(3) A fee may be charged for the presentation of a conservation education program. However, the fee shall not exceed the amount required to recoup the falconer's costs for presenting the program.

(4) The presentation shall address falconry and conservation education. The conservation education portion of the program shall provide infor-

mation about the biology, ecological roles, and conservation needs of raptors and other migratory birds. However, not all of these topics shall be required to be covered in every presentation.

(h) Falconry raptors may be photographed, filmed, or recorded by similar means for the production of movies or other sources of information on the practice of falconry or on the biology, ecological roles, and conservation needs of raptors and other migratory birds in accordance with the following provisions:

(1) Any general falconer or master falconer may conduct or participate in such an activity without the need for any other type of permit. Any apprentice falconer may conduct or participate in such an activity while under the direct supervision of a general falconer or master falconer during the activity.

(2) The falconer shall not receive payment for the falconer's participation.

(3) Falconry raptors shall not be used to make movies or commercials or be used in other commercial ventures that are not related to falconry. Falconry raptors shall not be used for any of the following:

(A) Entertainment;

(B) advertisements, promotion, or endorsement of any products, merchandise, goods, services, meetings, or fairs; or

(C) the representation of any business, company, corporation, or other organization.

(i) Any general falconer or master falconer may assist a permitted migratory bird rehabilitator ("rehabilitator") to condition raptors in preparation for their release to the wild in accordance with the following provisions:

(1) The rehabilitator shall provide the falconer with a letter or form that identifies the bird and explains that the falconer is assisting in the bird's rehabilitation. The raptor undergoing rehabilitation shall not be transferred to the falconer but shall remain under the permit of the rehabilitator.

(2) The falconer shall not be required to meet the rehabilitator facility standards. The falconer shall maintain that individual's facilities in accordance with K.A.R. 115-14-13.

(3) The falconer, in coordination with the rehabilitator, shall release all raptors that are able to be released to the wild or shall return any such bird that cannot be permanently released to the wild to the rehabilitator for placement within the 180-day time frame in which the rehabilitator is authorized to possess the bird, unless the rehabilitator receives authorization to retain the bird for

longer than the 180-day period. Any rehabilitated bird may be transferred to the falconer in accordance with K.A.R. 115-14-15.

(j) When flown free, a hybrid raptor shall have at least two attached radio transmitters to aid the falconry permittee in tracking and locating the bird. The term “hybrid raptor” shall mean the offspring of two different species of raptor.

(k) The statewide season for taking game birds by falconry shall be September 1 through March 31. Any falconer may possess hen pheasants that are incidentally taken by falconry means during the established falconry game bird season. Each falconer shall possess no more than two hen pheasants per day.

This regulation shall be effective on and after December 31, 2012. (Authorized by and implementing K.S.A. 32-807; effective Dec. 31, 2012.)

**115-14-12. Falconry; permits, applications, and examinations.** (a) Except as provided in this regulation, any individual engaged in falconry who possesses a current Kansas falconry permit or a current falconry permit from another state may engage in falconry activities as authorized by law or regulation. The permittee shall be in the immediate possession of the permit while trapping, transporting, working with, or flying a falconry raptor. Each falconer wanting to capture a raptor from the wild shall comply with K.A.R. 115-14-14. The permittee shall not be required to have immediate possession of the falconry permit while the raptor is located on the permitted premises of the falconry facility but shall produce the permit upon request for inspection by any law enforcement officer authorized to enforce the provisions of this regulation.

(b) Each individual wanting to engage in falconry shall submit an application to the secretary for the appropriate permit, on forms provided by the department. The application shall require at least the following information to be provided:

- (1) The applicant's name;
- (2) the applicant's address;
- (3) the address of the facilities where the raptors are to be kept;
- (4) the species and number of raptors to be permitted in accordance with the limitations specified in this regulation;
- (5) the applicant's date of birth;
- (6) the applicant's social security number;
- (7) the level of falconry permit being applied for; and

(8) any additional relevant information that may be required for the type of permit as described within this regulation.

(c) Each falconry permit shall be valid from the date of issuance through December 31 in the third calendar year after issuance. A falconry permit may be renewed without the examination otherwise required by this regulation if the permit is renewed before the current permit expires.

(d) Each individual holding a current valid falconry permit from another state, moving to Kansas with the intent to establish residency, and wanting to bring that individual's legally permitted raptors into the state shall meet the following requirements:

(1) The individual shall apply for the appropriate level of Kansas falconry permit within 30 days after moving into the state. The determination of which level of falconry permit is appropriate for the applicant shall be based on the requirements of subsections (j), (k), and (l).

(2) The individual shall not be required to take the department's falconry examination specified in paragraph (j)(3).

(3) The individual shall notify the state where the individual formerly resided of the individual's move, within 30 days of moving to Kansas.

(4) Any falconry birds held by the individual under the former permit may be retained during the permit application and issuance process in Kansas if the birds are kept in an appropriate facility as specified in K.A.R. 115-14-13.

Each permanent facility to house falconry birds possessed under this subsection shall be constructed, inspected, and approved in accordance with K.A.R. 115-14-13 before the issuance of the Kansas falconry permit.

(e) Each individual whose permit has lapsed shall be allowed to reinstate that individual's permit in accordance with this subsection.

(1) Any individual whose Kansas falconry permit has lapsed for fewer than five years may be reinstated at the level previously held if the individual submits a complete application and provides proof of the previous level of certification. Each of the individual's facilities shall pass the inspection requirements in K.A.R. 115-14-13 before the individual may be allowed to possess a falconry raptor.

(2) Each individual whose Kansas falconry permit has lapsed for five years or more shall be required to correctly answer at least 80 percent of the questions on the department's falconry examina-

tion specified in paragraph (j)(3). Upon passing the examination, the individual's falconry permit shall be reinstated at the level previously held. Each of the individual's facilities shall pass the inspection requirements in K.A.R. 115-14-13 before the individual may be allowed to possess a falconry raptor.

(f) Any individual whose falconry permit has been revoked or suspended may apply for that individual's permit to be reinstated after the suspension period or revocation. In addition to submitting a completed application to the department, the individual shall be required to correctly answer at least 80 percent of the questions on the department's falconry examination specified in paragraph (j)(3). Upon passing the examination, the individual's falconry permit shall be reinstated at the level previously held. Each of the individual's facilities shall pass the inspection requirements in K.A.R. 115-14-13 before the individual may be allowed to possess a falconry raptor.

(g) Any individual residing in Kansas who is not a citizen of the United States, has practiced falconry in the individual's home country, and has not been previously permitted for falconry in another state may apply for a temporary falconry permit. Each temporary falconry permit shall be valid from the date of issuance through December 31 in the third calendar year after issuance. The level of permit issued shall be consistent with the level of permit types specified in subsections (j), (k), and (l). In addition, the applicant shall meet the following provisions:

(1) Any individual covered under this subsection may apply for and receive a temporary falconry permit in accordance with the following provisions:

(A) The individual applying for the temporary permit shall be required to correctly answer at least 80 percent of the questions on the department's falconry examination specified in paragraph (j)(3).

(B) Upon passing the examination, a temporary permit for the appropriate level shall be issued by the department, based on the individual's documentation of experience and training.

(C) The individual holding the temporary permit may possess raptors for falconry purposes if the individual has falconry facilities approved in accordance with K.A.R. 115-14-13. The individual holding a temporary permit may fly raptors held for falconry by another permitted falconer. The individual holding a temporary permit shall not take raptors from the wild for falconry purposes.

(2) Any individual holding a temporary permit in accordance with this subsection may use any bird for falconry that the individual legally possessed in the individual's country of origin for falconry purposes if the importation of that species of bird into the United States is not prohibited and the individual has met all permitting requirements of the individual's country of origin.

(A) The individual shall comply with all requirements for practicing falconry in the state. The individual shall acquire all permits and comply with all federal laws concerning the importation, exportation, and transportation of falconry birds; the wild bird conservation act; the endangered species act; migratory bird import and export permits; and the endangered species convention.

(B) Each falconry bird imported into the state under this subsection shall be exported from the state by the temporary permittee when the permittee leaves the state, unless a permit is issued allowing the bird to remain in Kansas. If the bird dies while in the state, the permittee shall report the loss to the department before leaving the state.

(C) When flown free, each bird brought into the state under the provisions of this subsection shall have attached to the bird two radio transmitters that allow the permittee to locate the bird.

(h) Each individual who holds a current, valid Kansas falconry permit and resides in another state, territory, or tribal land different from the individual's primary Kansas residence for more than 120 consecutive days shall provide the location of the individual's falconry facilities in the other jurisdiction to the department. This information shall be listed on the individual's Kansas falconry permit.

(i) Falconry permits shall be issued for the following levels of permittees: apprentice falconer, general falconer, and master falconer. Each applicant for a specific level shall meet the requirements of subsection (j), (k), or (l).

(j) An "apprentice falconer" shall mean an individual who is beginning falconry at an entry level, has no prior permitted falconry experience, and meets the following requirements:

(1) The applicant shall be at least 12 years of age. The application of any applicant under 18 years of age shall be signed by a parent or legal guardian, who shall be legally responsible for the applicant's activities.

(2) The applicant shall have secured a written sponsor agreement either from a general falconer with at least two years of falconry experience as a

general falconer or from a master falconer, stating that the falconer has agreed to mentor the applicant for the duration of the apprentice permit.

(A) The sponsor agreement shall include a statement from the general falconer or master falconer specifying that the sponsor shall mentor the applicant in learning the husbandry and training of raptors for falconry, learning relevant wildlife laws and regulations concerning the practice of falconry, and deciding what species of raptor is appropriate for the applicant to possess while practicing falconry at the apprentice level.

(B) If the general falconer or master falconer is not able to fulfill the sponsor agreement to mentor the apprentice falconer, the apprentice shall secure a sponsor agreement from another falconer with the necessary qualifications and notify the department within 30 days of the change. The falconer sponsoring the apprentice falconer shall notify the department in writing within 30 days of withdrawing the falconer's mentorship.

(3) Each applicant for an apprentice falconry permit shall be required to correctly answer at least 80 percent of the questions on the department's falconry examination. The examination shall cover the following topics:

(A) The care and handling of falconry raptors;  
(B) federal and state laws and regulations relating to falconry; and

(C) other relevant subject matter relating to falconry, including diseases and general health.

(4) Any applicant failing the examination may reapply after 90 days.

(5) An apprentice falconer shall not possess more than one raptor. Each apprentice falconer shall be restricted to taking or possessing not more than one wild-caught raptor from one of the following species:

- (A) American kestrel (*Falco sparverius*);
- (B) red-tailed hawk (*Buteo jamaicensis*); or
- (C) red-shouldered hawk (*Buteo lineatus*).

(6) A raptor acquired by an apprentice falconer shall not have been taken from the wild as an eyas or have become imprinted on humans. Any wild-caught raptor species specified in paragraph (j)(5) may be transferred to the apprentice falconer by another properly permitted falconry permittee.

An apprentice falconer shall not acquire more than one replacement raptor during any 12-month period.

(7) The facilities used to house and keep the raptor shall meet the requirements in K.A.R. 115-14-13.

(k) A "general falconer" shall mean an individual who has been previously permitted as an apprentice falconer and meets the following requirements:

(1) The applicant shall be at least 16 years of age. The application of any applicant under 18 years of age shall be signed by a parent or legal guardian, who shall be legally responsible for the applicant's activities.

(2) Each application shall be accompanied by a letter from general falconer or a master falconer stating that the applicant has practiced falconry with wild raptors at the level of apprentice falconer, or its equivalent, for at least two years, including maintaining, training, flying, and hunting the raptor for at least four months in each year. This time may include the capture and release of falconry raptors. A school or education program in falconry shall not be substituted to shorten the required two years of experience at the level of apprentice falconer.

(3) A general falconer may take and use any species of *Accipitriform*, *Falconiform*, or *Strigiform*, including wild or captive-bred raptors and hybrid raptors, as defined in K.A.R. 115-14-11, for falconry, with the following exceptions:

- (A) Golden eagle (*Aquila chrysaetos*);
- (B) bald eagle (*Haliaeetus leucocephalus*);
- (C) white-tailed eagle (*Haliaeetus albicilla*); and
- (D) Steller's sea eagle (*Haliaeetus pelagicus*).

(4) A general falconer shall possess no more than three raptors at any one time, regardless of the number of state, tribal, or territorial falconry permits the general falconer possesses.

(l) A "master falconer" shall mean an individual who has been previously permitted at the level of general falconer and meets the following requirements:

(1) The applicant shall have practiced falconry with that individual's own raptor as a general falconer for at least five years.

(2) A master falconer may take and use any species of *Accipitriform*, *Falconiform*, or *Strigiform*, including wild or captive-bred raptors and hybrid raptors for falconry, with the following exceptions:

(A) A bald eagle (*Haliaeetus leucocephalus*) shall not be possessed.

(B) Golden eagles (*Aquila chrysaetos*), white-tailed eagles (*Haliaeetus albicilla*), or Steller's sea eagles (*Haliaeetus pelagicus*) may be possessed if the permittee meets the following requirements:

(i) The permittee shall not possess more than three raptors of the species listed in paragraph (1)(2)(B).

(ii) The permittee shall provide documentation to the department of the permittee's experience in handling large raptors, including information about the species handled and the type and duration of the activity in which the experience was gained.

(iii) The permittee shall provide the department with at least two letters of reference from people with experience in handling or flying large raptors including eagles, ferruginous hawks (*Buteo regalis*), goshawks (*Accipiter gentilis*), or great horned owls (*Bubo virginianus*). Each letter shall contain a concise history of the author's experience with large raptors, which may include the handling of raptors held by zoos, rehabilitating large raptors, or scientific studies involving large raptors. Each letter shall also assess the permittee's ability to care for eagles and fly them for falconry purposes.

(C) The possession of a golden eagle, white-tailed eagle, or Steller's sea eagle shall count as one of the wild raptors that the permittee is allowed to possess.

(D) A master falconer may possess wild or captive-bred raptors or hybrid raptors of the species allowed by this subsection.

(E) A master falconer shall possess no more than five wild-caught raptors, including golden eagles, regardless of the number of state, tribal, or territorial falconry permits that the falconer possesses.

(F) A master falconer may possess any number of captive-bred raptors. However, the raptors shall be trained to pursue wild game and shall be used for hunting.

(m) A falconry permit may be denied, suspended, or revoked by the secretary for any of the following reasons:

(1) The application is incomplete or contains false information.

(2) The applicant does not meet the qualifications specified in this regulation.

(3) The applicant has failed to maintain or to submit required reports.

(4) The applicant has been convicted of violating department laws or regulations relating to hunting or the practice of falconry or has had any other department license or permit denied, suspended, or revoked.

(5) Issuance of the permit would not be in the best interests of the public, for reasons including complaints or inappropriate conduct while holding a previous falconry permit.

This regulation shall be effective on and after December 31, 2020. (Authorized by and implementing K.S.A. 2019 Supp. 32-807; effective Dec. 31, 2012; amended Dec. 31, 2020.)

**115-14-13. Falconry; facilities, equipment, care requirements, and inspections.** (a) Each individual keeping raptors shall maintain the facilities in accordance with this regulation.

(1) "Primary facility" shall mean the principal place and structures where the raptor is normally provided care and housing. This term shall include indoor facilities and outdoor facilities.

(2) "Temporary facility" shall mean a place and structure where a raptor is kept during the raptor's time away from the primary facility, including during transportation and while hunting or attending an event. This term shall include a place and structure where a raptor is kept for a limited time period while the primary facility is not available.

(b) All primary facilities used to house and keep raptors shall be inspected and approved by the department before the issuance of a Kansas falconry permit. Thereafter, all primary facilities used to house and keep raptors shall be inspected and approved whenever a change in the location of the primary facility occurs. All primary facilities shall meet the following standards:

(1) All indoor areas of the primary facility, which are also known as "mews," and all outdoor areas of the primary facility, which are also known as "weathering areas," shall protect raptors from the environment, predators, and domestic animals.

(2) The indoor area of the primary facility shall have a perch for each raptor and at least one opening for sunlight.

(3) Two or more raptors may be housed together and untethered if the birds are compatible with each other. Each raptor shall have an area large enough to allow the raptor to fly if it is untethered or, if tethered, to fully extend its wings to bate or attempt to fly while tethered without damaging its feathers or contacting other raptors.

(4) Each raptor shall have a pan of clean water available.

(5) Each indoor area of the primary facility shall be large enough to allow easy access for the care and feeding of the raptors kept there.

(6) Each indoor area of the primary facility housing untethered raptors shall have either solid walls or walls made with vertical bars spaced narrower than the width of the body of the smallest raptor being housed, heavy-duty netting, or other

similar materials covering the walls and roof of the facility. All windows shall be protected on the inside by vertical bars, spaced at intervals narrower than the width of the raptor's body.

(7) The floor of the indoor area of the primary facility shall consist of material that is easily cleaned and well drained.

(8) Each indoor area of the primary facility shall include shelf-perch enclosures where raptors are tethered side by side. Other housing systems shall be acceptable if they afford the enclosed raptors with protection and maintain healthy feathers.

(9) A falconry raptor, or raptors, may be kept inside the permittee's residence if a suitable perch, or perches, are provided. Windows and other openings in the residence structure shall not be required to be modified. All raptors kept in the residence shall be tethered when the raptors are not being moved into or out of the location where they are kept.

(10) Each outdoor area of the primary facility shall be totally enclosed and shall be made of heavy-gauge wire, heavy-duty plastic mesh, slats, pipe, wood, or other suitable material.

(11) Each outdoor area of the primary facility shall be covered and have at least a covered perch to protect a raptor held in the facility from predators and weather. Each outdoor area of the primary facility shall be large enough to ensure that all the raptors held inside cannot strike the enclosure when flying from the perch.

(12) Any new design of primary facility may be used if the primary facility meets the requirements of this subsection.

(c) Falconry raptors may be kept outside, including in a weathering yard at a falconry meet, if the raptors are under watch by the permittee or a designated individual.

(d) The permittee may transport any permitted raptor if the bird is provided with a suitable perch and is protected from extreme temperatures, wind, and excessive disturbance. A giant hood or similar container may be used for transporting the bird or for housing it while away from the primary facility.

(e) The permittee shall inform the department of any change of location of the primary facility within five business days of the move to the new location.

(f) The property where the primary facility is located may be owned by the permittee or another person and may be at the residence of the permittee or at a different location.

The permittee shall submit to the department a signed and dated statement showing that the permittee agrees that the primary facility, equipment, all falconry-related facilities, equipment, records, and raptors may be inspected without advance notice by department authorities at any reasonable time on any day of the week if the inspections are in the presence of the permittee. If the property is not owned by the permittee, the actual property owner shall also sign the statement acknowledging the inspection allowance.

(g) The permittee shall provide and maintain the following equipment during the term of the permit:

(1) At least one pair of Aylmeri jesses, or jesses of a similar type, constructed of pliable, high-quality leather or a suitable synthetic material. The jesses shall be used when any raptor is flown free. Traditional one-piece jesses may be used on raptors when not being flown;

(2) at least one flexible, weather-resistant leash and one strong swivel of acceptable falconry design;

(3) at least one suitable bath container for each raptor. Each container shall be at least two to six inches deep and wider than the length of the raptor; and

(4) a reliable scale or balance that is suitable for weighing the raptors and is graduated to increments of not more than ½ ounce (15 grams).

(h) A permittee may house a raptor in temporary facilities for no more than 120 consecutive days if the bird is provided with a suitable perch and protection from predators, domestic animals, extreme temperatures, wind, and excessive disturbance.

(i) A permittee may allow a raptor to be temporarily cared for and possessed by another falconry permittee in accordance with the following requirements:

(1) The raptor shall be kept at the permittee's primary facility or at the permitted primary facility of the other permittee.

(2) The raptor shall be cared for by the other permittee for no more than 120 consecutive days, unless the department provides a written extension of time for extenuating circumstances that may include illness, military service, or a family emergency. Extenuating circumstances may be considered by the secretary on a case-by-case basis.

(3) The permittee shall provide the other permittee with a signed, dated statement authorizing the temporary possession. The statement shall include information specifying the time period

during which the temporary care and possession are allowed and what activity is allowed. The permittee providing the temporary care may fly the raptor as authorized in the statement, including hunting, if the permittee providing the temporary care holds the appropriate level of falconry permit. The raptors being provided temporary care shall not count against the possession limit of the permittee providing the care.

(4) The permittee shall provide a copy of the United States fish and wildlife service form 3-186A showing that permittee as the possessor of the raptor to the other permittee providing the temporary care.

(j) Any permittee may allow a raptor to be temporarily cared for by an individual who does not possess a falconry permit in accordance with the following provisions:

(1) The raptor shall not be removed from the permittee's facility during the time of temporary care. The person caring for the raptor shall not fly the raptor for any reason.

(2) The raptor may be cared for by another person for no more than 45 consecutive days, unless the department provides a written extension of time for extenuating circumstances that may include illness, military service, or a family emergency. Extenuating circumstances may be considered by the secretary on a case-by-case basis.

(3) The raptor shall remain on the permittee's falconry permit.

(k) Falconry raptors may be trained or conditioned in accordance with the following provisions:

(1) Equipment or techniques acceptable for falconry practices including or similar to any of the following may be used:

(A) Tethered flying, which is also known as flying with a creance;

(B) lures made from animal parts;

(C) balloons;

(D) kites; or

(E) remote-control airplanes.

(2) The following species of live wildlife may be used:

(A) Rock dove or domestic pigeon;

(B) European starling;

(C) house sparrow;

(D) Hungarian partridge;

(E) Chukar partridge; and

(F) any small game, as defined by K.S.A. 32-701 and amendments thereto, during the established hunting seasons for the small game.

(l) All facilities and equipment shall be properly maintained and cleaned during the term of the permit.

(m) Mistreatment of any raptor shall be grounds for revocation of the falconer's permit and for confiscation of any raptors in possession of the falconer. "Mistreatment" shall be defined as any of the following:

(1) Having physical custody of a raptor and failing to provide food, potable water, protection from the elements, opportunity for exercise, and other care as is needed for the health and well-being of the raptor;

(2) abandoning or leaving any raptor in any place without making provisions for its proper care; or

(3) failing to meet the requirements of this regulation.

This regulation shall be effective on and after December 31, 2020. (Authorized by and implementing K.S.A. 2019 Supp. 32-807; effective Dec. 31, 2012; amended Dec. 31, 2020.)

**115-14-14. Falconry; taking, banding, transporting, and possessing raptors.** (a) For the purpose of this regulation, "falconer" shall be defined as a person taking or attempting to take a raptor from the wild for falconry purposes. Each falconer shall possess a current, valid hunting license pursuant to K.S.A. 32-919, and amendments thereto, and meet the requirements for hunter education certification pursuant to K.S.A. 32-920, and amendments thereto.

(b) Each nonresident falconer shall apply for and receive a take permit from the department before attempting to take a raptor from the wild in Kansas. Each nonresident falconer shall submit a raptor acquisition report within 10 days of leaving Kansas, regardless of whether the falconer was successful in taking a raptor.

(c) Each resident falconer shall apply for and receive a take permit from the department before attempting to take a peregrine falcon from the wild in Kansas.

(d) Each capture device used to capture raptors shall have a tag attached showing the falconer's name, address, and current falconry permit number.

(e) The falconer shall acquire permission from the landowner or the person controlling any private land before taking or attempting to take any wild raptor for falconry purposes.

(f) Wild raptors may be taken for falconry purposes if the species is approved by the department

to be taken by the falconer and is allowed under the level of falconry permit possessed by the falconer in accordance with K.A.R. 115-14-12.

(1) A falconer shall not intentionally take a raptor species that the falconer is prohibited from possessing by the falconer's classification level.

(2) If a falconer captures a prohibited bird, the falconer shall immediately release it.

(g) A falconer shall take no more than two raptors from the wild each year to use in falconry in accordance with the permit level limitations specified in K.A.R. 115-14-12. The take shall be further restricted by the following provisions:

(1) Passage and haggard raptors may be taken by apprentice falconers, general falconers, and master falconers year-round.

(2) Eyases may be taken only by a general falconer or master falconer and may be taken year-round.

(3) No more than two eyases may be taken by a general falconer or a master falconer per calendar year. At least one eyas shall be left in the nest when an eyas is taken.

An apprentice falconer shall not take an eyas raptor from the wild.

(4) The following raptors may be taken from the wild, but only during the specified stages of development:

(A) Red-tailed hawk (*Buteo jamaicensis*) in the eyas and passage stages;

(B) American kestrel (*Falco sparverius*) in all stages; and

(C) great horned owl (*Bubo virginianus*) in all stages.

(5) Any other species of raptor in the eyas or passage stage of development may be taken by general falconers and master falconers.

(6) The recapture of a falconry bird that has been lost by a falconer shall not be considered to be the capture of a wild raptor to be counted against the annual limit.

(h) Except as provided by this subsection, no species designated by the United States or in K.A.R. 115-15-1 as endangered or threatened shall be taken from the wild.

(1) A general falconer or master falconer may obtain a permit to take one wild raptor listed by federal law as threatened for falconry purposes.

(2) (A) The falconer shall submit an application and receive a federal endangered species permit before taking the bird.

(B) The falconer shall submit an application and receive approval and a permit from the department before taking the bird.

(i) Each raptor taken from the wild shall always be considered a wild bird.

(j) Each raptor taken from the wild in a calendar year by a falconer and then transferred to a second falconer shall count as one of the raptors allowed to be taken by the first falconer who took the raptor from the wild. The raptor transferred to the receiving falconer shall not count against the limit of wild raptors that may be taken in the calendar year by the receiving falconer.

(k) Each raptor taken from the wild shall be reported as follows:

(1) The falconer who is present and takes possession of a wild raptor at the capture site shall file the required report information within 10 calendar days of the capture by submitting the information to the electronic database of the United States fish and wildlife service.

(2) Any falconer may enlist the assistance of another person to take a wild raptor if the falconer is at the exact location of the capture and takes immediate possession of the bird.

(3) Any falconer who does not take immediate possession of a wild raptor at the exact location of the capture may acquire a wild raptor from a general falconer or master falconer, as defined in K.A.R. 115-14-12, in accordance with the following reporting requirements:

(A) The general falconer or master falconer who takes the raptor from the wild shall report the capture in accordance with paragraph (k)(1).

(B) The falconer receiving the wild raptor from the general falconer or master falconer shall report the transfer of the bird within 10 calendar days of the transfer by submitting the information to the electronic database of the United States fish and wildlife service.

(4) Any falconer who has a long-term or permanent physical impairment that prevents the individual from being present at the exact location of the capture and taking immediate possession of a wild raptor that may be used by the falconer for falconry purposes may acquire a bird by the following means:

(A) Any general falconer or master falconer, as defined by K.A.R. 115-14-12, may capture the wild raptor.

This capture shall not count against the general falconer's or master falconer's calendar-year limit for the take of wild raptors. However, this capture shall count against the calendar-year limit for wild raptors of the falconer with the long-term or permanent physical impairment.

(B) The falconer with the long-term or permanent physical impairment shall file the capture report in accordance with paragraph (k)(1).

(C) The falconer with the long-term or permanent physical impairment shall confirm the presence of the impairment and the need to report in accordance with this subsection at the time of application for the capture permit.

(l) A master falconer may be authorized by permit to possess not more than three eagles, including golden eagles, white-tailed eagles, or Steller's sea eagles, for falconry in accordance with the following provisions:

(1) Each eagle possessed shall count against the possession limit for the falconer.

(2) A golden eagle may be taken in a location declared by the wildlife services of the United States department of agriculture or in an area within a state that has been established as a livestock depredation area in accordance with the following provisions:

(A) An immature or a subadult golden eagle may be taken in a livestock depredation area while the depredation area is in effect.

(B) A nesting adult golden eagle, or an eyas from its nest, may be taken in a livestock depredation area if a biologist that represents the agency responsible for establishing the depredation area has determined that the adult eagle is preying on livestock.

(C) The falconer shall notify the regional law enforcement office of the United States fish and wildlife service of the capture plan before any trapping activity begins. Notification shall be submitted in person, in writing, or by facsimile or electronic mail at least three business days before the start of trapping.

(m) Any raptor wearing falconry equipment or any captive-bred raptor may be recaptured at any time by any falconer in accordance with the following provisions:

(1) The falconer may recapture the raptor whether or not the falconer is allowed to possess that species.

(2) The recaptured bird shall not count against the falconer's possession limit. This take from the wild shall not count against the capture limit for the calendar year.

(3) The falconer shall report the recapture to the department within five working days of the recapture.

(4) The disposition of any recaptured bird shall be as follows:

(A) The bird shall be returned to the person who lost it, if that person may legally possess the bird and chooses to do so. If the person who lost the bird either is prohibited from taking or chooses not to take the bird, the falconer who captured the bird may take possession of the bird if the falconer holds the necessary qualifications for the species and does not exceed the falconer's possession limit.

(B) The disposition of a recaptured bird whose legal ownership cannot be ascertained shall be determined by the department.

(n) Each goshawk (*Accipiter gentilis*), Harris's hawk (*Parabuteo unicinctus*), peregrine falcon (*Falco peregrinus*), or gyrfalcon (*Falco rusticolus*) taken from the wild or acquired from a rehabilitator by a falconer shall be identified by one or more of the following means:

(1) The bird shall be banded with a black nylon, permanent, nonreusable, numbered falconry registration leg band from the United States fish and wildlife service. The bands shall be made available through the department. Any falconer may request an appropriate band before any effort to capture a raptor.

(2) In addition to the band specified in paragraph (n)(1), the falconer may purchase and have implanted in the bird a 134.2 kHz microchip that is compliant with the requirements of an international organization for standardization. All costs associated with the implantation of a microchip shall be the responsibility of the falconer.

(3) The falconer shall report the take of any bird within 10 days of the take by submitting the required information, including the band number or the microchip information, or both, to the electronic database of the United States fish and wildlife service.

(4) The falconer shall report to the department the loss or removal of any black nylon, nonreusable leg band within five days of the removal or notice of loss.

(A)(i) When submitting the report, the falconer shall submit a request for a black, nylon, nonreusable leg band to the United States fish and wildlife service.

(ii) The falconer may purchase and implant a 134.2 kHz microchip that is compliant with the requirements of an international organization for standardization, in addition to using the black, nylon, nonreusable leg band for rebanding.

(B) The falconer shall immediately submit the required information relating to the re-banding or the implanting of a microchip by submitting

the information to the electronic database of the United States fish and wildlife service.

(o) Each raptor bred in captivity shall be banded with a seamless metal falconry registration band provided by the United States fish and wildlife service. In addition, any such raptor may have implanted a 134.2 kHz microchip that is compliant with the requirements of an international organization for standardization.

The falconer shall report to the department the loss or removal of any seamless band within 10 days of the removal or notice of loss.

(1)(A) When submitting the report, the falconer shall submit a request for a yellow, nylon, nonreusable leg band to the United States fish and wildlife service.

(B) The falconer may purchase and implant a 134.2 kHz microchip that is compliant with the requirements of an international organization for standardization, in addition to using the seamless leg band for rebanding.

(2) The falconer shall immediately submit the required information relating to the re-banding or the implanting of a microchip by submitting the information to the electronic database of the United States fish and wildlife service.

(p) A falconry registration band shall not be altered, defaced, or counterfeited. However, the rear tab on a falconry registration band used to identify a raptor taken from the wild may be removed and any imperfect surface may be smoothed if the integrity of the band and the numbering on the band are not affected.

(q) The falconry registration band requirement may be waived by the secretary and the removal of a registration band may be allowed in order to address a documented health or injury problem caused to a raptor by the registration band in accordance with the following provisions:

(1) The falconer shall be required to carry a copy of the exemption paperwork at all times while transporting or flying the raptor.

(2) A microchip compliant with the requirements of an international organization for standardization and provided by the United States fish and wildlife service shall be used to replace the registration band causing the health or injury problem on a wild-caught goshawk, Harris's hawk, peregrine falcon, or gyrfalcon.

(r) A wild-caught falcon shall not be banded with a seamless numbered band.

(s) Any falconer, with prior authorization, may take a wild raptor, including a wild raptor that

has been banded with an aluminum band from the federal bird-banding laboratory of the United States fish and wildlife service, during the legal season using legal methods and equipment, in accordance with the following provisions:

(1) Each captured raptor that has any band, research marker, or transmitter attached to it shall be immediately reported to the federal bird-banding laboratory of the United States fish and wildlife service. The reported information shall include any identifying numbers, the date and location of capture, and any other relevant information.

(2) A peregrine falcon that is banded with a research band or has a research marking attached to the bird shall not be taken from the wild and shall be immediately released.

(3) A captured peregrine falcon that has a research transmitter attached to the bird may be kept by the falconer not more than 30 days if the federal bird-banding laboratory of the United States fish and wildlife service is immediately contacted after the capture. The disposition of the captured peregrine falcon shall be in accordance with the directions provided by the federal bird-banding laboratory or its designee.

(4) Any raptor, other than a peregrine falcon, that has a transmitter attached to it may be possessed by the falconer who captured the bird for not more than 30 days in order to contact the researcher, or the researcher's designee, to determine if the transmitter should be replaced.

(A) The temporary, 30-day possession of the bird shall not count against the falconer's possession limit for falconry raptors.

(B) If the falconer who captured the raptor wishes to possess the bird for falconry purposes, the disposition of the bird shall be at the discretion of the researcher and the secretary if the species of the bird is allowable under the classification level of the falconer and the falconer's possession of the captured bird does not exceed the established possession limit.

(t) Each raptor, including a peregrine falcon, that is captured and found with a seamless metal band, a transmitter, or any other item identifying it as a falconry bird attached to it shall be reported to the department within five days of capture.

(1) Each such falconry raptor shall be returned to the person who lost the raptor.

(2) If the person who lost the bird is prohibited from possessing the bird or does not wish to possess the bird, the falconer who captured the

bird may keep the bird if the falconer holds the necessary qualifications for the species and does not exceed the falconer's possession limit.

(3) If the falconer who captured the bird is prohibited from possessing the bird, the disposition of the bird shall be at the discretion of the secretary.

(4) The recaptured falconry bird shall not count against the possession limit or the calendar-year limit of wild birds that may be taken by the falconer during the time the recaptured bird is being held pending final disposition.

(u) Each raptor that is injured during trapping activities shall be handled in accordance with the provisions of this subsection. It shall be the falconer's responsibility to address any injury occurring to a raptor during trapping activities in one of the following ways:

(1) The falconer may take the raptor into possession and apply it to the falconer's possession limit if the raptor is of a species allowed to be possessed and the falconer's possession limit is not exceeded.

(A) The take shall be reported in accordance with subsection (k).

(B) The raptor shall be treated by a veterinarian or a permitted wildlife rehabilitator. The cost for the care and treatment of the raptor shall be the responsibility of the falconer.

(2) The raptor may be turned over directly to a veterinarian, a permitted wildlife rehabilitator, or a department employee, and the raptor shall not be counted against the falconer's allowable take or possession limit. The falconer shall be responsible for the costs relating to the care and rehabilitation of the bird.

(v)(1) The falconer shall report each raptor that dies or is acquired, transferred, rebanded, implanted with a microchip, lost to the wild and not recovered within 30 calendar days, or stolen by submitting the information to the electronic database of the United States fish and wildlife service.

(2) In addition to submitting the report required in paragraph (v)(1), the falconer shall file a report of the theft of a raptor with the department and the appropriate regional law enforcement office of the United States fish and wildlife service within 10 calendar days of the theft.

(3) The falconer shall keep copies of all electronic database submissions documenting the take, transfer, loss, theft, rebanding, or implanting of microchips of each falconry raptor for at least five years after the bird has been transferred, released to the wild, or lost, or has died.

(w) The intentional release to the wild of any falconry raptor shall be in accordance with the following requirements:

(1) A species of raptor that is not native to Kansas shall not be released to the wild. Any such bird may be transferred to another falconer if the falconer receiving the bird is authorized to possess the age and species of raptor and the transfer does not exceed the possession limit of the falconer receiving the bird.

(2) Any species of raptor that is native to Kansas and is captive-bred may be released to the wild according to the following requirements:

(A) The falconer shall obtain the department's permission to release the bird to the wild before the actual release. The time of year and the location where the release shall take place shall be specified by the department.

(i) The release of a raptor on department lands or waters shall meet the requirements of K.A.R. 115-8-12.

(ii) The falconer shall acquire verbal permission from the landowner or person in control of the private land before the release of the raptor.

(B) The falconer shall remove any tag, transmitter, or nonreusable falconry band, if present, before release. All falconry identification bands, tags, or markers shall then be surrendered to the department within 10 calendar days of the release.

(C) The falconer shall report the release of the bird within 10 calendar days of the release by submitting the required information to the electronic database of the United States fish and wildlife service.

(3) Any species of raptor that is native to Kansas and was taken from the wild may be released to the wild according to the following requirements:

(A) The falconer may release the bird to the wild year-round.

(i) Each release of a raptor on department lands or waters shall meet the requirements of K.A.R. 115-8-12.

(ii) The falconer shall acquire verbal permission from the landowner or person in control of the private land before the release of the raptor.

(B) The falconer shall remove any tag, transmitter, or nonreusable falconry band, if present, before the release. All falconry identification bands, tags, or markers shall then be surrendered to the department within 10 calendar days of the release.

(C) The falconer shall report the release of the bird within 10 calendar days of the release by sub-

mitting the required information to the electronic database of the United States fish and wildlife service.

(4) No hybrid raptor, as defined in K.A.R. 115-14-11, shall be intentionally released to the wild permanently.

(5) Hacking, which means temporarily releasing a falconry raptor to the wild for conditioning, shall be permissible.

(x) In addition to any other requirements regarding the take of peregrine falcons, each falconer shall immediately notify the department when a peregrine falcon is taken, as specified on the take permit. If the quota for the take of peregrine falcons has been met and the take season is closed, the falconer shall immediately release the peregrine falcon upon notification by the department.

This regulation shall be effective on and after December 31, 2020. (Authorized by and implementing K.S.A. 2019 Supp. 32-807; effective Dec. 31, 2012; amended Feb. 8, 2013; amended Dec. 31, 2020.)

**115-14-15. Falconry; transfers, trading, and sale of raptors.** (a) The number of transactions transferring a falconry raptor between permittees shall not be restricted if the permittee taking possession of the raptor does not exceed the possession limit in K.A.R. 115-14-12.

(b) Upon the death of a falconry permittee, the surviving spouse, executor, administrator, or other legal representative of the deceased falconry permittee may transfer any raptor held by the permittee to another authorized permittee within 90 days. After 90 days, the disposition of any raptor held under the permit shall be at the discretion of the secretary.

(c) No wild-caught raptor shall be sold or purchased, bartered, or traded, whether or not the raptor has been transferred or held in captivity for any period.

(d) A wild-caught raptor may be transferred to another falconry permit holder in accordance with the following requirements:

(1) The transferor shall report the transfer within 10 calendar days by submitting the information to the electronic database of the United States fish and wildlife service.

(2) Upon transfer to another properly permitted falconer, the raptor shall not count toward the number of wild raptors that may be taken from the wild by the receiving falconer.

(e) A wild-caught raptor may be transferred to the holder of a raptor propagation permit in accordance with the following provisions:

(1) A falconry raptor shall be transferred to a properly permitted captive propagation permittee if the raptor is used for propagation purposes for more than eight months.

(A) The individual holding the raptor propagation permit may be the same individual holding the falconry permit or a different person.

(B) Each raptor that is transferred shall have been used for falconry for at least two calendar years, except that the following raptor species shall have been used for falconry for at least one calendar year:

(i) Sharp-shinned hawk (*Accipiter striatus*);

(ii) Cooper's hawk (*Accipiter cooperii*);

(iii) merlin (*Falco columbarius*); and

(iv) American kestrel (*Falco sparverius*).

(C) The falconry permittee shall report the transfer within 10 calendar days by submitting the information to the electronic database of the United States fish and wildlife service.

(D) The transferred bird shall be banded with a black nylon, nonreusable, numbered band issued by the United States fish and wildlife service.

(2) A falconry raptor may be temporarily transferred to a permitted captive propagation permittee for propagation purposes in accordance with the following provisions:

(A) The individual holding the raptor propagation permit may be the same individual holding the falconry permit or a different person.

(B) A falconry raptor shall not be used for captive propagation for more than eight months in a calendar year.

(C) The permittee shall notify the department in writing of the dates on which the bird begins and ends captive propagation activity.

(3) A falconry raptor may be permanently transferred to the holder of a permit type other than a falconry permit or captive propagation permit in accordance with the following provisions:

(A) The transfer may occur regardless of the time during which the wild-caught bird has been used for falconry purposes.

(B) The bird shall have been injured and a veterinarian or wildlife rehabilitator shall have determined that the bird shall no longer be flown for falconry.

(C) The falconry permittee shall report the transfer within 10 calendar days by submitting the information to the electronic database of the United States fish and wildlife service. The fal-

conry permittee shall also provide a copy of the certification from the veterinarian or wildlife rehabilitator stating that the bird cannot be used for falconry to the regional migratory bird permit office of the United States fish and wildlife service within 10 calendar days of the transfer.

(f) Any captive-bred falconry raptor may be transferred to another falconry permit holder. The transferor shall report the transfer within 10 calendar days by submitting the transfer report to the electronic database of the United States fish and wildlife service.

(g) A captive-bred falconry raptor may be transferred to the holder of a permit type other than falconry. The transferor shall report the transfer within 10 calendar days to the electronic database of the United States fish and wildlife service.

(h) Any permittee may acquire a raptor for falconry purposes from a permitted rehabilitator if all of the following requirements are met:

(1) The raptor shall be of an age and species allowed under the permittee's classification level.

(2) The acquisition shall not place the permittee in excess of the possession limit.

(3) The transfer from the rehabilitator to the permittee shall be at the discretion of the rehabilitator.

(4) Each raptor acquired by transfer from a rehabilitator shall count as one of the raptors that the permittee is allowed to take from the wild for that calendar year.

(5) The permittee shall report each raptor acquired by transfer from a rehabilitator within 10 days of the transfer by submitting the required information to the electronic database of the United States fish and wildlife service. This regulation shall be effective on and after December 31, 2012. (Authorized by and implementing K.S.A. 32-807; effective Dec. 31, 2012.)

#### Article 15.—NONGAME, THREATENED AND ENDANGERED SPECIES

**115-15-1. Threatened and endangered species; general provisions.** (a) The following species shall be designated endangered within the boundaries of the state of Kansas.

(1) Invertebrates

Flat floater mussel, *Utterbackia suborbiculata*  
(Say, 1831)

Rabbitsfoot mussel, *Thalidroma cylindrica*  
(Say, 1817)

Western fanshell mussel, *Cyprogenia aberti*

(Conrad, 1850)

Neosho mucket mussel, *Lampsilis rafinesqueana*  
(Frierson, 1927)

Elktoe mussel, *Alasmidonta marginata*  
(Say, 1818)

Ellipse mussel, *Venustaconcha ellipsiformis*  
(Conrad, 1836)

Slender walker snail, *Pomatiopsis lapidaria*  
(Say, 1817)

Scott optioservus riffle beetle,  
*Optioservus phaeus*  
(White, 1978)

American burying beetle,  
*Nicrophorus americanus*  
(Olivier, 1890)

Mucket, *Actinonaias ligamentina*  
(Lamarck, 1819)

Cylindrical papershell mussel,  
*Anodontoides ferussacianus*  
(I. Lea, 1834)

(2) Fish

Arkansas River shiner, *Notropis girardi*  
(Hubbs and Ortenburger, 1929)

Pallid sturgeon, *Scaphirhynchus albus*  
(Forbes and Richardson, 1905)

Sicklefin chub, *Macrhybopsis meeki*  
(Jordan and Evermann, 1896)

Peppered chub, *Macrhybopsis tetranema*  
(Gilbert, 1886)

Silver chub, *Macrhybopsis storeriana*  
(Kirtland, 1845)

(3) Amphibians

Cave salamander, *Eurycea lucifuga*  
(Rafinesque, 1822)

Grotto salamander, *Eurycea spelaea*  
(Stejneger, 1892)

(4) Birds

Least tern, *Sternula antillarum*  
(Lesson, 1847)

Whooping crane, *Grus americana*  
(Linnaeus, 1758)

(5) Mammals

Black-footed ferret, *Mustela nigripes*  
(Audubon and Bachman, 1851)

Gray myotis, *Myotis grisescens*  
(A.H. Howell, 1909)

(b) The following species shall be designated threatened within the boundaries of the state of Kansas.

(1) Invertebrates

Rock pocketbook mussel, *Arcidens confragosus*  
(Say, 1829)

Flutedshell mussel, *Lasmigona costata*  
(Rafinesque, 1820)

Butterfly mussel, *Ellipsaria lineolata*  
(Rafinesque, 1820)

Ouachita kidneyshell mussel,

- Ptychobranthus occidentalis*  
(Conrad, 1836)
- Sharp hornsnail, *Pleurocera acuta*  
(Rafinesque, 1831)
- Delta hydrobe, *Probythinella emarginata*  
(Kuster, 1852)
- (2) Fish
- Flathead chub, *Platygobio gracilis*  
(Richardson, 1836)
- Hornyhead chub, *Nocomis biguttatus*  
(Kirtland, 1840)
- Neosho madtom, *Noturus placidus*  
(Taylor, 1969)
- Redspot chub, *Nocomis asper*  
(Lachner and Jenkins, 1971)
- Blackside darter, *Percina maculata*  
(Girard, 1859)
- Sturgeon chub, *Macrhybopsis gelida*  
(Girard, 1856)
- Western silvery minnow, *Hybognathus argyritis*  
(Girard, 1856)
- Topeka shiner, *Notropis topeka*  
(Gilbert, 1884)
- Shoal chub, *Macrhybopsis hyostoma*  
(Gilbert, 1884)
- Plains minnow, *Hybognathus placitus*  
(Girard, 1856)
- (3) Amphibians
- Eastern newt, *Notophthalmus viridescens*  
(Rafinesque, 1820)
- Longtail salamander, *Eurycea longicauda*  
(Green, 1818)
- Eastern narrow-mouthed toad,  
*Gastrophryne carolinensis*  
(Holbrook, 1836)
- Green frog, *Lithobates clamitans*  
(Latreille, 1801)
- Strecker's chorus frog, *Pseudacris streckeri*  
(Wright and Wright, 1933)
- Green toad, *Anaxyrus debilis*  
(Girard, 1854)
- (4) Reptiles
- Broad-headed skink, *Plestidon laticeps*  
(Schneider, 1801)
- Checkered gartersnake,  
*Thamnophis marcianus*  
(Baird and Girard, 1853)
- New Mexico Threadsnake, *Rena dissectus*  
(Cope, 1896)
- (5) Birds
- Piping plover, *Charadrius melodus*  
(Ord, 1824)
- Snowy plover, *Charadrius nivosus*  
(Linnaeus, 1758)
- (6) Mammals
- Eastern spotted skunk, *Spilogale putorius*  
(Linnaeus, 1758)
- (7) Turtles
- Northern map turtle, *Graptemys geographica*  
(Le Sueur, 1817)
- (c) A threatened or endangered species taken during established trapping seasons, authorized commercial wildlife operations, fishing by hook and line, bait fish seining, or other lawful activity shall not be unlawfully taken if immediately released.
- (d) Any threatened or endangered species in possession before the effective date of this regulation and not prohibited by any previous regulation of the department or national listings may be retained in possession if either of the following conditions is met:
- (1) An application of affidavit to that effect has been filed with and approved by the secretary before January 1, 1990 that states the circumstances of how the species came into possession.
- (2) Possession of the animal has been previously approved by the department. (Authorized by K.S.A. 32-960 and 32-963; implementing K.S.A. 32-960, K.S.A. 2018 Supp. 32-961, K.S.A. 32-963, K.S.A. 32-1010, and K.S.A. 32-1011; effective Oct. 30, 1989; amended Aug. 31, 1992; amended Nov. 29, 1999; amended Feb. 18, 2005; amended July 24, 2009; amended Nov. 14, 2014; amended Dec. 20, 2019.)
- 115-15-2. Nongame species; general provisions.** (a) The following species shall be designated nongame species in need of conservation within the boundaries of the state of Kansas.
- (1) Invertebrates
- Snuffbox mussel, *Epioblasma triquetra*  
(Rafinesque, 1820)
- Wartyback mussel, *Cyclonaias nodulata*  
(Rafinesque, 1820)
- Spike mussel, *Elliptio dilatata*  
(Rafinesque, 1820)
- Fatmucket mussel, *Lampsilis siliquoidea*  
(Barnes, 1823)
- Yellow sandshell mussel, *Lampsilis teres*  
(Rafinesque, 1820)
- Washboard mussel, *Megalonaias nervosa*  
(Rafinesque, 1820)
- Round pigtoe mussel, *Pleurobema sintoxia*  
(Conrad, 1834)
- Creeper mussel, *Strophitus undulatus*  
(Say, 1817)
- Fawnsfoot mussel, *Truncilla donaciformis*  
(I. Lea, 1828)
- Deertoe mussel, *Truncilla truncata*  
(Rafinesque, 1820)
- Ozark emerald dragonfly,  
*Somatochlora ozarkensis*

- (Bird, 1833)  
 Gray petaltail dragonfly, *Tachopteryx thoreyi*  
 (Hagen in Selys, 1857)  
 Prairie mole cricket, *Gryllotalpa major*  
 (Saussure, 1874)  
 Neosho midget crayfish, *Orconectes macrus*  
 (Williams, 1952)
- (2) Fish  
 Arkansas darter, *Etheostoma cragini*  
 (Gilbert, 1885)  
 Banded darter, *Etheostoma zonale*  
 (Cope, 1868)  
 Banded sculpin, *Cottus carolinae*  
 (Gill, 1861)  
 Black redhorse, *Moxostoma duquesnei*  
 (Le Sueur, 1817)  
 Blue sucker, *Cycleptus elongatus*  
 (Le Sueur, 1817)  
 Western blacknose dace, *Rhinichthys obtusus*  
 (Agassiz, 1854)  
 Bluntnose darter, *Etheostoma chlorosoma*  
 (Hay, 1881)  
 Brassy minnow, *Hybognathus hankinsoni*  
 (Hubbs, 1929)  
 Gravel chub, *Erimystax x-punctatus*  
 (Hubbs and Crowe, 1956)  
 Greenside darter, *Etheostoma blennioides*  
 (Rafinesque, 1819)  
 Highfin carpsucker, *Carpiodes velifer*  
 (Rafinesque, 1820)  
 Northern hog sucker, *Hypentelium nigricans*  
 (Le Sueur, 1817)  
 Ozark minnow, *Notropis nubilus*  
 (Forbes, 1878)  
 River darter, *Percina shumardi*  
 (Girard, 1859)  
 River redhorse, *Moxostoma carinatum*  
 (Cope, 1870)  
 River shiner, *Notropis blennius*  
 (Girard, 1856)  
 Slough darter, *Etheostoma gracile*  
 (Girard, 1859)  
 Highland darter, *Etheostoma teddyroosevelt*  
 (Jordan, 1877)  
 Spotfin shiner, *Cyprinella spiloptera*  
 (Cope, 1868)  
 Spotted sucker, *Minytrema melanops*  
 (Rafinesque, 1820)  
 Sunburst darter, *Etheostoma mihileze*  
 (Agassiz, 1854)  
 Tadpole madtom, *Noturus gyrinus*  
 (Mitchill, 1817)  
 Brindled madtom, *Noturus miurus*  
 (Jordan, 1877)  
 Bigeye shiner, *Notropis boops*  
 (Gilbert, 1884)  
 Redfin darter, *Etheostoma whipplei*  
 (Girard, 1859)
- Lake Sturgeon, *Acipenser fulvescens*  
 (Rafinesque, 1817)  
 Striped shiner, *Luxilus chrysocephalus*  
 (Rafinesque, 1820)  
 Common shiner, *Luxilus cornutus*  
 (Mitchill, 1817)  
 Southern Redbelly Dace,  
*Chrosomus erythrogaster*  
 (Rafinesque, 1820)  
 Cardinal Shiner, *Luxilus cardinalis*  
 (Mayden, 1988)  
 Johnny Darter, *Etheostoma nigrum*  
 (Rafinesque, 1820)  
 Chestnut lamprey, *Ichthyomyzon castaneus*  
 (Girard, 1858)  
 Silverband shiner, *Notropis shumardi*  
 (Girard, 1856)
- (3) Amphibians  
 Red-spotted toad, *Anaxyrus punctatus*  
 (Baird and Girard, 1852)  
 Crawfish frog, *Lithobates areolatus*  
 (Baird and Girard, 1852)  
 Spring peeper, *Pseudacris crucifer*  
 (Wied-Neuwied, 1838)
- (4) Reptiles  
 Rough earthsnake, *Haldea striatula*  
 (Linnaeus, 1766)  
 Plains hog-nosed snake, *Heterodon nasicus*  
 (Baird and Girard, 1852)  
 Timber rattlesnake, *Crotalus horridus*  
 (Linnaeus, 1758)  
 Eastern hog-nosed snake, *Heterodon platirhinos*  
 (Latreille, 1801)  
 Glossy snake, *Arizona elegans*  
 (Kennicott, 1859)  
 Chihuahuan nightsnake, *Hypsiglena jani*  
 (Duges, 1865)  
 Red-bellied snake, *Storeria occipitomaculata*  
 (Storer, 1839)  
 Long-nosed snake, *Rhinocheilus lecontei*  
 (Baird and Girard, 1853)  
 Smooth earthsnake, *Virginia valeriae*  
 (Baird and Girard, 1853)
- (5) Birds  
 Bobolink, *Dolichonyx oryzivorus*  
 (Linnaeus, 1758)  
 Cerulean warbler, *Setophaga cerulea*  
 (Wilson, 1810)  
 Curve-billed thrasher, *Toxostoma curvirostre*  
 (Swainson, 1827)  
 Ferruginous hawk, *Buteo regalis*  
 (Gray, 1844)  
 Golden eagle, *Aquila chrysaetos*  
 (Linnaeus, 1758)  
 Short-eared owl, *Asio flammeus*  
 (Pontoppidan, 1763)  
 Henslow's sparrow, *Ammodramus henslowii*  
 (Audubon, 1829)

Ladder-backed woodpecker, *Picoides scalaris*  
(Wagler, 1829)

Long-billed curlew, *Numenius americanus*  
(Bechstein, 1812)

Mountain plover, *Charadrius montanus*  
(Townsend, 1837)

Chihuahuan raven, *Corvus cryptoleucus*  
(Couch, 1854)

Black tern, *Chlidonias niger*  
(Linnaeus, 1758)

Black rail, *Laterallus jamaicensis*  
(Gmelin, 1789)

Eastern whip-poor-will, *Antrostomas vociferus*  
(Wilson, 1812)

Yellow-throated warbler, *Setophaga dominica*  
(Linnaeus, 1776)

(6) Mammals

Franklin's ground squirrel, *Poliocitellus franklinii*  
(Sabine, 1822)

Pallid bat, *Antrozous pallidus*  
(LeConte, 1856)

Southern bog lemming, *Synaptomys cooperi*  
(Baird, 1858)

Southern flying squirrel, *Glaucomys volans*  
(Linnaeus, 1758)

Texas mouse, *Peromyscus attwateri*  
(J.A. Allen, 1895)

Townsend's big-eared bat,  
*Corynorhinus townsendii*  
(Cooper, 1837)

Northern long-eared bat, *Myotis septentrionalis*  
(Trouessart, 1897)

(7) Turtles

Alligator snapping turtle,  
*Macrochelys temminckii*  
(Troost, in Harlan, 1835)

(b) Any nongame species in need of conservation taken during established trapping seasons, authorized commercial wildlife operations, fishing by hook and line, baitfish seining, or other lawful activity shall not be unlawfully taken if immediately released.

(c) Any nongame species in need of conservation in possession before the effective date of this regulation and not prohibited by any previous regulation of the department or national listings may be retained in possession if either of the following conditions is met:

(1) An application of affidavit to that effect has been filed with and approved by the secretary before January 1, 1990, that states the circumstances of how the species came into possession.

(2) Possession of the animal has been previously approved by the department. (Authorized by K.S.A. 32-959 and 32-963; implementing K.S.A. 32-959 and K.S.A. 2018 Supp. 32-1009; effective

Oct. 30, 1989; amended Aug. 31, 1992; amended Nov. 29, 1999; amended Feb. 18, 2005; amended July 24, 2009; amended Nov. 14, 2014; amended Dec. 20, 2019.)

**115-15-3. Threatened and endangered wildlife; special permits and enforcement actions.** (a) The following definitions shall apply only to this regulation:

(1) "Action" means an activity resulting in physical alteration of a listed species' critical habitat, physical disturbance of listed species, or destruction of individuals of a listed species.

(2) "Critical habitat" means either of the following:

(A) Specific geographic areas supporting a population of a listed species and including physical or biological features that meet the following requirements:

(i) Are essential to the conservation of the species; and

(ii) require special management or protection; or

(B) specific geographic areas not documented as currently supporting a population of a listed species but determined essential for the conservation of the listed species by the secretary.

(3) "Habitat" means the abode where a listed species is generally found and where all essentials for survival and growth of the listed species are present.

(4) "Intentional destruction" means an act or attempt that is willful and is done for the purpose of, and results in, the killing of a threatened or endangered species.

(5) "Intentional taking" means an act or attempt that is willful and is done for the purpose of taking a threatened or endangered species. "Intentional taking" shall include "intentional destruction" as defined in paragraph (a)(4).

(6) "Listed species" means those species listed in K.A.R. 115-15-1.

(7) "Normal farming and ranching practices" shall include activities financed with private funds on private lands and government cost-shared, routine agricultural land treatment measures.

(8) "Permit from another state or federal agency" shall not include a certification or registration.

(9) "Publicly funded," when used to describe an action, means any action for which planning and implementation are wholly funded with monies from federal, state, or local units of government.

(10) "State or federally assisted," when used to describe an action, means any action receiving

technical assistance or partial funding from a state or federal governmental agency.

(b) Each person sponsoring or responsible for a publicly funded action, a state or federally assisted action, or an action requiring a permit from another state or federal government agency shall apply to the secretary for an action permit on forms provided by the department, unless one of the following exceptions applies:

(1) An action permit shall not be required to conduct normal farming and ranching practices, unless a permit is required by another state or federal agency or these practices involve an intentional taking.

(2) An action permit shall not be required for the development of residential and commercial property on privately owned property financed with private, nonpublic funds, unless a permit is required by another state or federal agency or the development involves an intentional taking.

(3) An action permit shall not be required for any activity for which a person has obtained a scientific, educational, or exhibition permit, pursuant to K.S.A. 32-952 and amendments thereto and K.A.R. 115-18-3.

(4) An action permit shall not be required for any species listed after July 1, 2016 if a recovery plan for the listed species is not completed within four years of the listing date, unless the species is listed as threatened or endangered under federal law or until a recovery plan for the listed species is completed.

(c) Each action permit application shall be submitted at least 90 days before the proposed starting date of the planned action and shall include the following information:

(1) Location and description of the proposed action and, if required, detailed plans of the proposed action;

(2) an assessment of potential impacts on the listed species or its critical habitat resulting from the proposed action; and

(3) proposed measures incorporated into the action plan to protect listed species or critical habitat of listed species.

(d) Each person sponsoring or responsible for an action for which an action permit is not required by subsection (b) and that will result in the intentional destruction of a member of any listed species shall apply to the secretary for an action permit on forms provided by the department. An action permit shall not be required for any activity for which a person has obtained a scientific, edu-

cational, or exhibition permit, pursuant to K.S.A. 32-952 and amendments thereto and K.A.R. 115-18-3. An action permit application shall be submitted at least 30 days before the proposed starting date of the planned action and shall include the following information:

(1) Location and description of the proposed action and, if required, detailed plans of the proposed action;

(2) an assessment of potential impacts on the listed species or its critical habitat resulting from the proposed action; and

(3) proposed measures incorporated into the action plan to protect listed species or critical habitat of listed species.

(e) An action permit required under subsection (b) or (d) shall be issued by the secretary pursuant to a timely and complete application, if the proposed action meets the requirements of the following:

(1) Sufficient mitigating or compensating measures to ensure protection of either critical habitats or listed species, or both as conditions require, cooperatively developed by the department and the applicant and incorporated into the proposed action; and

(2) all federal laws protecting listed species.

(f) A public hearing on the proposed action may be provided by the secretary before issuance of an action permit.

(g) In addition to other penalties prescribed by law, any action permit may be revoked by the secretary for any of the following reasons:

(1) Violation of conditions established by the permit;

(2) significant deviation of an action from the proposed action; or

(3) failure to perform or initiate performance of an action within one year after the proposed starting date, unless otherwise specified in the permit or an extension has been authorized in writing by the secretary after a determination of no significant change in the proposed action.

(h) Law enforcement action shall be undertaken only in cases of intentional taking.

(i) Nothing in this regulation shall be deemed to exempt a person from the requirement to acquire knowledge of the presence of a listed species by the exercise of due diligence once a listed species is known to exist within an area or the area is designated as critical habitat. This subsection shall be applied only to offenses or obligations arising under state statutes or regulations. (Authorized

by K.S.A. 32-960b, K.S.A. 2016 Supp. 32-961, and K.S.A. 32-963; implementing K.S.A. 32-960b, K.S.A. 2016 Supp. 32-961, K.S.A. 32-962, and K.S.A. 32-963; effective Oct. 30, 1989; amended Dec. 29, 1997; amended Feb. 16, 2018.)

**115-15-4. Recovery plans; procedures.**

(a) The following definitions shall apply only to this regulation:

(1) "Recovery plan" means a designated strategy or methodology that, if funded and implemented, is reasonably expected to lead to the eventual restoration, maintenance, or delisting of a listed species.

(2) "Listed species" means those species listed in K.A.R. 115-15-1 and K.A.R. 115-15-2.

(3) "Local advisory committee" means a committee as described in K.S.A. 32-960a, and amendments thereto.

(b) A recovery plan shall be developed for each listed species, subject to the priority list for development of recovery plans, and shall be consistent with the amount of funds appropriated for that purpose.

(1) All listed species shall be ranked to establish priorities for recovery plan development. Any recovery plan may include more than one listed species.

(2) When, using the ranked priority list, a listed species is designated for recovery plan development, notice shall be published to that effect in the Kansas register and shall be mailed to persons who have requested to be notified of the recovery plan process for that listed species or for all species.

(3) Reasonable opportunity shall be provided for individuals, organizations, and other interested parties to participate and express their views about the development and implementation of a recovery plan.

(4) A local advisory committee shall be established to take part in the development of the recovery plan. The local advisory committee shall identify measures that minimize adverse social and economic impacts during recovery actions.

(c)(1) Each recovery plan shall include the following:

(A) The current status of the listed species, including the existing scientific knowledge of habitat requirements, limiting factors, and distribution;

(B) additional data needs;

(C) actions and land uses affecting the listed species;

(D) specific management activities that may be included in an agreement between the secretary and a landowner;

(E) critical habitat designations required for conservation and recovery of the listed species;

(F) objectives, criteria, and budgeted actions required to recover and protect the listed species;

(G) conservation assistance programs or other incentive-based opportunities for species conservation on private lands;

(H) information and education-based opportunities for conservation of listed species on private lands;

(I) delisting date goal; and

(J) estimated implementation cost.

(2) For each species listed before January 1, 1998, the existing critical habitat designation process and permitting authority shall be maintained by the department until a recovery plan is adopted for that species. The recovery plan, once adopted, shall determine the final designations for critical habitat as well as identify specific actions that are subject to permitting and enforcement authority.

(3) For newly listed species, critical habitat shall be temporarily designated by the secretary. Each temporary designation shall expire four years after the species is listed, unless the species is listed under federal law. Final critical habitat criteria and specific actions that are subject to permitting and enforcement authority shall be determined by the adopted recovery plan.

(4) Each critical habitat established through the recovery planning process shall supersede existing criteria and designations.

(5) Each critical habitat established through the recovery planning process or temporarily designated by the secretary shall be determined on the basis of the best scientific data available while taking into consideration the economic impact of the designation.

(6) Any geographic area may be excluded from a critical habitat designation by the secretary if the secretary determines that the benefits of the exclusion outweigh the benefits of the designation, unless the secretary determines that the failure to designate the critical habitat will result in the extirpation of the species, based on the best scientific and commercial data available.

(d) To meet the requirement that real property shall be included in management activities as part of a recovery plan, pursuant to K.S.A. 79-32,203(a)(2) and amendments thereto, each landowner shall meet the following requirements:

(1) Undertake land management activities or improvements identified in the recovery plan; and

(2) be a signed party to an agreement with the secretary specifying those land management activities or improvements.

(e) Before its adoption, a draft recovery plan shall be distributed to relevant federal and state agencies, local and tribal governments that are affected by the recovery plan, and individuals and organizations that have requested notification of department actions regarding threatened or endangered species.

(f) After adoption of a recovery plan, cooperation with other state and federal agencies, local and tribal governments, and affected landowners for implementation of the recovery plan shall be sought by the secretary.

(g) If a listed species is also designated as a federal threatened or endangered species or is a candidate for federal designation, the recovery plan for that listed species shall be submitted to the secretary of the interior.

(h) Each recovery plan shall be reviewed at least once every five years, and the status of the listed species addressed by the recovery plan shall be monitored in the interim. The local advisory committee shall be consulted by the department during the review. This review shall take into account any new scientific knowledge or data since the original adoption of the recovery plan, as well as current population trends of the listed species. (Authorized by K.S.A. 32-960b; implementing K.S.A. 32-960a and K.S.A. 32-960b; effective Jan. 1, 1998; amended Feb. 16, 2018.)

### **Article 16.—WILDLIFE DAMAGE CONTROL**

#### **115-16-3. Nuisance bird control permit; application, provisions, and requirements.**

(a) The term “nuisance birds” shall include those species specified in the department’s “Kansas nuisance bird species table,” dated April 11, 2017, which is hereby adopted by reference.

(b) Nuisance birds may be controlled when found depredating or about to depredate upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance.

(c) A nuisance bird control permit shall be required to use any lethal method of control that involves poisons or chemicals for controlling nu-

sance birds other than the English sparrow or European starling.

(d) Any person may apply to the secretary for a nuisance bird control permit. The application shall be submitted on forms provided by the department. Each applicant shall provide the following information:

(1) The applicant’s name;

(2) the applicant’s address;

(3) the applicant’s telephone number;

(4) the location of the nuisance bird problem;

(5) a description of the problem;

(6) the species of birds involved;

(7) the proposed method of control; and

(8) the length of time for which the permit is requested.

(e) Issuance of a permit may be denied by the secretary if any of the following conditions is met:

(1) The permit application is unclear or incomplete.

(2) The need for nuisance bird control has not been established.

(3) Use of the poison or chemical would pose inordinate risk to the public, non-target wildlife, or the environment.

(f) Each permit shall be valid only for the period specified on the permit, which shall not exceed one year.

(g) A permit may be extended by the secretary upon request and justification by the permittee. However, the combined total of the original and extended time periods shall not exceed one year.

(h) Each permit shall be valid only for the locations specified in the permit.

(i) In addition to other penalties as prescribed by law, a nuisance bird control permit may be revoked by the secretary if either of the following conditions is met:

(1) The permit was secured through false representation.

(2) The permittee fails to meet permit requirements or violates permit conditions.

(j) A nuisance bird control permit shall not be required to control nuisance bird problems as described in subsection (b) if the control method is nonlethal or if the control method involves use of firearms, air rifles, air pistols, archery equipment, or falconry.

(k) Nuisance birds killed and the plumage of nuisance birds killed during nuisance bird control may be possessed, transported, and otherwise disposed of or utilized, except that nuisance birds killed and the plumage of nuisance birds killed

during nuisance bird control shall not be sold or offered for sale.

(l) Nontoxic shot and bullets shall be required for the taking of nuisance birds pursuant to this regulation, except when using an air rifle, air pistol, or .22 caliber rimfire firearm. (Authorized by K.S.A. 2016 Supp. 32-807 and K.S.A. 32-955; implementing K.S.A. 32-955; effective Sept. 10, 1990; amended Aug. 31, 1992; amended Sept. 9, 2011; amended July 28, 2017.)

**115-16-5. Wildlife control permit; operational requirements.** (a) Each person holding a valid wildlife control permit issued according to K.A.R. 115-16-6, and each person assisting the permittee while under the constant and direct supervision and in the constant presence of the permittee, shall be authorized to take, transport, release, and euthanize wildlife subject to the restrictions described in this regulation and on the permit.

(b) Wildlife may be taken under the authorization of a wildlife control permit only when one or more of the following circumstances exist:

(1) The wildlife is found in or near buildings.

(2) The wildlife is destroying or about to destroy property.

(3) The wildlife is creating a public health or safety hazard or other nuisance.

(c) Subject to the restrictions described in this regulation and on the permit, a wildlife control permit shall allow the taking of the following species, despite any other season, open unit, or limit restrictions that may be established by the department:

(1) Furbearers;

(2) small game;

(3) reptiles;

(4) amphibians;

(5) coyotes;

(6) nongame mammals, except house mice and Norway rats;

(7) pigeons, English sparrows, and starlings; and

(8) migratory birds and waterfowl, subject to K.S.A. 32-1008 and amendments thereto.

(d) Subject to applicable federal, state, and local laws and regulations, the wildlife listed in subsection (c) may be taken with the following equipment or methods:

(1) Trapping equipment, if each trapping device is equipped with a metal tag with the permittee's name and address or the permittee's department-issued identification number and is checked at

least once each calendar day, and if snares are not attached to a drag. Trapping equipment shall consist of the following:

(A) Foothold traps;

(B) body-gripping traps;

(C) box traps;

(D) live traps; and

(E) snares;

(2) firearms and accessory equipment, as follows:

(A) Optical scopes or sights; and

(B) sound-suppression devices;

(3) BB guns and pellet guns;

(4) archery equipment;

(5) dogs;

(6) falconry;

(7) toxicants registered by the Kansas department of agriculture, except that such use may be subject to K.A.R. 115-16-1, K.A.R. 115-16-2, or K.A.R. 115-16-3;

(8) habitat modification;

(9) net or seine;

(10) glue board;

(11) hand;

(12) any other methods to exclude or frighten wildlife, including repellents; and

(13) any other method as specified on the permit.

(e) No person shall possess a live species of wildlife taken under the authority of a wildlife control permit beyond the close of the calendar day following capture, unless specifically authorized by the department. Live wildlife shall not be used for display purposes, programs, training dogs, or otherwise kept in captivity, except that pigeons may be used for training dogs.

(f) Subject to applicable federal, state, and local laws and regulations, wildlife taken pursuant to a wildlife control permit shall be disposed of using one or more of the following methods:

(1) Wildlife taken alive may be controlled using lethal methods or equipment including the methods or equipment listed in paragraphs (d)(2), (d)(3), (d)(4), and (d)(7).

(2) Wildlife taken alive may be relocated and released, subject to the following requirements:

(A) Wildlife may be released only in suitable habitat located at least 10 miles from the original capture site and only with the prior written permission of the person in legal possession of the release site.

(B) Wildlife shall not be released in a location so close to human dwellings that the release is likely

to result in recurrence of the reason the wildlife was taken.

(C) Wildlife shall not be released within the limits of any municipality without prior written permission from the appropriate municipal authority.

(D) Wildlife may be released on department lands or waters only with the prior written approval of the department.

(E) Wildlife shall not be released if injured or if displaying common symptoms of disease, including any of the following:

- (i) Lack of coordination;
- (ii) unusual lack of aggressiveness;
- (iii) unusual secretions from the eyes, nose, or mouth;
- (iv) rapid or uneven respiration;
- (v) malnourishment;
- (vi) loss of muscle control; or
- (vii) loss of large patches of hair.

(F) Wildlife shall not be transported from the state except as authorized by the department.

(3) Wildlife species listed in K.A.R. 115-15-1 or K.A.R. 115-15-2, or other wildlife species designated by the department, shall be released according to paragraph (f)(2) if unharmed. If harmed or injured, these species shall be submitted to either the department or a person holding a valid wildlife rehabilitation permit issued according to K.A.R. 115-18-1.

(4) Wildlife controlled by poison shall be removed immediately, and all dead wildlife shall be disposed of using one of the following methods:

(A) The wildlife may be submitted to a licensed landfill, renderer, or incinerator.

(B) The wildlife may be disposed of on private property with the prior written permission of the person in legal possession of the property, except that the wildlife shall not be disposed of within the limits of any municipality without prior written permission from the appropriate municipal authority.

(C) Any part of the wildlife, excluding the flesh, may be sold, given, purchased, possessed, and used for any purpose, with the following restrictions and exceptions:

- (i) The raw fur, pelt, or skin of furbearers may be sold only to a licensed fur dealer.
- (ii) The carcass and meat of a furbearer may be sold, given, purchased, possessed, and used for any purpose.
- (iii) No part of any migratory bird or waterfowl shall be sold, given, purchased, possessed, or used for any purpose.

(iv) Each person purchasing unprocessed parts of the wildlife shall maintain a bill of sale for at least one calendar year.

(D) Dead wildlife controlled by poison or showing symptoms of disease shall be either buried below ground or disposed of as authorized by paragraph (f)(4)(A).

(g) Each bobcat, otter, or swift fox taken under authority of a wildlife control permit shall be subject to the tagging requirements established by K.A.R. 115-5-2. (Authorized by and implementing K.S.A. 2012 Supp. 32-807; effective July 19, 2002; amended Nov. 27, 2006; amended April 8, 2011; amended July 26, 2013.)

### Article 17.—WILDLIFE, COMMERCIAL USES AUTHORIZED

#### **115-17-1. Commercial harvest of fish bait; legal species, harvest seasons, size restrictions, daily limits, and possession limits.**

(a) The following wildlife may be commercially harvested in Kansas for sale as fishing bait:

- (1) Crayfish, all species;
- (2) annelids; and
- (3) insects.

(b) The season for commercial harvest of wildlife listed in subsection (a) shall be year-round.

(c) There shall be no minimum or maximum size restrictions for wildlife listed in subsection (a).

(d) There shall be no maximum daily or possession limits for wildlife listed in subsection (a).

(e) Wildlife listed in K.A.R. 115-15-1 or in K.A.R. 115-15-2 shall not be harvested. This regulation shall be effective on and after January 1, 2012. (Authorized by and implementing K.S.A. 32-807; effective Sept. 10, 1990; amended Nov. 30, 1998; amended Jan. 1, 2012.)

#### **115-17-2. Commercial sale of fish bait.**

(a) The following live species of wildlife may be commercially sold in Kansas for fishing bait:

- (1) The following species of fish:
  - (A) Black bullhead (*Ameiurus melas*);
  - (B) bluegill (*Lepomis macrochirus*), including hybrids;
  - (C) fathead minnow (*Pimephales promelas*), including “rosy reds”;
  - (D) golden shiner (*Notemigonus crysoleucas*);
  - (E) goldfish (*Carassius auratus*), including “black saltys”;
  - (F) green sunfish (*Lepomis cyanellus*), including hybrids; and

(G) yellow bullhead (*Ameiurus natalis*);  
 (2) only species of annelids native to or naturalized in the continental United States;  
 (3) the following species of crayfish:  
 (A) Virile crayfish (*Orconectes virilis*);  
 (B) calico crayfish (*Orconectes immunes*); and  
 (C) white river crayfish (*Procambarus acutus*); and  
 (4) only species of insects native to or naturalized in Kansas.

(b) Gizzard shad (*Dorosoma cepedianum*) may be commercially sold only if dead.

(c) Wildlife listed in K.A.R. 115-15-1 or in K.A.R. 115-15-2 or prohibited from importation pursuant to K.S.A. 32-956, and amendments thereto, shall not be sold.

(d) Live aquatic bait shall be certified free of the following pathogens before import, according to K.A.R. 115-17-2a:

- (1) Spring viremia of carp virus;
- (2) infectious pancreatic necrosis virus;
- (3) viral hemorrhagic septicemia virus; and
- (4) infectious hematopoietic virus.

(e) Each distribution tank and each retail tank shall utilize a source of potable water or well water.

This regulation shall be effective on and after January 1, 2019. (Authorized by and implementing K.S.A. 2018 Supp. 32-807; effective Sept. 10, 1990; amended Nov. 30, 1998; amended Jan. 1, 2012; amended Jan. 1, 2017; amended Jan. 1, 2018; amended Jan. 1, 2019.)

**115-17-2a. Commercial sale of bait fish; testing procedures.** (a) Live aquatic bait shall be certified free of the following pathogens before import, according to the requirements in this regulation:

- (1) Spring viremia of carp virus;
- (2) infectious pancreatic necrosis virus;
- (3) viral hemorrhagic septicemia virus; and
- (4) infectious hematopoietic virus.

(b) On and after January 1, 2014, upon application or renewal, each applicant and each commercial fish bait permittee shall provide documentation of two consecutive years of pathogen-free status from an independent laboratory approved by United States department of agriculture, animal and plant health inspection service, for the pathogens listed in subsection (a) for the source of bait fish being sold. If the facility is new, the applicant shall certify by affidavit that the facility does not meet the requirements in this regulation and shall provide documentation of pathogen-free status for the current year of operation.

(c) The sample size shall be 150 fish and shall include moribund fish observed in the sampling process. The samples shall be collected twice each year. The samples shall be collected once during the month of October, November, or December and once during the month of March, April, or May.

(d) Collection of each sample shall be overseen by a doctor of veterinary medicine accredited by the United States department of agriculture, animal and plant health inspection service. The collection shall be made under the direct observation of the overseer to the extent that the official can attest to the origin of the fish and that the sampling scheme meets the requirements in this regulation.

(e) Each sample shall include all of the ponds and grow-out tanks. The final species and age composition of each sample shall reflect the overall composition of the certified fish on location. For locations with more than 50 ponds, all species and sizes of fish shall be included in each sample, but the ponds may be sampled in rotation so that all ponds are sampled at least once every two years. This regulation shall be effective on and after January 1, 2012. (Authorized by and implementing K.S.A. 32-807; effective Jan. 1, 2012.)

**115-17-3. Commercial fish bait permit; requirement, application, and general provisions.**

(a) A commercial fish bait permit shall be required for the harvest, sale, or purchase for resale of fish bait, except that a commercial fish bait permit shall not be required for the harvest or sale of annelids or insects or for the purchase of annelids or insects for resale.

(b) Any person may apply to the secretary for a commercial fish bait permit. The application shall be submitted on forms provided by the department and completed in full by the applicant. Each incomplete application shall be returned to the applicant.

(c) Each commercial fish bait permit shall be valid for only those wildlife species specified in the permit.

(d) Each commercial fish bait permit shall authorize the permittee to perform any of the following:

- (1) Sell fish bait to any person for use as fish bait;
- (2) purchase fish bait for resale as fish bait, if the purchase is made from a person who meets at least one of the following requirements:

(A) Possesses a valid commercial fish bait permit;

(B) is a commercial fish grower, as defined by K.S.A. 32-974 and amendments thereto; or

(C) is authorized by another state to export and sell fish bait; or

(3) import fish bait for sale as fish bait.

(e) Each permittee harvesting or purchasing fish bait shall maintain records of the following information and, if requested by the secretary, shall provide a report to the department containing the following information:

(1) The permittee's name;

(2) the permit number;

(3) the number, location, and species of wildlife harvested;

(4) the number and species of wildlife sold;

(5) for each permittee purchasing fish bait, the name, address, and phone number of each individual distributor or producer from whom the permittee purchased; and

(6) for each permittee purchasing fish bait, the delivery date of each purchase.

(f) Each permittee shall make records required under the permit available for inspection by any law enforcement officer or department employee upon demand.

(g) Each permittee shall make the fish and the distribution or retail holding tanks that are subject to sample testing pursuant to K.A.R. 115-17-2a available for inspection by any law enforcement officer or department employee upon demand.

(h) Each permittee shall respond to any survey regarding activities conducted under the permit if requested by the secretary.

(i) In addition to other penalties prescribed by law, a commercial fish bait permit or application may be denied or revoked by the secretary if either of the following conditions is met:

(1) The application is incomplete or contains false information.

(2) The permittee fails to meet permit requirements or violates permit conditions.

(j) Each commercial fish bait permit shall expire three years after the date the permit is issued.

(k) A permittee may possess and sell legally acquired wildlife for fish bait for not more than 30 days following expiration of the permit.

This regulation shall be effective on and after January 1, 2018. (Authorized by and implementing K.S.A. 2016 Supp. 32-807 and K.S.A. 32-941; effective Jan. 1, 1991; amended Jan. 1, 2012; amended Jan. 1, 2018.)

**115-17-4. Commercial harvest of fish bait; legal equipment, taking methods, and general provisions.** (a) Legal equipment and taking methods permitted for commercial harvest of wildlife for use as fish bait shall be as follows:

(1) Crayfish may be taken by the following methods and means:

(A) By hand;

(B) by trap with ½-inch or smaller mesh size, using the bar measurement, and with two-inch or smaller entrance openings;

(C) by seine with ½-inch or smaller mesh size, using the bar measurement. The seine may be of any length, height, or twine size;

(D) by lift net with ½-inch or smaller mesh size, using the bar measurement;

(E) by dip net with ½-inch or smaller mesh size, using the bar measurement. The dip net may be of any dimension and have any handle configuration; and

(F) by other methods as approved by the secretary.

(2) Annelids and insects may be taken by any method.

(b) (1) Boats with or without mechanical propulsion may be used.

(2) Depth-recording or fish-locating devices may be used.

(3) Holding baskets, holding cages, and holding bags may be used, if the permittee's name and permit number are attached.

(4) The permittee's name and permit number shall be attached to each trap and seine while the trap or seine is in use. This regulation shall be effective on and after January 1, 2012. (Authorized by and implementing K.S.A. 32-807 and K.S.A. 32-941; effective Sept. 10, 1990; amended Nov. 30, 1998; amended Jan. 1, 2012.)

**115-17-5. Commercial harvest of fish bait; open areas.** The following areas shall be open for the commercial harvest of crayfish, annelids, and insects:

(a) For crayfish, all lands and waters of the state except department lands and waters and federal and state sanctuaries; and

(b) for annelids and insects, all lands and waters of the state except department lands and waters and federal and state sanctuaries. This regulation shall be effective on and after January 1, 2012. (Authorized by and implementing K.S.A. 32-807 and K.S.A. 32-941; effective Sept. 10, 1990; amended Nov. 30, 1998; amended Jan. 1, 2012.)

**115-17-6. Commercial mussel fishing license; mussel salvage permits; license or permit application and requirements, authority, reports, general provisions, and license or permit revocation.**

(a) A commercial mussel fishing license shall be required for commercial mussel fishing purposes. If a mussel salvage order has been issued by the secretary through public notice or posting the area open to mussel salvage, a mussel salvage permit shall be required for mussel salvage purposes.

(b) Any person may apply to the secretary for a commercial mussel fishing license or a mussel salvage permit. The application shall be submitted on forms provided by the department, and each applicant shall provide the following information, except that no commercial license shall be issued on and after January 1, 2003 through December 31, 2022:

- (1) The name of the applicant;
- (2) the address and telephone number of the applicant;
- (3) the business locations and telephone numbers of the applicant;
- (4) the location for mussel storage and processing; and
- (5) other relevant information as required by the secretary.

(c) Each mussel fishing licensee shall maintain a current record of activity and shall submit quarterly reports to the department on forms provided by the department. The reports shall be submitted not later than 15 days following the end of the quarter for which the reports are prepared. A license shall not be renewed until all reports due have been received by the department. Each mussel salvage permittee shall maintain a current record of activity for the duration of the permit and shall submit a report to the department on forms provided by the department. The report shall be submitted not later than 15 days following the expiration of the permit.

(d) The records and reports shall include the following information:

- (1) The name of the licensee or permittee;
- (2) the address and telephone number of the licensee or permittee;
- (3) the license or permit number of the licensee or permittee;
- (4) the total weight or total shell weight of each mussel species harvested;
- (5) the total weight or total shell weight of each mussel species sold, including the following information:

(A) A separate entry for each sale stating the total weight or total shell weight of each mussel species sold;

(B) the date of each sale;

(C) the name, address, and license number of the person to whom the mussels were sold; and

(D) the name of the state where harvested; and

(6) other relevant information as required by the secretary.

(e) Each commercial mussel fishing licensee or mussel salvage permittee shall sell mussels only to a person legally authorized to purchase mussels under subsection (f) of this regulation, or pursuant to K.A.R. 115-17-14.

(f) Any person may purchase mussels from a commercial mussel fishing licensee or mussel salvage permittee if the mussels are not purchased for use as fish bait, are not purchased for resale, are not purchased for other commercial use, and are not sold.

(g) In addition to other penalties prescribed by law, a commercial mussel fishing or mussel salvage application, license, or permit may be revoked or denied issuance by the secretary if any of the following conditions is met:

(1) The application is incomplete or contains false information.

(2) The licensee or permittee fails to meet license or permit requirements or violates license or permit conditions.

(3) The licensee or permittee violates any provision of law or regulations related to the commercial use of mussels.

(h) Each commercial mussel fishing license shall expire on December 31 of the year for which the license was issued. Each mussel salvage permit shall expire on the date written on the salvage permit.

(i) Each commercial mussel fishing license shall permit the possession of mussels harvested for commercial purposes by that licensee for no more than 48 hours after the close of the mussel season. A mussel salvage permit shall permit the possession of mussels harvested for commercial purposes by that permittee for no more than 48 hours after the expiration date written on the salvage permit.

(j) A licensee or permittee may submit a written request to the secretary to possess mussels for commercial purposes beyond the possession period specified in subsection (i). Each request shall specify the number of each species of mussels possessed and the applicant's name, address, and commercial mussel fishing license or mussel salvage permit

number. Authorization of possession beyond the possession period shall be issued in writing and shall include a date on which the authorization expires. Receipt of this authorization by the licensee or permittee shall allow the licensee's or permittee's sale of shells pursuant to subsection (e). Each mussel sale during the authorized time period shall be reported to the department within 48 hours of the sale by both the licensee or permittee and the purchaser. (Authorized by and implementing K.S.A. 32-807 and K.S.A. 32-941; effective Jan. 1, 1991; amended June 8, 1992; amended Nov. 30, 1998; amended Nov. 22, 2002; amended April 18, 2003; amended July 20, 2012.)

**115-17-7. Commercial harvest of mussels; legal species, seasons, size restrictions, daily limits, and possession limits.** (a) The following listed mussel species may be taken for commercial purposes, except that no mussels may be commercially harvested on and after January 1, 2003 through December 31, 2022, unless a mussel salvage order has been issued by the secretary through public notice or posting the area open to mussel salvage:

- (1) Threeridge, *Amblema plicata*;
- (2) monkeyface, *Quadrula metanevra*;
- (3) mapleleaf, *Quadrula quadrula*;
- (4) bleufer (purple shell), *Potamilus purpuratus*; and
- (5) Asian clam, *Corbicula fluminea*.

(b) The season for the commercial harvest of mussels shall be on and after April 1 through September 30. However, mussels shall not be commercially harvested on and after January 1, 2003 through December 31, 2022, unless a mussel salvage order has been issued by the secretary through public notice or posting the area open to mussel salvage.

(c) Harvesting requirements shall include the following:

(1) The minimum size of mussels shall be measured by passing the mussel shell through a circular measuring device with the appropriate inside diameter.

(2) Measurement shall occur immediately upon removal of the mussel from the water.

(3) If the mussel passes through the appropriate circular measuring device from any angle or direction, the mussel shall not be deemed to meet the minimum size requirement and shall be immediately returned to the water.

(4) The minimum shell size for mussel species shall be the following:

- (A) Threeridge: 3-inch diameter;
- (B) monkeyface: 2¾-inch diameter;
- (C) mapleleaf and bleufer: 3-inch diameter; and
- (D) Asian clam: no minimum size.

(d) There shall be no maximum daily or possession limits for mussels. (Authorized by and implementing K.S.A. 32-807 and K.S.A. 32-941; effective Jan. 1, 1991; amended June 8, 1992; amended Nov. 22, 2002; amended April 18, 2003; amended July 20, 2012.)

**115-17-8. Commercial harvest of mussels; legal equipment, taking methods, and general provisions.** (a) Legal equipment and taking methods permitted for commercial harvest of mussels shall be the following:

- (1) By hand; and
  - (2) by other methods as approved by the secretary.
- (b)(1) Boats with or without mechanical propulsion methods may be used.
- (2) Depth-recording or fish-locating devices may be used.

(3) Underwater breathing equipment may be used while taking mussels, if a diver's flag is prominently displayed while using the underwater breathing equipment.

(4) Holding bags, holding baskets, and holding cages may be used if the name and permit number of the permittee are attached to each such bag, basket, and cage.

(c) No mussels may be commercially harvested on and after January 1, 2003 through December 31, 2022, unless a mussel salvage order has been issued by the secretary through public notice or posting the area open to mussel salvage. (Authorized by and implementing K.S.A. 32-807 and K.S.A. 32-941; effective Jan. 1, 1991; amended Nov. 22, 2002; amended April 18, 2003; amended July 20, 2012.)

**115-17-9. Commercial mussel fishing; open areas.** Waters of the state open for commercial mussel fishing shall be the following, except that all waters of the state shall be closed on and after January 1, 2003 through December 31, 2022, unless a mussel salvage order has been issued by the secretary through public notice or posting the area open to mussel salvage:

- (a) Federal reservoirs;
- (b) impoundments operated by other governmental entities, if authorized by the governmental entity;

(c) Fall River from below Fall River Dam to its junction with the Verdigris River, except for the stretch of the Fall River from the county road ford located 1.2 miles east of state highway K-96, 3.2 miles south of Fredonia, Kansas, downstream to the Dun Dam located 2.5 miles west and 2.25 miles north of Neodesha, Kansas, which is a total of 9.89 stream miles including 3.27 impounded miles;

(d) Verdigris River from below Toronto Dam to the state line, except for the stretch of the Verdigris River from the Whitehair bridge located 2.5 miles east of federal highway US-75 on the Wilson-Montgomery county line road, downstream to the Montgomery county road bridge located 1.47 miles east of Sycamore, Kansas, which is a total of 6.66 stream miles; and

(e) Neosho River from below John Redmond Dam to the state line, except for the stretch of the Neosho River from the Neosho Falls dam, at Neosho Falls, Kansas, downstream to the mouth of Rock Creek in the NW 1/4, NW 1/4, Section 11, T24S, R17E, Allen County, Kansas, which is a total of 3.35 stream miles; and

(f) Elk River. (Authorized by and implementing K.S.A. 32-807 and K.S.A. 32-941; effective Jan. 1, 1991; amended June 8, 1992; amended Nov. 22, 2002; amended April 18, 2003; amended July 20, 2012.)

**115-17-10. Commercial harvest of fish; permit requirement and application, reports, permit revocation.** (a) Except as authorized in K.A.R. 115-17-13, a commercial fishing permit shall be required for the taking of fish for commercial purposes from that portion of the Missouri River bordering on this state.

(b) Each application for a commercial fishing permit shall be submitted on forms provided by the department and completed in full by the applicant. Each incomplete application shall be returned to the applicant.

(c) Any permittee may possess, sell, transport, or trade those species of fish as authorized under K.A.R. 115-17-12.

(d) Each permittee shall maintain a current record of activity and shall submit monthly reports to the department on forms provided by the department. The reports shall be submitted not later than 15 days following the end of the month for which the report is prepared. A permit shall not be renewed until all reports due have been received by the department.

(e) Any permittee may sell fish taken under a commercial fishing permit to any person.

(f) Any person may purchase fish from a commercial fish permittee for commercial purposes or for personal use.

(g) Each person purchasing fish from a commercial fish permittee for resale purposes shall retain a bill of sale in possession while in possession of the fish.

(h) In addition to other penalties prescribed by law, a commercial fishing application or permit may be denied or revoked by the secretary if any of the following conditions is met:

(1) The application is incomplete or contains false information.

(2) The permittee fails to meet permit requirements or violates permit conditions.

(3) The permittee violates any provision of law or regulations related to commercial fishing on the Missouri River.

(i) Each commercial fishing permit shall expire on December 31 of the year for which the permit was issued. This regulation shall be effective on and after January 1, 2012. (Authorized by and implementing K.S.A. 32-807 and K.S.A. 32-941; effective May 27, 1991; amended Jan. 1, 2012.)

**115-17-11. Commercial harvest of fish; legal equipment and taking methods; identification tags and identification tag fee.** (a)

The legal equipment and taking methods for the commercial harvest of fish shall be the following:

(1) Hoop net with a mesh size of 2.5 or more inches using the bar measurement and with individual wings and leads not to exceed 12 feet in length. There shall be no limitation on the number, net diameter, net length, twine size, or throat size of hoop nets;

(2) gill net and trammel net with a mesh size of two or more inches, using the bar measurement. There shall be no limitation on the number, net length, height, or twine size of gill or trammel nets; and

(3) seine with a mesh size of two or more inches, using the bar measurement. There shall be no limitation on the height, length, or twine size of seines.

(b) (1) Boats with or without mechanical propulsion may be used.

(2) Depth-recording or fish-locating devices may be used.

(3) Non-toxic baits may be used.

(4) Each gill net or trammel net shall be attended at all times while the gill net or trammel net is in use.

(5) Each hoop net shall be attended at least one time every 24 hours while the hoop net is in use.

(6) Commercial fishing equipment authorized in subsection (a) shall not be used in the following locations, except as authorized by the department:

(A) In any cutoff, chute, bayou, or other backwater of the Missouri river;

(B) within 300 yards of any spillway, lock, dam, or the mouth of any tributary stream or ditch; and

(C) under or through ice or in overflow waters.

(7) Holding baskets and holding cages may be used.

(c) Each net or seine shall have an identification tag supplied by the department and attached as specified by the department during commercial fishing use. Identification tags supplied by the state of Missouri and approved by the department also shall be deemed to meet this requirement.

(d) The fee for identification tags shall be five dollars for each tag. The payment shall be submitted to the department with the initial or renewal application for a commercial fishing permit.

(e) The holding basket and holding cage used to hold fish shall not require an identification tag, but shall be identified by the permittee with the permittee's name and permit number attached. This regulation shall be effective on and after January 1, 2012. (Authorized by and implementing K.S.A. 32-807, K.S.A. 32-941, and K.S.A. 2010 Supp. 32-988; effective May 27, 1991; amended Sept. 27, 2002; amended Jan. 1, 2012.)

**115-17-12. Commercial harvest of fish; legal species, seasons, size restrictions, daily limits, and possession limits.** (a) The legal species of fish that may be taken under a commercial fishing permit shall be the following:

- (1) Bowfin;
- (2) suckers, including buffalo;
- (3) common carp and exotic carp;
- (4) freshwater drum;
- (5) gar;
- (6) shad;
- (7) goldeye;
- (8) goldfish; and
- (9) skipjack herring.

(b) None of the following shall be possessed by a permittee while in possession of commercial fishing gear or while transporting fish taken using commercial fishing gear:

(1) All species of fish excluded from subsection (a); and

(2) any species of fish listed in K.A.R. 115-15-1 or K.A.R. 115-15-2. The species of fish specified in this subsection shall be immediately returned unharmed to the water from which removed.

(c) There shall be no size restriction on fish taken by a permittee.

(d) There shall be no maximum daily or possession limit on the number of fish taken by a permittee.

(e) No live specimen of bighead carp, silver carp, or black carp may be transported after commercial harvest. This regulation shall be effective on and after January 1, 2012. (Authorized by and implementing K.S.A. 32-807 and K.S.A. 32-941; effective May 27, 1991; amended Sept. 27, 2002; amended Jan. 1, 2012.)

## Article 18.—SPECIAL PERMITS

**115-18-1. Wildlife rehabilitation permit; application, reporting and general provisions.** (a) Each application for a wildlife rehabilitation permit shall be submitted on a form provided by the department. Each applicant shall provide the following information:

- (1) The name of applicant;
- (2) the applicant's address;
- (3) the location or address of the applicant's facilities if different from the applicant's address;
- (4) the name of each assisting subpermittee;
- (5) the type of wildlife rehabilitation service to be provided;
- (6) a description of the applicant's available facilities;
- (7) the applicant's qualifications to provide the services specified;
- (8) the name of each assisting veterinarian; and
- (9) other relevant information as required by the secretary.

(b) (1) A wildlife rehabilitation permit shall be issued only to each individual who meets the following qualifications:

- (A) Is 18 years of age or older;
- (B) has 100 hours of experience in the handling and care of wildlife acquired over the course of one calendar year. Up to 20 hours of this 100-hour requirement may be fulfilled by successful completion of a training course provided by either the international wildlife rehabilitation council (IWRC) or the national wildlife rehabilitators' association (NWRA);
- (C) submits letters of recommendation regarding the applicant's knowledge of wildlife rehabil-

(c) submits letters of recommendation regarding the applicant's knowledge of wildlife rehabil-

itation from three persons who have known the applicant for at least two years. The letters of recommendation shall be from any of the following:

(i) A wildlife professional, which may include a biologist employed by a state or federal wildlife agency, the curator or manager of a zoo or wildlife sanctuary, or other person professionally engaged in wildlife management or care;

(ii) a department conservation officer;

(iii) a Kansas-licensed veterinarian; or

(iv) a permitted wildlife rehabilitator; and

(D) has obtained one of the following:

(i) A certificate of completion of a training course offered by the international wildlife rehabilitation council (IWRC) within the preceding three years;

(ii) a certificate of completion of a training course offered by the national wildlife rehabilitators' association (Nwra) within the preceding three years; or

(iii) a test score of at least 80 percent on a department-administered wildlife rehabilitation examination at a department office location. Each applicant who fails the examination shall wait a minimum of 30 days before retaking the examination. The test may be taken only twice during each calendar year. The test shall not be returned to applicants at any time.

(2) A total of eight hours of continuing education or training every three years from a department-approved program shall be required for the renewal of a permit.

(c) Each applicant or permittee shall allow an inspection of the rehabilitation facilities to be made by a department official. A permit shall not be issued until the rehabilitation facilities have been approved by the inspecting official. All facilities shall be subject, during reasonable hours of operation, to inspection by the department to determine compliance with the provisions of the permit and the provisions contained in this regulation. Each facility shall be inspected by a department official once during the permit period and upon each change in facility location. Each subpermittee authorized to care for wildlife at a site other than the primary permittee's facility shall have those facilities annually inspected and approved by a department official.

(d) Permits issued shall be valid through December 31.

(e) A permittee may provide for subpermittees to operate under the authority of the permit during the effective period of the permit upon ap-

proval of the secretary or designee, based on the following requirements:

(1) Each permittee shall submit the name of each individual for whom the designation of subpermittee is requested. The permittee shall be notified by the department in writing of the approval or denial of each request. The permittee shall notify the department in writing of any approved subpermittee whose services with the permit holder are terminated.

(2) Each subpermittee shall be 18 years of age or older and have experience in handling and caring for animals during the previous two years.

(3) Each wildlife rehabilitation permittee shall be responsible for ensuring that each subpermittee meets all requirements of the rehabilitation permit.

(4) Each subpermittee needing to care for wildlife in need of rehabilitation at a site other than the primary permittee's facility shall have that site inspected and approved according to the standards specified in subsection (g) before holding any wildlife at that site.

(5) Each subpermittee holding wildlife at a site different from the primary permittee's facility shall comply with the conditions specified in the primary permittee's permit.

(f) The rehabilitation activities authorized by each permit issued under this regulation shall be performed only by the permittee or subpermittee specified on the permit. Volunteers may assist in rehabilitation activities only in the presence and under the direction of a permittee or subpermittee. Each permittee utilizing volunteers shall keep on file at the permitted facility a current record of all volunteers working at the facility. At no time shall volunteers be allowed to remove wildlife from the permitted facility, except as provided in subsection (l).

(g) Wildlife rehabilitation care and treatment shall be provided in accordance with the following provisions:

(1) All rehabilitation of wildlife shall be performed in consultation, as necessary, with a licensed veterinarian named on the rehabilitator's permit or with veterinarians on staff at the Kansas State University veterinary hospital.

(2) Individual caging requirements may be specified by the secretary or designee based on the size, species, condition, age, or health of the wildlife under care.

(3) Clean water shall be available at all times except when medical treatment requires the temporary denial of water.

(4) Cages shall be cleaned on a daily basis and disinfected using nonirritating methods.

(5) A person authorized by permit shall observe and provide care for wildlife at least once daily unless otherwise specified by the permit.

(6) Wildlife shall be kept in an environment that minimizes human contact and prevents imprinting and bonding to humans.

(7) Wildlife possessed under a rehabilitation permit shall not be allowed to come into contact with any person other than a permit holder, subpermittee, volunteer, licensed veterinarian, animal control specialist, law enforcement officer, or wildlife professional from the department.

(8) Wildlife shall be housed separately from domestic animals, unless domestic animals are being used for bonding or surrogate parenting.

(9) Public viewing, exhibition, or display of any kind to the public, including electronic viewing, shall be prohibited, unless specifically authorized in writing by the secretary or designee.

(h) Wildlife held under the authority of a rehabilitation permit shall not be sold, bartered, or exchanged for any consideration. A permit issued under this regulation shall not authorize a person, firm, or corporation to engage in the propagation or commercial sale of wildlife.

(i) Wildlife held under the authority of a rehabilitation permit may be transferred from one permittee to another permittee if all of the following conditions are met:

(1) The permittee receiving the wildlife holds all the proper permits and authorizations necessary for that species of wildlife.

(2) The transfer is necessary for the proper treatment or care of the wildlife.

(3) The transfer is properly recorded in both permittees' operational records.

(4) The transfer is approved in writing by the secretary or designee.

(j) The secretary or designee shall be notified within 48 hours if the permittee receives for transport or care an endangered species, threatened species, or species in need of conservation, as identified in K.A.R. 115-15-1 and K.A.R. 115-15-2. Permission for treatment and care by the requesting permittee may be granted by the secretary or designee, or an alternate course of action may be specified by the secretary or designee.

(k) No permittee shall perform any of the following acts, unless the permittee possesses, in advance, an amended permit authorizing this activity from the secretary or designee:

(1) Change the facility location, consulting veterinarian, or subpermittees;

(2) receive previously unauthorized species; or

(3) conduct previously unauthorized activities.

(l) Sick, orphaned, displaced, or injured wildlife may be possessed, transported, or treated in accordance with the following provisions:

(1) Any person may temporarily possess and transport sick, orphaned, displaced, or injured wildlife within the state to a person authorized to perform wildlife rehabilitation services or initial treatment. Possession of an individual animal for transportation to initial treatment shall not exceed one day.

(2) Wildlife in need of rehabilitation treatment or care may be provided emergency medical care and stabilization by any of the following individuals or institutions not holding a rehabilitation permit for 48 hours, after which time the wildlife shall be transferred to a permitted rehabilitator:

(A) Accredited zoological parks;

(B) nature centers;

(C) department wildlife professionals; or

(D) licensed veterinarians. Any wildlife requiring extensive medical care and recovery may remain under the care of a licensed veterinarian beyond the 48-hour restriction, subject to subsection (g).

(3) Any person authorized by permit to perform wildlife rehabilitation services or exempt by law from the requirement to possess a wildlife rehabilitation permit may possess individual animals for treatment purposes on a temporary basis. Possession of an individual animal for treatment purposes shall not exceed 180 days, unless an extension has been approved by the secretary or designee.

(4) Rehabilitation treatment or care shall not be provided to the following species of wildlife:

(A) European starlings;

(B) English or house sparrows;

(C) feral pigeons; and

(D) any wildlife species listed in K.A.R. 115-18-10, except as authorized in writing by the secretary.

(m) Each permittee shall maintain current records of wildlife rehabilitation services provided under the permit on report forms provided by the department. The records shall be maintained at the designated facility, be made available to department officials for inspection purposes, and include the following information:

(1) The name of the permittee;

(2) the permittee contact information;

(3) the name and address of the facility;

(4) the wildlife rehabilitation permit number;  
 (5) the date on which any wildlife is received for treatment;

(6) the species of wildlife received for treatment;  
 (7) the suspected or known cause for treatment;  
 (8) the date and disposition of the wildlife at the conclusion of treatment; and

(9) other relevant information as required by the secretary.

(n) Each permittee shall submit the true and accurate, original report required in subsection (m) to the department on or before January 31 of the year following the permitted activity. The permittee may retain a copy of the report for the permittee's records.

(o) Any person authorized by permit to perform wildlife rehabilitation services or exempt by law from the requirement to possess a wildlife rehabilitation permit may temporarily possess and transport wildlife to another location within the state for the purposes of providing treatment, releasing wildlife in its natural habitat, or transporting wildlife to an approved temporary or permanent holding facility. Possession of wildlife for transportation to another location shall not exceed 48 hours.

(p) Wildlife no longer in need of rehabilitation treatment or care shall be handled in accordance with the following requirements:

(1) All wildlife determined to be capable of survival in the wild shall be released to the wild. Each individual releasing wildlife in accordance with this subsection shall ensure that the following conditions are met:

(A) The animal is released in an area consistent with the animal's normal habitat.

(B) The animal is released only on land, including both public and private properties, if written permission has been granted by the person in legal possession of the land where the release is to be made.

(C) The animal is not released in a location so close to human dwellings that the release is likely to result in nuisance, health, or safety problems.

(D) The animal is not released within the limits of any municipality without prior written approval from the appropriate municipal authority.

(2) Wildlife that cannot be rehabilitated and released to the wild shall be euthanized unless a written request, specifying an alternate course of action, is approved by the secretary or designee. Each course of action requiring the wildlife to remain in captivity shall be approved only if the wildlife is transferred from the permittee provid-

ing the rehabilitation services to an accredited zoological facility, or a scientific or educational permit holder in accordance with subsection (i). Each transfer shall be allowed only for educational programs or fostering or socialization purposes, and no transfer shall take place unless the secretary or designee has approved the request in writing.

(3) All euthanized wildlife and wildlife that have died shall be buried, incinerated, or transferred to a person or facility possessing a valid department scientific, educational, or exhibition permit. All federally permitted wildlife shall be disposed of in accordance with the terms of any federal permit. Any deceased wildlife may be disposed of on private property with the prior written permission of the person in legal possession of the private property. Deceased wildlife shall not be disposed of within the limits of any municipality without the prior written permission of the municipality.

(q) Any permittee may continue to possess a permit if all of the following conditions are met:

(1) The permit application is complete.

(2) The permit application contains no false information.

(3) The permittee meets the permit requirements and does not violate the permit conditions.

(4) The permittee has not been convicted of violating local, state, or federal laws relating to the care, treatment, possession, take, or disposal of wildlife or domestic animals within the previous five years.

(5) The permit has not expired.

The permittee shall be notified, in writing, of the cancellation of the permit by the secretary or designee. The permittee shall be provided by the secretary or designee with the opportunity to respond, in writing, within 10 days of receipt of the cancellation.

(r) Any provision of this regulation may be temporarily waived by the secretary or designee during a wildlife health crisis for the protection of public or wildlife health.

This regulation shall be effective on and after December 31, 2012. (Authorized by and implementing K.S.A. 32-807, K.S.A. 32-953, and K.S.A. 32-961; effective Jan. 1, 1990; amended Jan. 1, 2006; amended Dec. 31, 2012.)

**115-18-6a. Motor vehicle permits; school exemption for state parks and other areas requiring motor vehicle permits.** (a) A park and recreation motor vehicle permit shall not be re-

quired to enter any state park, or other area requiring a motor vehicle permit, if the vehicle is used for the purpose of transporting primary and secondary students, faculty, and staff to the state park or other area requiring a motor vehicle permit.

(b) Each motor vehicle used for the purpose specified in subsection (a) shall display a school vehicle license plate or other distinctive marking signifying that the vehicle is a primary or secondary school vehicle. (Authorized by and implementing K.S.A. 2018 Supp. 32-807 and 32-901; effective Dec. 20, 2019.)

**115-18-7.** This regulation shall be revoked on and after January 1, 2021. (Authorized by K.S.A. 32-807, as amended by L. 2012, Ch. 47, Sec. 25, K.S.A. 2011 Supp. 32-919, as amended by L. 2012, Ch. 154, Sec. 5, and K.S.A. 2011 Supp. 32-932, as amended by L. 2012, Ch. 47, Sec. 48; implementing K.S.A. 2011 Supp. 32-932, as amended by L. 2012, Ch. 47, Sec. 48; effective Oct. 30, 1989; amended, T-115-9-9-97, Sept. 9, 1997; amended Dec. 29, 1997; amended Oct. 1, 1999; amended April 19, 2002; amended Feb. 18, 2005; amended April 11, 2008; amended May 21, 2010; amended April 19, 2013; revoked Jan. 1, 2021.)

**115-18-8. Retrieval and possession of game animals, sport fish, and migratory game birds.** (a) Each individual wounding or killing a game animal, sport fish, or a migratory game bird shall make a reasonable effort to retrieve the wounded or dead game animal, sport fish, or migratory game bird. The retrieved game animal, sport fish, or migratory game bird shall be retained in the individual's bag, creel, or possession limit, unless prohibited by regulations of the secretary for the individual species taken. Nothing in this subsection shall prohibit the catch and release of live sport fish.

(b) Each game animal, sport fish, or migratory game bird retrieved shall be retained until any of the following occurs:

(1) The animal, fish, or bird is processed for consumption.

(2) The animal, fish, or bird is transported to the individual's residence, to a place of commercial preservation, or to a place of commercial processing.

(3) The animal, fish, or bird is given to another person in accordance with K.A.R. 115-3-1, K.A.R. 115-4-2, and K.A.R. 115-7-4.

(4) The animal, fish, or bird is consumed.

(c) The provisions of this regulation shall not affect any requirement of state or federal law or regulation regarding any proof of species, age, or sex and the attachment of this proof to the carcass.

(d) For the purpose of this regulation, "migratory game bird" shall mean any duck, goose, coot, merganser, rail, mourning dove, white-winged dove, snipe, woodcock, or sandhill crane for which a hunting season has been established in Kansas. (Authorized by and implementing K.S.A. 2018 Supp. 32-807; effective June 8, 1992; amended Jan. 30, 1995; amended Oct. 5, 2001; amended July 25, 2003; amended Jan. 11, 2019.)

**115-18-10. Importation and possession of certain wildlife; prohibition, permit requirement, and restrictions.** (a) The importation, possession, or release in Kansas of the following live wildlife species shall be prohibited, except as authorized by terms of a wildlife importation permit issued by the secretary:

- (1) Walking catfish (*Clarias batrachus*);
- (2) silver carp (*Hypophthalmichthys molitrix*);
- (3) bighead carp (*Hypophthalmichthys nobilis*);
- (4) black carp (*Mylopharyngodon piceus*);
- (5) snakehead fish (all members of the family Channidae);
- (6) round goby (*Neogobius melanostomus*);
- (7) white perch (*Morone americana*);
- (8) zebra mussel (*Dreissena polymorpha*);
- (9) quagga mussel (*Dreissena bugensis*);
- (10) New Zealand mudsnail (*Potamopyrgus antipodarum*);
- (11) diploid grass carp (*Ctenopharyngodon idella*);
- (12) marbled crayfish (*Procambarus virginalis*);
- (13) monk parakeet (*Myiopsitta monachus*);
- (14) Asian raccoon dog (*Nyctereutes procyonoides*);
- (15) crucian carp (*Carassius carassius*);
- (16) largescale silver carp (*Hypophthalmichthys harmandi*);
- (17) Prussian carp (*Carassius gibelio*);
- (18) wels catfish (*Silurus glanis*);
- (19) Eurasian minnow (*Phoxinus phoxinus*);
- (20) stone moroko (*Pseudorasbora parva*);
- (21) European perch (*Perca fluviatilis*);
- (22) Nile perch (*Lates niloticus*);
- (23) roach (*Rutilus rutilus*);
- (24) amur sleeper (*Perccottus glenii*);
- (25) zander (*Sander lucioperca*); and

(26) common yabby (*Cherax destructor*).

(b) Any live member of a wildlife species listed in subsection (a) and possessed before the following dates may be retained in possession, in closed confinement, by making application to the secretary that provides information detailing the circumstances, including the location, by which the animal came into the applicant's possession:

(1) February 1, 1978 for fish and bird species other than black carp, snakehead fish, round goby, white perch, zebra mussel, quagga mussel, New Zealand mudsnail, and diploid grass carp;

(2) February 1, 1986 for mammal species;

(3) October 1, 2000 for black carp;

(4) May 1, 2003 for snakehead fish;

(5) August 1, 2004 for round goby, quagga mussel, and zebra mussel;

(6) May 15, 2005 for New Zealand mudsnail;

(7) February 15, 2007 for white perch;

(8) January 1, 2008 for diploid grass carp;

(9) January 30, 2019 for marbled crayfish; and

(10) January 1, 2021 for crucian carp, largescale silver carp, Prussian carp, wels catfish, Eurasian minnow, stone moroko, European perch, Nile perch, roach, amur sleeper, zander, and common yabby.

The manner in which the animal is to be used shall be identified in the application.

(c) Any wildlife importation permit for the importation or possession of live members of the wildlife species listed in subsection (a) may be issued by the secretary for experimental, scientific, display, or other purposes subject to any conditions and restrictions contained or referenced in the wildlife importation permit.

(d) Each individual wanting to import or possess live members of the wildlife species listed in subsection (a) shall apply to the secretary for a wildlife importation permit. The application shall be submitted on forms provided by the department and shall contain the following information:

(1) The name, address, and telephone number of applicant;

(2) the wildlife species to be imported or possessed and the number of wildlife involved;

(3) the purpose or purposes for importation or possession;

(4) a description of the facilities for holding and using the wildlife species;

(5) a description of plans to prevent the release of the wildlife species; and

(6) other relevant information as requested by the secretary.

(e) Each wildlife importation permit, once issued, shall be valid during the time period specified on the permit.

(f) In addition to other penalties prescribed by law, any wildlife importation permit may be refused issuance or revoked by the secretary if any of the following conditions is met:

(1) The application is incomplete or contains false information.

(2) Issuance of a permit would not be in the best interest of the public or of the natural resources of Kansas.

(3) The permittee fails to meet permit requirements or violates permit conditions. (Authorized by K.S.A. 2019 Supp. 32-807 and K.S.A. 32-956; implementing K.S.A. 32-956; effective Dec. 27, 1993; amended Sept. 22, 2000; amended April 18, 2003; amended July 23, 2004; amended May 20, 2005; amended Feb. 9, 2007; amended Nov. 16, 2007; amended Dec. 21, 2018; amended Dec. 25, 2020.)

**115-18-12. Trout permit; requirements, restrictions, and permit duration.**

(a) Each individual who wants to fish or to fish for and possess trout during those periods of time on those bodies of water established by K.A.R. 115-25-14 shall be required to have a trout permit.

(b) Each trout permit shall be valid statewide for one year from the date of purchase.

(c) Each trout permit shall be validated by the signature of the permit holder written across the face of the permit. A trout permit shall not be transferable. (Authorized by and implementing K.S.A. 2019 Supp. 32-807; effective Nov. 15, 1993; amended Jan. 30, 1995; amended July 24, 1998; amended Nov. 27, 2006; amended Nov. 16, 2007; amended Dec. 22, 2017; amended Dec. 25, 2020.)

**115-18-18. Hand fishing permit; requirements, restrictions, and permit duration.**

(a) Each individual who wants to hand fish for flathead catfish during those periods of time on those bodies of water established by K.A.R. 115-25-14 shall be required to have a hand fishing permit.

(b) Each hand fishing permit shall be valid statewide through December 31 of the year in which the permit is issued.

(c) Each hand fishing permit shall be validated by the signature of the permit holder written across the face of the permit. A hand fishing per-

mit shall not be transferable. (Authorized by and implementing K.S.A. 32-807, as amended by L. 2012, Ch. 47, Sec. 25; effective Nov. 27, 2006; amended Nov. 26, 2012.)

**115-18-19. Paddlefish permit; requirements, restrictions, and permit duration.** (a) Each individual who wants to snag for paddlefish during those periods of time on those bodies of water established by K.A.R. 115-25-14 shall be required to have a paddlefish permit.

(b) Each paddlefish permit shall be valid statewide through December 31 of the year in which the permit is issued.

(c) Each paddlefish permit shall be validated by the signature of the permit holder written across the face of the permit. A paddlefish permit shall not be transferable.

(d) Any individual younger than 16 years of age may use an adult's paddlefish permit while accompanied by that adult with at least one unused carcass tag in possession. Each paddlefish snagged and kept by the individual younger than 16 years of age shall be included as part of the daily creel limit of the permit holder. (Authorized by and implementing K.S.A. 2016 Supp. 32-807; effective Nov. 27, 2006; amended Dec. 22, 2017.)

**115-18-20. Tournament black bass pass; requirements, restrictions, and pass duration.** (a) A tournament black bass pass shall be required for each individual who wants to keep up to five black bass in a daily creel limit that meet the minimum statewide length limit but that do not meet the special length limit for the specific body of water, or who wants to cull black bass after the daily creel limit has been met, during a weigh-in bass tournament as established in K.A.R. 115-7-9.

(b) Each tournament black bass pass shall be valid statewide for one year from the date of purchase.

(c) Each tournament black bass pass shall be validated by the signature of the pass holder written across the face of the pass. A tournament black bass pass shall not be transferable. (Authorized by and implementing K.S.A. 2016 Supp. 32-807; effective Nov. 27, 2006; amended Nov. 16, 2007; amended Nov. 19, 2010; amended Nov. 28, 2016; amended Dec. 22, 2017.)

**115-18-21.** This regulation shall be revoked on and after January 1, 2015. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807

and K.S.A. 2007 Supp. 32-1002; effective Dec. 1, 2008; revoked Jan. 1, 2015.)

**115-18-22. Senior pass valid for hunting and fishing; requirements, restrictions, and permit duration.** (a) Any Kansas resident age 65 and older may apply to the secretary for a senior pass valid for hunting and fishing.

(b) For the purposes of this regulation, the term "resident" shall have the meaning specified in K.S.A. 32-701, and amendments thereto, except that a person shall have maintained that person's place of permanent abode in this state for not less than one year immediately preceding that person's application for a senior pass valid for hunting and fishing.

(c) A senior pass valid for hunting and fishing shall not be made invalid because the holder of that senior pass subsequently resides outside of the state.

(d) Each nonresident holder of a senior pass valid for hunting and fishing shall be eligible under the same conditions as those for a Kansas resident for a big game or wild turkey permit upon proper application to the secretary.

(e) A senior pass shall not be transferable.

(f) Each senior pass shall be valid during the life of the holder and shall expire upon the death of the holder. This regulation shall be effective on and after January 1, 2013. (Authorized by and implementing K.S.A. 32-807, as amended by L. 2012, Ch. 47, Sec. 25, and L. 2012, Ch. 154, Sec. 1; effective Jan. 1, 2013.)

## Article 20.—MISCELLANEOUS REGULATIONS

**115-20-2. Certain wildlife; legal equipment, taking methods, possession, and license requirement.** (a) Subject to federal and state laws and regulations, wildlife listed in subsection (b) may be taken for personal use on a noncommercial basis.

(b) For purposes of this regulation, wildlife shall include the following, excluding any species listed in K.A.R. 115-15-1 or K.A.R. 115-15-2:

- (1) Amphibians, except bullfrogs;
- (2) armadillo;
- (3) commensal and other rodents, excluding game and furbearing animals;
- (4) exotic doves;
- (5) feral pigeon;
- (6) gopher;
- (7) ground squirrel;

- (8) invertebrates;
- (9) kangaroo rat;
- (10) mole;
- (11) porcupine;
- (12) prairie dog;
- (13) reptiles, except common snapping turtles and soft-shelled turtles;
- (14) woodchuck; and
- (15) wood rat.

(c) Wildlife listed in subsection (b) shall be taken only with any of the following legal equipment or methods:

- (1) Bow and arrow;
- (2) crossbow;
- (3) deadfall;
- (4) dogs;
- (5) falconry;
- (6) firearms, except fully automatic firearms;
- (7) glue board;
- (8) hand;
- (9) net or seine;
- (10) optical scopes or sights that project no visible light toward the target and do not electronically amplify visible or infrared light;
- (11) pellet and BB gun;
- (12) poison, poisonous gas, or smoke, if the toxicant is registered and labeled for that use and if all permit requirements for use of the poison, poisonous gas, or smoke have been met;
- (13) projectiles hand-thrown or propelled by a slingshot;
- (14) snare or noose; or
- (15) trap.

(d) The open season for the taking of wildlife listed in subsection (b) shall be year-round.

(e) There shall be no maximum daily bag or possession limit for wildlife listed in subsection (b), except that no more than five of any one species of amphibian, reptile, or mussel may be possessed and no more than five live specimens of mussels may be possessed. Two opposing shells shall constitute one mussel.

(f) Each exotic dove possessed in excess of the aggregate daily bag limit or aggregate possession limit for migratory doves during the open season for migratory doves established in K.A.R. 115-25-19 shall retain a fully feathered wing. For the purpose of this regulation, "migratory dove" shall mean any mourning dove or white-winged dove, and "exotic dove" shall mean a Eurasian collared dove or ringed turtle dove.

(g) Legally taken wildlife listed in subsection (b) may be possessed without limit in time.

(h) A hunting license shall not be required to take invertebrates. (Authorized by K.S.A. 2016 Supp. 32-807; implementing K.S.A. 2016 Supp. 32-807 and K.S.A. 2016 Supp. 32-919; effective Sept. 10, 1990; amended Nov. 30, 1998; amended July 13, 2001; amended Nov. 22, 2002; amended Feb. 18, 2005; amended July 28, 2017.)

**115-20-7. Migratory doves; legal equipment, taking methods, and possession.** (a) Legal hunting equipment for migratory doves shall consist of the following:

- (1) Shotguns that are not larger than 10 gauge, use shot ammunition, and are incapable of holding more than three shells in total capacity;
- (2) archery equipment;
- (3) crossbows;
- (4) falconry equipment;
- (5) optical scopes or sights that project no visible light toward the target and do not electronically amplify visible or infrared light; and
- (6) blinds, stands, calls, and decoys, except live decoys.

(b) The use of dogs shall be permitted while hunting.

(c) Any type of apparel may be worn while hunting migratory doves.

(d) Legally taken migratory doves may be possessed without limit in time and may be given to another if accompanied by an attached, dated written notice that includes the donor's printed name, signature, and address; the total number of birds; the dates the birds were killed; and the permit or license number. The person receiving the meat shall retain the notice until the meat is consumed, given to another, or otherwise disposed of.

(e) Migratory doves shall be taken only while in flight. (Authorized by and implementing K.S.A. 2018 Supp. 32-807; effective Nov. 20, 2009; amended July 20, 2012; amended July 28, 2017; amended May 31, 2019.)

## Article 30.—BOATING

**115-30-1. Display of identification number and decal.** (a) All vessels required to be numbered pursuant to K.S.A. 32-1110 and amendments thereto, except sailboards and kiteboards, shall display the identification number stated on the certificate of number issued by the department to the vessel owner and the decals supplied by the department to the vessel owner as follows:

(1) Each number consisting of a combination of capital letters and arabic numbers shall read from left to right and shall be painted or permanently attached on the top forward half of the vessel.

(2) Each character of the number shall be in block form and easily read.

(3) Each character of the number shall be of the same height and shall not be less than three inches in height.

(4) The number shall be of a color that contrasts with the color of the vessel.

(5) A hyphen or equivalent space that is equal to the width of a letter other than "I" or a number other than "1" shall separate arabic numbers from capital letters occurring in the number.

(6) Department-issued validation decals shall be placed in line and within three inches of the registration number on both sides of the hull of the vessel.

(b) Each sailboard and each kiteboard shall display only the decals supplied by the department with the certificate of number issued to the sailboard or kiteboard owner. The decals shall be attached to the front half of the top of the sailboard or kiteboard. However, any operator of a sailboard or kiteboard may carry proof of current registration, rather than attaching the decals as otherwise required by this subsection, if the decals supplied by the department do not adhere or cease to adhere to the sailboard or kiteboard. (Authorized by K.S.A. 2014 Supp. 32-807 and K.S.A. 32-1103; implementing K.S.A. 2014 Supp. 32-1110; effective Oct. 30, 1989; amended Jan. 1, 2008; amended Feb. 20, 2015.)

**115-30-13. Removal of vessels from waters of the state.** The livewells and bilges shall be drained and the drain plugs removed from all vessels being removed from the waters of the state before transport on any public highway of the state.

This regulation shall be effective on and after January 1, 2012. (Authorized by and implementing K.S.A. 32-807; effective Jan. 1, 2012.)

#### Article 40.—AGRITOURISM

**115-40-1. Definitions.** As used in this article and for purposes of administering the act, each of the following terms shall have the meaning specified in this regulation:

(a) "Act" means agritourism promotion act, K.S.A. 2012 Supp. 32-1430 through K.S.A. 2012 Supp. 32-1438 and amendments thereto.

(b) "Cost" means an expenditure directly related to insuring any agritourism activity.

(c) "Department" means department of wildlife, parks, and tourism.

(d) "Liability insurance" means a policy insuring against the following:

(1) Loss, expense, or liability by reason of bodily injury or death by accident, for which the insured could be liable or have assumed liability and loss; and

(2) damage to any goods on the premises of the insured, or the loss of or damage to the property of another for which the insured is liable. (Authorized by and implementing K.S.A. 2012 Supp. 32-1438 and 32-1438a; effective July 26, 2013.)

**115-40-2. Registration.** (a) Each provider of an agritourism activity wanting to register the activity with the secretary pursuant to the act shall provide the information requested by the department. Upon request, a registration form shall be mailed to the provider. Although no charge is made for registration, no registration shall be deemed complete until the operator provides all of the information requested by the department.

(b) If an incomplete registration form is returned to the department, a request for the missing information shall be sent to the applicant. The applicant shall have 10 business days to respond to the request. If there is no response within this period, the registration form shall be returned, and the applicant's operation shall be considered not to be registered.

(c) The social security number from any registration form shall not be disclosed by the department. (Authorized by K.S.A. 2012 Supp. 32-807; implementing K.S.A. 2012 Supp. 32-1433; effective July 26, 2013.)

**115-40-3. Liability insurance; costs qualifying for tax credits.** The following costs associated with liability insurance shall be eligible for the tax credits authorized by the act:

(a) The cost of a rider with a separate premium for specific risk for an agritourism activity; and

(b) the amount that an insurance agent certified on a tax credit form provided to the registered agritourism operator by the department of revenue and filed for the operator that represents the cost of the liability insurance covering the registered agritourism activity. (Authorized by and implementing K.S.A. 2012 Supp. 32-807, 32-1438, and 32-1438a; effective July 26, 2013.)

**115-40-4. Tax credits.** (a) No costs of liability insurance specified in K.A.R. 115-40-3 shall be allowed for consideration for tax credits, unless the registered agritourism operator or the operator's authorized attorney or insurance agent provides the department of revenue with the following information and documents:

(1) The name of the registered agritourism operator's liability insurance company;

(2) the liability insurance policy number;

(3) the name, complete address, and phone number of the liability insurance company's agent; and

(4) a copy of the completed tax credit form provided to the registered agritourism operator under K.A.R. 115-40-3(b).

(b) If, during the first five years that an agritourism operator is registered under the act, the secretary believes for any reason that the registered agritourism operator has not complied, or is not complying, with these regulations and through such noncompliance could have jeopardized the operator's eligibility for tax benefits under the act,

all relevant information shall be forwarded by the secretary to the secretary of revenue. (Authorized by and implementing K.S.A. 2012 Supp. 32-807, 32-1438, and 32-1438a; effective July 26, 2013.)

**115-40-5. New registration form.** If a registered agritourism operator changes the agritourism activities at the registered agritourism operator's facility, that individual shall file a new registration form for the agritourism activity with the department in accordance with K.A.R. 115-40-2. (Authorized by K.S.A. 2012 Supp. 32-807; implementing K.S.A. 2012 Supp. 32-1433; effective July 26, 2013.)

**115-40-6. Contracts.** Each written contract or agreement with a participant shall contain the warning notice specified in K.S.A. 2012 Supp. 32-1434(b), and amendments thereto. This warning notice shall be printed in at least 10-point font. (Authorized by K.S.A. 2012 Supp. 32-807; implementing K.S.A. 2012 Supp. 32-1434; effective July 26, 2013.)



# Agency 117

## Real Estate Appraisal Board

**Editor's Note:**

The Real Estate Appraisal Board was established on April 19, 1990. See K.S.A. 58-4104.

*Articles*

- 117-1. DEFINITIONS.
- 117-2. QUALIFICATIONS CRITERIA—RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION.
- 117-3. QUALIFICATIONS CRITERIA—GENERAL APPRAISER CLASSIFICATION.
- 117-4. QUALIFICATIONS CRITERIA—CERTIFIED RESIDENTIAL APPRAISER CLASSIFICATION.
- 117-5. QUALIFICATIONS CRITERIA—PROVISIONAL CLASSIFICATION.
- 117-6. CONTINUING EDUCATION.
- 117-7. FEES.
- 117-8. UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE.
- 117-10. INACTIVE STATUS.
- 117-20. APPRAISAL MANAGEMENT COMPANY REGISTRATION.

### Article 1.—DEFINITIONS

**117-1-1. Definitions.** (a) “Act” means the state certified and licensed real property appraisers act.

(b) “Appraisal foundation” means the appraisal foundation established on November 30, 1987 as a not-for-profit corporation under the laws of Illinois.

(c) “Appraiser” means a state licensed or certified appraiser.

(d) “Board” means real estate appraisal board.

(e) “Classroom hour” means 50 minutes within a 60-minute segment. This definition reflects the traditional educational practice of having 50 minutes of instruction and 10 minutes of break time for each scheduled hour of instruction. The prescribed number of classroom hours shall include time devoted to examinations, which are considered to be part of the course.

(f) “Course” means any educational offering.

(g) “Course objectives” means the board’s document titled “supervisory appraiser/trainee appraiser course objectives and outline,” dated September 3, 2014, which is hereby adopted by reference.

(h) “Distance education” means any type of education during which the student and instructor are geographically separated.

(i) “General classification” means the certified general real property appraiser classification.

(j) “Good standing” means that both of the following conditions are met:

(1) The appraiser is not currently subject to a consent agreement or other comparable document that affects the appraiser’s legal eligibility to engage in appraisal practice by an appraisal regulatory agency in this or any other jurisdiction.

(2) The appraiser is not currently subject to a summary order or final order that affects the appraiser’s legal eligibility to engage in appraisal practice by an appraisal regulatory agency in this or any other jurisdiction.

(k) “Licensed classification” means the state licensed real property appraiser classification.

(l) “National uniform standards of professional appraisal practice course” means the uniform standards of professional appraisal practice course developed by the appraisal foundation.

(m) “Provisional classification” means the state provisional licensed real property appraiser classification.

(n) “Residential classification” means the certified residential real property appraiser classification.

(o) “Sponsor” means any of the following entities, which may request course approval from the board or offer a course approved by the board for credit toward any education requirement of the act:

- (1) Colleges or universities;

- (2) community or junior colleges;
- (3) real estate appraisal or real estate-related organizations;
- (4) state or federal agencies or commissions;
- (5) proprietary schools;
- (6) other providers approved by the board; and
- (7) the appraisal foundation or its board. (Authorized by and implementing K.S.A. 2016 Supp. 58-4105; effective Jan. 21, 1991; amended, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended May 24, 1993; amended Aug. 15, 1994; amended May 3, 1996; amended May 23, 2003; amended Jan. 1, 2008; amended April 17, 2009; amended June 17, 2016; amended May 26, 2017.)

**Article 2.—QUALIFICATIONS  
CRITERIA—RESIDENTIAL REAL  
ESTATE APPRAISER CLASSIFICATION**

**117-2-1. Licensed classification; education requirements.** (a) Each applicant shall meet the following requirements:

(1) Have received credit for 150 classroom hours in the following subjects, as specified:

(A) 30 classroom hours in basic appraisal principles;

(B) 30 classroom hours in basic appraisal procedures;

(C) 15 classroom hours in the national uniform standards of professional appraisal practice (USPAP) course or its equivalent. The applicant shall be required to pass this examination. There shall be no alternative to successful completion of the USPAP course and examination;

(D) 15 classroom hours in market analysis and highest and best use;

(E) 15 classroom hours in residential appraisal site valuation and cost approach;

(F) 30 classroom hours in residential sales comparison and income approaches; and

(G) 15 classroom hours in residential report writing and case studies; and

(2) provide evidence, satisfactory to the board, of one of the following:

(A) Successful completion of courses approved by the board as specified in paragraph (a)(1); or

(B) successful completion of courses not approved by the board, with evidence that the education covered all of the requirements specified in paragraph (a)(1).

(b) Credit toward the education requirements specified in paragraph (a)(1) may also be obtained by completing a degree in real estate from an

accredited degree-granting college or university approved by the association to advance collegiate schools of business or a national accreditation agency recognized by the U.S. secretary of education or Kansas board of regents if the college or university has had its curriculum reviewed and approved by the appraiser qualifications board (AQB).

(c) Classroom hours may be obtained only if both of the following conditions are met:

(1) The minimum length of the educational offering is at least 15 classroom hours.

(2) The applicant successfully completes an approved closed-book examination pertinent to that educational offering.

(d) A distance education course may be deemed to meet the classroom hour requirement specified in paragraph (a)(1) if all of the following conditions are met:

(1) The course provides an environment in which the student has verbal or written communication with the instructor.

(2) The sponsor obtains course content approval from any of the following:

(A) The appraiser qualifications board;

(B) an appraiser licensing or certifying agency in this or any other state; or

(C) an accredited college, community college, or university that offers distance education programs and is approved or accredited by the commission on colleges, a regional or national accreditation association, or an accrediting agency that is recognized by the U.S. secretary of education or the Kansas board of regents. Each non-academic credit college course provided by a college shall be approved by the appraiser qualifications board or the appraiser licensing or certifying agency in this or any other state.

(3) The course design and delivery are approved by one of the following sources:

(A) An appraiser qualifications board-approved organization;

(B) a college that qualifies for course content approval as specified in paragraph (d)(2)(C) and awards academic credit for the distance education course; or

(C) a college that qualifies for course content approval as specified in paragraph (d)(2)(C) with a distance education delivery program that approves the course design and includes a delivery system incorporating interactivity.

(e) Each distance education course intended for use as qualifying education shall include a written

examination proctored by an official approved by the college or university or by the sponsor.

(f) Any applicant who has completed two or more courses generally comparable in content, meaning topics covered, may receive credit only for the longest of the comparable courses completed. The national uniform standards of professional appraisal practice (USPAP) course taken in different years shall not be considered repetitive. (Authorized by and implementing K.S.A. 58-4109; effective Jan. 21, 1991; amended, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended May 24, 1993; amended Jan. 9, 1998; amended March 26, 1999; amended May 23, 2003; amended Jan. 1, 2008; amended April 16, 2010; amended Jan. 1, 2015; amended Nov. 30, 2018.)

**117-2-2. Licensed classification; appraisal experience requirement.** (a)(1) Each applicant for the licensed classification shall have 1,000 hours of appraisal experience obtained in at least six months.

(2) At least six hours of real property appraisal experience shall be on an improved property.

(3) Acceptable appraisal experience shall include at least 750 hours of real property appraisal experience.

(4) Acceptable appraisal experience may include an aggregate maximum of 250 experience hours in the following appraisal categories:

- (A) Mass appraisal;
- (B) real estate consulting;
- (C) review appraisal;
- (D) highest and best use analysis; and
- (E) feasibility analysis study.

(5) Experience hours may be granted for appraisals performed without a traditional client. However, appraisal experience gained from work without a traditional client shall not exceed 50 percent of the total appraisal experience requirement. Practicum courses that are approved by the appraiser qualifications board's course-approval program or by a state appraiser regulatory agency may also be used to meet the requirement for non-traditional client experience. Each practicum course shall include the generally applicable methods of appraisal practice for the licensed classification. The course content shall include the following:

(A) Requiring the student to produce credible appraisals that utilize an actual subject property;

(B) performing market research containing sales analysis; and

(C) applying and reporting the applicable appraisal approaches in conformity with the uniform standards of professional appraisal practice.

Each assignment shall require problem-solving skills for a variety of property types for the licensed classification. Experience credit shall be granted for the actual number of classroom hours of instruction and hours of documented research and analysis as awarded from the practicum course approval process.

(6) For the purposes of this regulation, "traditional client" shall mean a client who hires an appraiser for a business purpose.

(b) All appraisal experience shall be in compliance with the uniform standards of professional appraisal practice (USPAP), as required by K.S.A. 58-4121 and amendments thereto. Each applicant's experience shall be appraisal work conforming to standards 1, 2, 3, 5, and 6, in which the applicant demonstrates proficiency in the appraisal principles, methodology, procedures, and reporting conclusions.

(c) The real property appraisal experience requirement specified in paragraph (a)(3) shall be met by time involved in the appraisal process. The appraisal process shall consist of the following:

- (1) Analyzing factors that affect value;
- (2) defining the problem;
- (3) gathering and analyzing data;
- (4) applying the appropriate analysis and methodology; and
- (5) arriving at an opinion and correctly reporting the opinion in compliance with USPAP.

(d)(1) In order for the board to determine whether or not the experience requirements have been satisfied, each applicant shall submit appraisal experience log sheets, in a format prescribed by the board, listing the appraisal reports completed by the applicant within the five-year period preceding the date of application. Each appraisal report shall be signed by the applicant or the preparer of the report who supervised the applicant. If the applicant does not sign the appraisal report, the preparer shall indicate whether or not the applicant provided significant professional assistance in the appraisal process.

(2) Each applicant shall maintain a record of the actual number of hours involved in completing an appraisal. Unless the board approves a greater number of experience hours for a particular appraisal based upon the unusually difficult or complex nature of the appraisal, the maximum number of experience hours for each appraisal

shall be in accordance with the board's document titled "experience hours table," dated December 1, 2017, which is hereby adopted by reference.

(3) Each applicant shall maintain a separate log of appraisals completed with each supervising appraiser.

Each page of each supervised experience log shall include the certification number and the signature of the applicant's supervising appraiser, which shall serve as verification of the accuracy of the information.

(e) Upon request of the board, each applicant shall submit at least three appraisal reports selected by the board from the applicant's log sheet and one appraisal report selected by the applicant from the log sheet. The selected appraisal reports shall be reviewed in accordance with standard rule 3 by the board or the board's designee for competency, within the scope of practice of the appraisal work authorized for the licensed classification, by using the criteria specified in K.S.A. 58-4109(d) and amendments thereto and, in particular, standards 1 and 2 of the edition of USPAP in effect when the appraisal was performed. Approval of an applicant's experience hours shall be subject to board approval of the requisite number of experience hours and board approval of the selected appraisal reports. (Authorized by and implementing K.S.A. 58-4109; effective Jan. 21, 1991; amended, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended July 25, 1994; amended June 5, 1995; amended March 7, 1997; amended March 26, 1999; amended Oct. 8, 2004; amended Sept. 1, 2006; amended Jan. 1, 2008; amended April 16, 2010; amended Aug. 24, 2012; amended Aug. 22, 2014; amended Jan. 1, 2015; amended June 17, 2016; amended May 26, 2017; amended Nov. 30, 2018.)

**117-2-2a. Licensed classification; experience supervision requirements.** (a) In order for an applicant's experience to be approved by the board when the applicant is applying for the licensed classification, the experience shall have been supervised by an appraiser according to all of the following conditions:

(1) The supervising appraiser was a certified appraiser in good standing for the three years immediately preceding supervision and during the period of supervision.

(2) The supervising appraiser did not supervise more than three provisional licensed appraisers or unlicensed appraiser applicants at the same time.

(3) The supervising appraiser maintained responsibility for supervision of the applicant by meeting both of the following requirements:

(A) Before signing the certification section or addendum, the supervising appraiser reviewed each appraisal report that the applicant prepared or provided assistance in developing, preparing, or communicating.

(B) The supervising appraiser met the following requirements:

(i) Ensured that at least the first 25 properties for which the applicant provided assistance in developing, preparing, or communicating an appraisal report were personally inspected by a supervising appraiser; and

(ii) continued to personally inspect each property for which the applicant provided assistance in developing, preparing, or communicating an appraisal report until the supervising appraiser was satisfied that the applicant was competent to appraise the property type, in accordance with the competency provision of the uniform standards of professional appraisal practice (USPAP) as required by K.S.A. 58-4121 and amendments thereto.

(4) Before beginning supervision, the supervising appraiser completed a course that, at a minimum, meets the course objectives adopted by reference in K.A.R. 117-1-1. The supervising appraiser shall submit proof of completion of the course to the board office before beginning supervision.

(b) Each applicant shall be permitted to have more than one supervising appraiser.

(c) The supervising appraiser shall supervise the work of an applicant on appraisal reports performed on properties only if both of the following conditions are met:

(1) The supervising appraiser is permitted by the supervising appraiser's current credential to appraise the properties.

(2) The supervising appraiser is competent to appraise the properties. (Authorized by and implementing K.S.A. 58-4109; effective July 1, 2007; amended Jan. 18, 2008; amended April 17, 2009; amended Aug. 24, 2012; amended Jan. 1, 2015; amended May 26, 2017.)

**117-2-3. Licensed classification; examination requirement.** (a) Except as specified in subsection (b), each applicant for the licensed classification shall be required to successfully complete the national uniform appraiser exam-

ination designated by the board for the licensed classification within 24 months from the date of the board's approval of that applicant to take the examination. The board's approval shall be based upon the applicant's completion of the education requirements in K.A.R. 117-2-1 and experience requirements in K.A.R. 117-2-2.

The applicant's successful completion of the examination shall be valid for 24 months.

(b) The only alternative to successful completion of the licensed classification examination shall be the successful completion of the residential or general classification examination.

This regulation shall be effective on and after January 1, 2015. (Authorized by and implementing K.S.A. 58-4109; effective, T-117-6-10-91, June 10, 1991; effective Aug. 5, 1991; amended, T-117-7-1-05, July 1, 2005; amended Oct. 28, 2005; amended Jan. 1, 2008; amended Jan. 1, 2015.)

**117-2-4. Licensed classification; scope of practice.** (a)(1) The licensed classification shall apply to the appraisal of the following:

(A) Non-complex one- to four-family residential units having a transaction value of less than \$1,000,000; and

(B) complex one- to four-family residential units having a transaction value of \$250,000 or less.

(2) For the purposes of this regulation, the following definitions shall apply:

(A) A complex one- to four-family residential property appraisal shall mean an appraisal in which the property to be appraised, the form of ownership, or the market conditions are atypical.

(B) For non-federally related transaction appraisals, transaction value shall mean market value.

(b) The licensed classification shall include the appraisal of vacant or unimproved land that is utilized for one- to four-family purposes and where the highest and best use is for one- to four-family purposes. The licensed classification shall not include the appraisal of subdivisions in which a development analysis or appraisal is necessary and utilized.

(c) The licensed classification may also apply to the appraisal of any other property permitted by the regulations of the applicable federal financial institution's regulatory agency, other agency, or regulatory body.

(d) Each licensed appraiser shall comply with the competency rule of the uniform standards of professional appraisal practice (USPAP), as required by K.S.A. 58-4121 and amendments thereto.

(e) Each licensed appraiser shall perform and practice in compliance with the USPAP, as required by K.S.A. 58-4121 and amendments thereto. (Authorized by and implementing K.S.A. 58-4109; effective, T-117-6-10-91, June 10, 1991; effective Aug. 5, 1991; amended May 24, 1993; amended Jan. 1, 2008; amended June 17, 2016.)

### Article 3.—QUALIFICATIONS CRITERIA—GENERAL APPRAISER CLASSIFICATION

**117-3-1. General classification; education requirements.** (a) Each applicant shall meet the following requirements:

(1) Have a bachelor's degree or higher from an accredited college or university;

(2) have received credit for 300 classroom hours in the following subjects, as specified:

(A) 30 classroom hours in basic appraisal principles;

(B) 30 classroom hours in basic appraisal procedures;

(C) 15 classroom hours in the national uniform standards of professional appraisal practice course or its equivalent;

(D) 30 classroom hours in general appraisal market analysis and highest and best use;

(E) 15 classroom hours in statistics, modeling, and finance;

(F) 30 classroom hours in the general appraisal sales comparison approach;

(G) 30 classroom hours in the general appraisal site valuation and cost approach;

(H) 60 classroom hours in the general appraisal income approach;

(I) 30 classroom hours in general appraisal report writing and case studies; and

(J) 30 classroom hours in appraisal subject matter electives, which may include hours over the minimum specified in paragraphs (a)(2)(A) through (I); and

(3) provide evidence, satisfactory to the board, of one of the following:

(A) Successful completion of courses approved by the board as specified in paragraph (a)(2); or

(B) successful completion of courses not approved by the board, with evidence that the education covered all of the requirements specified in paragraph (a)(2).

(b) Credit toward the education requirements specified in paragraph (a)(2) may also be obtained by completing a degree in real estate from an

accredited degree-granting college or university approved by the association to advance collegiate schools of business or a regional or national accreditation agency recognized by the U.S. secretary of education if the college or university has had its curriculum reviewed and approved by the appraiser qualifications board (AQB).

(c) Classroom hours may be obtained only if both of the following conditions are met:

(1) The length of the educational offering is at least 15 classroom hours.

(2) The applicant successfully completes an approved closed-book examination pertinent to that educational offering.

(d) The 300 classroom hours specified in paragraph (a)(2) may include a portion of the 150 classroom hours required for the licensed classification or the 200 classroom hours required for the residential classification.

(e)(1) Any appraiser holding a valid state license as a real property appraiser may meet the educational requirements for the general classification by performing the following:

(A) Satisfying the college-level educational requirements as specified in paragraph (a)(1); and

(B) completing an additional 150 educational hours in the following subjects:

(i) 15 hours of general appraiser market analysis and highest and best use;

(ii) 15 hours of statistics, modeling, and finance;

(iii) 15 hours of general appraiser sales comparison approach;

(iv) 15 hours of general appraiser site valuation and cost approach;

(v) 45 hours of general appraiser income approach;

(vi) 15 hours of general appraiser report writing and case studies; and

(vii) 30 hours of appraisal subject matter electives.

(2) Any appraiser holding a valid residential real property appraiser credential may meet the educational requirements for the general classification by performing the following:

(A) Satisfying the college-level educational requirements as specified in paragraph (a)(1); and

(B) completing an additional 100 educational hours in the following subjects:

(i) 15 hours of general appraiser market analysis and highest and best use;

(ii) 15 hours of general appraiser sales comparison approach;

(iii) 15 hours of general appraiser site valuation and cost approach;

(iv) 45 hours of general appraiser income approach; and

(v) 10 hours of general appraiser report writing and case studies.

(f) A distance education course may be deemed to meet the classroom hour requirement specified in paragraph (a)(2) if all of the following conditions are met:

(1) The course provides an environment in which the student has verbal or written communication with the instructor.

(2) The sponsor obtains course content approval from any of the following:

(A) The appraiser qualifications board;

(B) an appraiser licensing or certifying agency in this or any other state; or

(C) an accredited college, community college, or university that offers distance education programs and is approved or accredited by the commission on colleges, a regional or national accreditation association, or an accrediting agency that is recognized by the U.S. secretary of education. Each non-academic credit college course provided by a college shall be approved by the appraiser qualifications board or the appraiser licensing or certifying agency in this or any other state.

(3) The course design and delivery are approved by one of the following sources:

(A) An appraiser qualifications board-approved organization;

(B) a college that qualifies for course content approval as specified in paragraph (f)(2)(C) that awards academic credit for the distance education course; or

(C) a college that qualifies for course content approval as specified in paragraph (f)(2)(C) with a distance education delivery program that approves the course design and includes a delivery system incorporating interactivity.

(g) Each distance education course intended for use as qualifying education shall include a written examination proctored by an official approved by the college or university or by the sponsor.

(h) Any applicant who has completed two or more courses generally comparable in content, meaning topics covered, may receive credit only for the longest of the comparable courses completed. The national uniform standards of professional appraisal practice course (USPAP) taken in different years shall not be considered repetitive.

This regulation shall be effective on and after January 1, 2015. (Authorized by and implementing K.S.A. 58-4109; effective Jan. 21, 1991; amend-

ed, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended May 24, 1993; amended Jan. 9, 1998; amended March 26, 1999; amended May 23, 2003; amended Jan. 1, 2008; amended July 10, 2009; amended April 16, 2010; amended Jan. 1, 2015.)

**117-3-2. General classification; appraisal experience requirement.** (a)(1) Each applicant for the general classification shall have 3,000 hours of appraisal experience obtained over a period of at least 18 months.

(2) At least six hours of real property appraisal experience shall be on an improved property.

(3) At least 1,500 hours of real property appraisal experience shall have been nonresidential appraisal work. For purposes of this regulation, "residential" shall be defined as residential units for one to four families.

(4) Acceptable appraisal experience shall include at least 1,500 experience hours of real property appraisal experience.

(5) Acceptable appraisal experience may include either of the following:

(A) 1,500 experience hours in mass appraisal; or  
(B) an aggregate maximum of 750 experience hours in the following appraisal categories:

- (i) Real estate consulting;
- (ii) review appraisal;
- (iii) highest and best use analysis; and
- (iv) feasibility analysis study.

(6) Experience hours may be granted for appraisals performed without a traditional client. However, appraisal experience gained from work without a traditional client shall not exceed 50 percent of the total appraisal experience requirement. Practicum courses that are approved by the appraiser qualifications board's course-approval program or by a state appraiser regulatory agency may also be used to meet the requirement for non-traditional client experience. Each practicum course shall include the generally applicable methods of appraisal practice for the general classification. The course content shall include the following:

- (A) Requiring the student to produce credible appraisals that utilize an actual subject property;
- (B) performing market research containing sales analysis; and
- (C) applying and reporting the applicable appraisal approaches in conformity with the uniform standards of professional appraisal practice.

Each practicum course assignment shall require problem-solving skills for a variety of property

types for the general classification. Experience credit shall be granted for the actual number of classroom hours of instruction and hours of documented research and analysis as awarded from the practicum course approval process.

(7) For the purposes of this regulation, "traditional client" shall mean a client who hires an appraiser for a business purpose.

(b) All appraisal experience shall be in compliance with the uniform standards of professional appraisal practice (USPAP), as required by K.S.A. 58-4121 and amendments thereto. Each applicant's experience shall be appraisal work conforming to standards 1, 2, 3, 5, and 6, in which the applicant demonstrates proficiency in the appraisal principles, methodology, procedures, and report conclusions.

(c) The real property appraisal experience requirement specified in paragraph (a)(4) shall be met by time involved in the appraisal process. The appraisal process shall consist of the following:

- (1) Analyzing factors that affect value;
- (2) defining the problem;
- (3) gathering and analyzing data;
- (4) applying the appropriate analysis and methodology; and
- (5) arriving at an opinion and correctly reporting the opinion in compliance with USPAP.

(d)(1) In order for the board to determine whether or not the experience requirements have been met, each applicant shall submit appraisal experience log sheets, in a format prescribed by the board, listing the appraisal reports completed by the applicant within the five-year period preceding the date of application. Each appraisal report shall be signed by the applicant or the preparer of the report who supervised the applicant. If the applicant does not sign the appraisal report, the preparer shall indicate whether or not the applicant provided significant professional assistance in the appraisal process.

(2) Each applicant shall maintain a record of the actual number of hours involved in completing an appraisal. Unless the board approves a greater number of experience hours for a particular appraisal based upon the unusually difficult or complex nature of the appraisal, the maximum number of experience hours for each appraisal shall be in accordance with the board's document titled "experience hours table," which is adopted by reference in K.A.R. 117-2-2.

(3) If an applicant has both supervised experience and unsupervised experience, the applicant

shall maintain a separate log of appraisals for each type of experience.

When logging supervised experience, the applicant shall maintain a separate log of appraisals completed with each supervising appraiser. Each page of each supervised experience log shall include the certification number and the signature of that applicant's supervising appraiser, which shall serve as verification of the accuracy of the information.

(e) Upon request of the board, each applicant shall submit at least three appraisal reports selected by the board from the applicant's log sheet and one appraisal report selected by the applicant from the log sheet. The selected appraisal reports shall be reviewed by the board or the board's designee, in accordance with standard rule 3, for competency within the scope of practice of the appraisal work authorized for the general classification, by using the criteria specified in K.S.A. 58-4109(d) and amendments thereto and, in particular, standard rules 1 and 2 of the edition of USPAP in effect when the appraisal was performed. Approval of an applicant's experience hours shall be subject to board approval of the requisite number of experience hours and board approval of the selected appraisal reports. (Authorized by and implementing K.S.A. 58-4109; effective Jan. 21, 1991; amended, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended July 25, 1994; amended June 5, 1995; amended March 7, 1997; amended Jan. 9, 1998; amended March 26, 1999; amended Oct. 8, 2004; amended Sept. 1, 2006; amended Jan. 1, 2008; amended April 16, 2010; amended Aug. 24, 2012; amended Aug. 22, 2014; amended Jan. 1, 2015; amended June 17, 2016; amended May 26, 2017; amended Nov. 30, 2018.)

**117-3-2a. General classification; experience supervision requirements.** (a) In order for an applicant's experience to be approved by the board when the applicant is applying for the general classification, all experience attained by an unlicensed or uncertified individual or by a licensed or certified appraiser whose experience is outside that appraiser's scope of practice shall have been supervised by an appraiser according to the following conditions:

(1) The supervising appraiser was a certified appraiser in good standing for the three years immediately preceding supervision and during the period of supervision.

(2) The supervising appraiser did not supervise more than three provisional licensed appraisers or unlicensed appraiser applicants at the same time.

(3) The supervising appraiser maintained responsibility for supervision of the applicant by meeting both of the following requirements:

(A) Before signing the certification section or addendum, the supervising appraiser reviewed each appraisal report that the applicant prepared or provided assistance in developing, preparing, or communicating.

(B) The supervising appraiser met the following requirements:

(i) Ensured that at least the first 25 properties for which the applicant provided assistance in developing, preparing, or communicating an appraisal report were personally inspected by a supervising appraiser; and

(ii) continued to personally inspect each property for which the applicant provided assistance in developing, preparing, or communicating an appraisal report until the supervisor was satisfied that the applicant was competent to appraise the property type, in accordance with the competency provision of the uniform standards of professional appraisal practice (USPAP) as required by K.S.A. 58-4121 and amendments thereto.

(4) Before beginning supervision, the supervising appraiser completed a course that, at a minimum, meets the course objectives adopted by reference in K.A.R. 117-1-1. The supervising appraiser shall submit proof of completion of the course to the board office before beginning supervision.

(b) Each applicant shall be permitted to have more than one supervising appraiser.

(c) The supervising appraiser shall supervise the work of an applicant on appraisal reports performed on properties only if both of the following conditions are met:

(1) The supervising appraiser is permitted by the supervising appraiser's current credential to appraise the properties.

(2) The supervising appraiser is competent to appraise the properties. (Authorized by and implementing K.S.A. 58-4109; effective July 1, 2007; amended July 1, 2007; amended Jan. 18, 2008; amended April 17, 2009; amended Aug. 24, 2012; amended Jan. 1, 2015; amended May 26, 2017.)

**117-3-3. General classification; examination requirement.** Each applicant for the general classification shall be required to successfully

complete the national uniform appraiser examination designated by the board for the general classification within 24 months from the date of the board's approval of that applicant to take the examination. The board's approval shall be based upon the applicant's completion of the education requirements in K.A.R. 117-3-1 and experience requirements in K.A.R. 117-3-2.

The applicant's successful completion of the examination shall be valid for 24 months.

This regulation shall be effective on and after January 1, 2015. (Authorized by and implementing K.S.A. 58-4109; effective, T-117-6-10-91, June 10, 1991; effective Aug. 5, 1991; amended, T-117-7-1-05, July 1, 2005; amended Oct. 28, 2005; amended Jan. 1, 2015.)

**117-3-4. General classification; scope of practice.** (a) The general classification shall apply to the appraisal of all types of real property.

(b) Each certified general appraiser shall comply with the competency rule of the uniform standards of professional appraisal practice (USPAP), as required by K.S.A. 58-4121 and amendments thereto.

(c) Each certified general appraiser shall perform and practice in compliance with the USPAP, as required by K.S.A. 58-4121 and amendments thereto. (Authorized by and implementing K.S.A. 58-4109; effective, T-117-6-10-91, June 10, 1991; effective Aug. 5, 1991; amended Jan. 1, 2008; amended June 17, 2016.)

**Article 4.—QUALIFICATIONS  
CRITERIA—CERTIFIED RESIDENTIAL  
APPRAISER CLASSIFICATION**

**117-4-1. Residential classification; education requirements.** (a) Each applicant shall meet one of the following requirements:

(1) Have a bachelor's degree or higher from an accredited four-year college or university;

(2) have an associate's degree in a field of study related to one of the following:

- (A) Business administration;
- (B) accounting;
- (C) finance;
- (D) economics; or
- (E) real estate;

(3) successfully complete 30 semester hours of college-level courses in the following subjects, with at least three semester hours in each subject:

- (A) English composition;

- (B) microeconomics;
- (C) macroeconomics;
- (D) finance;
- (E) algebra, geometry, or higher mathematics;
- (F) statistics;
- (G) principles of management;
- (H) business or real estate law; and
- (I) two elective courses in any of the following

subjects:

- (i) Accounting;
- (ii) geography;
- (iii) agricultural economics;
- (iv) business management; or
- (v) real estate;
- (4) successfully complete at least 30 hours of college-level examination program (CLEP) examinations in the following subjects:

- (A) English composition;
- (B) microeconomics;
- (C) macroeconomics;
- (D) finance;
- (E) algebra, geometry, or higher mathematics;
- (F) statistics;
- (G) computer science;
- (H) principles of management; and
- (I) any two of the following:

- (i) Accounting;
- (ii) geography;
- (iii) agricultural economics;
- (iv) business management; or
- (v) real estate; or
- (5) successfully complete any combination of paragraphs (a)(3) and (4) that includes all of the subjects listed in those paragraphs.

(b) Each applicant shall meet the following requirements:

(1) Have received credit for 200 classroom hours in the following subjects, as specified:

(A) 30 classroom hours in basic appraisal principles;

(B) 30 classroom hours in basic appraisal procedures;

(C) 15 classroom hours in the national uniform standards of professional appraisal practice course or its equivalent;

(D) 15 classroom hours in residential market analysis and highest and best use;

(E) 15 classroom hours in the residential appraiser site valuation and cost approach;

(F) 30 classroom hours in residential sales comparison and income approaches;

(G) 15 classroom hours in residential report writing and case studies;

(H) 15 classroom hours in statistics, modeling, and finance;

(I) 15 classroom hours in advanced residential applications and case studies; and

(J) 20 classroom hours in appraisal subject matter electives, which may include hours over the minimum specified in paragraph (b)(1); and

(2) provide evidence, satisfactory to the board, of one of the following:

(A) Successful completion of courses approved by the board as specified in paragraph (b)(1); or

(B) successful completion of courses not approved by the board, with evidence that the education covered all of the requirements specified in paragraph (b)(1).

(c) Credit toward the education requirements specified in paragraph (b)(1) may also be obtained by completing a degree in real estate from an accredited degree-granting college or university approved by the association to advance collegiate schools of business or a regional or national accreditation agency recognized by the U.S. secretary of education if the college or university has had its curriculum reviewed and approved by the appraiser qualifications board (AQB).

(d) Classroom hours may be obtained only if both of the following conditions are met:

(1) The length of the educational offering is at least 15 classroom hours.

(2) The applicant successfully completes an approved closed-book examination pertinent to that educational offering.

(e) Any appraiser holding a valid state license as a real property appraiser may meet the educational requirements for the certified residential classification by performing the following:

(1)(A) Satisfying the college-level educational requirements as specified in subsection (a); or

(B) having a state license for at least five years immediately preceding the date of application if there has been no final adjudicated disciplinary action affecting the state licensed appraiser's legal eligibility to engage in appraisal practice; and

(2) completing an additional 50 hours of classroom or distance education, or both in the following subjects:

(A) 15 hours of statistics, modeling, and finance;

(B) 15 hours of advanced residential applications and case studies; and

(C) 20 hours of appraisal subject matter electives.

(f) The 200 classroom hours specified in paragraph (b)(1) may include a portion of the 150

classroom hours required for the licensed classification.

(g) A distance education course may be deemed to meet the classroom hour requirement specified in paragraph (b)(1) if all of the following conditions are met:

(1) The course provides an environment in which the student has verbal or written communication with the instructor.

(2) The sponsor obtains course content approval from any of the following:

(A) The appraiser qualifications board;

(B) an appraiser licensing or certifying agency in this or any other state; or

(C) an accredited college, community college, or university that offers distance education programs and is approved or accredited by the commission on colleges, a regional or national accreditation association, or an accrediting agency that is recognized by the U.S. secretary of education. Each non-academic credit college course provided by a college shall be approved by the appraiser qualifications board or the appraiser licensing or certifying agency in this or any other state.

(3) The course design and delivery are approved by one of the following sources:

(A) An appraiser qualifications board-approved organization;

(B) a college that qualifies for course content approval as specified in paragraph (g)(2)(C) and awards academic credit for the distance education course; or

(C) a college that qualifies for course content approval as specified in paragraph (g)(2)(C) with a distance education delivery program that approves the course design and includes a delivery system incorporating interactivity.

(h) Each distance education course intended for use as qualifying education shall include a written examination proctored by an official approved by the college or university or by the sponsor.

(i) Any applicant who has completed two or more courses generally comparable in content, meaning topics covered, may receive credit only for the longest of the comparable courses completed. The national uniform standards of professional appraisal practice (USPAP) course taken in different years shall not be considered repetitive. (Authorized by and implementing K.S.A. 58-4109; effective Jan. 21, 1991; amended, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended May 24, 1993; amended Jan. 1, 1994; amended Jan. 9, 1998; amended March 26, 1999; amended

May 23, 2003; amended Jan. 1, 2008; amended July 10, 2009; amended April 16, 2010; amended Jan. 1, 2015; amended June 17, 2016; amended Nov. 30, 2018.)

**117-4-2. Residential classification; appraisal experience requirement.** (a)(1) Each applicant for the residential classification shall have 1,500 hours of appraisal experience obtained over a period of at least 12 months.

(2) At least six hours of real property appraisal experience shall be on an improved property.

(3) Acceptable appraisal experience shall include at least 1,125 experience hours of real property appraisal experience.

(4) Acceptable appraisal experience may include an aggregate maximum of 375 experience hours in the following appraisal categories:

- (A) Mass appraisal;
- (B) real estate consulting;
- (C) review appraisal;
- (D) highest and best use analysis; and
- (E) feasibility analysis study.

(5) Experience hours may be granted for appraisals performed without a traditional client. However, appraisal experience gained from work without a traditional client shall not exceed 50 percent of the total appraisal experience requirement. Practicum courses that are approved by the appraiser qualifications board's course-approval program or by a state appraiser regulatory agency may also be used to meet the requirement for non-traditional client experience. Each practicum course shall include the generally applicable methods of appraisal practice for the residential classification. The course content shall include the following:

(A) Requiring the student to produce credible appraisals that utilize an actual subject property;

(B) performing market research containing sales analysis; and

(C) applying and reporting the applicable appraisal approaches in conformity with the uniform standards of professional appraisal practice.

Each assignment shall require problem-solving skills for a variety of property types for the residential classification. Experience credit shall be granted for the actual classroom hours of instruction and hours of documented research and analysis as awarded from the practicum course approval process.

(6) For the purposes of this regulation, "traditional client" shall mean a client who hires an appraiser for a business purpose.

(b) All appraisal experience shall be in compliance with the uniform standards of professional appraisal practice (USPAP), as required by K.S.A. 58-4121 and amendments thereto. Each applicant's experience shall be appraisal work conforming to standards 1, 2, 3, 5, and 6, in which the applicant demonstrates proficiency in the appraisal principles, methodology, procedures, and report conclusions.

(c) The real property appraisal experience requirement specified in paragraph (a)(3) shall be met by time involved in the appraisal process. The appraisal process shall consist of the following:

(1) Analyzing factors that affect value;

(2) defining the problem;

(3) gathering and analyzing data;

(4) applying the appropriate analysis and methodology; and

(5) arriving at an opinion and correctly reporting the opinion in compliance with USPAP.

(d)(1) In order for the board to determine whether or not the experience requirements have been met, each applicant shall submit appraisal experience log sheets, in a format prescribed by the board, listing the appraisal reports completed by the applicant within the five-year period preceding the date of application. Each appraisal report shall be signed by the applicant or the preparer of the report who supervised the applicant. If the applicant does not sign the appraisal report, the preparer shall indicate whether or not the applicant provided significant professional assistance in the appraisal process.

(2) Each applicant shall maintain a record of the actual number of hours involved in completing an appraisal. Unless the board approves a greater number of experience hours for a particular appraisal based upon the unusually difficult or complex nature of the appraisal, the maximum number of experience hours for each appraisal shall be in accordance with the board's document titled "experience hours table," which is adopted by reference in K.A.R. 117-2-2.

(3) Each applicant shall maintain a separate log of appraisals for supervised experience and for unsupervised experience.

When logging supervised experience, the applicant shall maintain a separate log of appraisals completed with each supervising appraiser. Each page of each supervised experience log shall include the certification number and the signature of that applicant's supervising appraiser, which shall serve as verification of the accuracy of the information.

(e) Upon request of the board, each applicant shall submit at least three appraisal reports selected by the board from the applicant's log sheet and one appraisal report selected by the applicant from the log sheet. The selected appraisal reports shall be reviewed by the board or the board's designee, in accordance with standard rule 3 for competency within the scope of practice of the appraisal work authorized for the residential classification, by using the criteria specified in K.S.A. 58-4109(d) and amendments thereto and, in particular, standard rules 1 and 2 of the edition of USPAP in effect when the appraisal was performed. Approval of an applicant's experience hours shall be subject to board approval of the requisite number of experience hours and board approval of the selected appraisal reports. (Authorized by and implementing K.S.A. 58-4109; effective, T-117-6-10-91, June 10, 1991; effective Aug. 5, 1991; amended July 25, 1994; amended June 5, 1995; amended March 7, 1997; amended Jan. 9, 1998; amended March 26, 1999; amended Oct. 8, 2004; amended Sept. 1, 2006; amended Jan. 1, 2008; amended April 16, 2010; amended Aug. 24, 2012; amended Aug. 22, 2014; amended Jan. 1, 2015; amended June 17, 2016; amended May 26, 2017; amended Nov. 30, 2018.)

**117-4-2a. Residential classification; experience supervision requirements.** (a) In order for an applicant's experience to be approved by the board when the applicant is applying for the residential classification, all experience attained by an unlicensed individual or by a licensed appraiser whose experience is outside that appraiser's scope of practice shall have been supervised by an appraiser according to all of the following conditions:

(1) The supervising appraiser was a certified appraiser in good standing for the three years immediately preceding supervision and during the period of supervision.

(2) The supervising appraiser did not supervise more than three provisional licensed appraisers or unlicensed appraiser applicants at the same time.

(3) The supervising appraiser maintained responsibility for supervision of the applicant by meeting both of the following requirements:

(A) Before signing the certification section or addendum, the supervising appraiser reviewed each appraisal report that the applicant prepared or provided assistance in developing, preparing, or communicating.

(B) The supervising appraiser met the following requirements:

(i) Ensured that at least the first 25 properties for which the applicant provided assistance in developing, preparing, or communicating an appraisal report were personally inspected by a supervising appraiser; and

(ii) continued to personally inspect each property for which the applicant provided assistance in developing, preparing, or communicating an appraisal report until the supervising appraiser was satisfied that the applicant was competent to appraise the property type, in accordance with the competency provision of the uniform standards of professional appraisal practice (USPAP) as required by K.S.A. 58-4121 and amendments thereto.

(4) Before beginning supervision, the supervising appraiser completed a course that, at a minimum, meets the course objectives adopted by reference in K.A.R. 117-1-1. The supervising appraiser shall submit proof of completion of the course to the board office before beginning supervision.

(b) Each applicant shall be permitted to have more than one supervising appraiser.

(c) The supervising appraiser shall supervise the work of an applicant on appraisal reports performed on properties only if both of the following conditions are met:

(1) The supervising appraiser is permitted by the supervising appraiser's current credential to appraise the properties.

(2) The supervising appraiser is competent to appraise the properties. (Authorized by and implementing K.S.A. 58-4109; effective July 1, 2007; amended July 1, 2007; amended Jan. 18, 2008; amended April 17, 2009; amended Aug. 24, 2012; amended Jan. 1, 2015; amended May 26, 2017.)

**117-4-3. Residential classification; examination requirement.** (a) Except as specified in subsection (b), each applicant for the residential classification shall be required to successfully complete the national uniform appraiser examination designated by the board for the residential classification within 24 months from the date of the board's approval of that applicant to take the examination. The board's approval shall be based upon the applicant's completion of the education requirements in K.A.R. 117-4-1 and experience requirements in K.A.R. 117-4-2.

The applicant's successful completion of the examination shall be valid for 24 months.

(b) The only alternative to the successful completion of the residential classification examination shall be the successful completion of the general classification examination.

This regulation shall be effective on and after January 1, 2015. (Authorized by and implementing K.S.A. 58-4109; effective, T-117-6-10-91, June 10, 1991; effective Aug. 5, 1991; amended, T-117-7-1-05, July 1, 2005; amended Oct. 28, 2005; amended Jan. 1, 2008; amended Jan. 1, 2015.)

**117-4-4. Residential classification; scope of practice.** (a) The residential classification shall apply to the appraisal of residential units for one to four families without regard to transaction value or complexity.

(b) The residential classification shall include the appraisal of vacant or unimproved land that is utilized for one-family to four-family purposes and where the highest and best use is for one-family to four-family purposes. The residential classification shall not include the appraisal of subdivisions in which a development analysis or appraisal is necessary and utilized.

(c) The residential classification may also apply to the appraisal of any other property permitted by the regulations of the applicable federal financial institution's regulatory agency, other agency, or regulatory body.

(d) Each certified residential appraiser shall comply with the competency rule of the uniform standards of professional appraisal practice (USPAP), as required by K.S.A. 58-4121 and amendments thereto.

(e) Each certified residential appraiser shall perform and practice in compliance with the USPAP, as required by K.S.A. 58-4121 and amendments thereto. (Authorized by and implementing K.S.A. 58-4109; effective, T-117-6-10-91, June 10, 1991; effective Aug. 5, 1991; amended May 24, 1993; amended Jan. 1, 2008; amended June 17, 2016.)

#### **Article 5.—QUALIFICATIONS CRITERIA—PROVISIONAL CLASSIFICATION**

**117-5-1. Provisional classification; education requirements.** In order to be eligible for the provisional classification, each applicant shall meet the education requirements specified in the following:

(a) K.A.R. 117-3-1(a)(1) or K.A.R. 117-4-1(a)(1) through (5); and

(b) within the five years preceding the date of application, K.A.R. 117-2-1(a)(1), K.A.R. 117-3-1(a)(2), or K.A.R. 117-4-1(b)(1). (Authorized by and implementing K.S.A. 58-4109; effective Aug. 15, 1994; amended April 24, 1998; amended Sept. 1, 2006; amended Jan. 1, 2015; amended Nov. 30, 2018.)

**117-5-2. Provisional classification; supervised experience requirements.** (a) Each provisional licensed appraiser's work in developing, preparing, or communicating an appraisal report shall be directly supervised by a supervising appraiser as specified in K.A.R. 117-5-2a.

(b) Before beginning supervised experience, each provisional licensed appraiser shall have completed a course that, at a minimum, meets the requirements contained in the board's document titled "supervisory appraiser/trainee appraiser course objectives and outline," dated September 3, 2014, which is hereby adopted by reference. Each provisional licensed appraiser shall submit proof of completion of the course to the board office before commencing supervised experience.

(c) Each appraisal report shall be signed by the provisional licensed appraiser or by the preparer of the report who supervised the provisional licensed appraiser, certifying that the report is in compliance with the uniform standards of professional appraisal practice of the appraisal foundation in effect at the time of the appraisal.

(d) If the provisional licensed appraiser does not sign the appraisal report, the preparer of the report who supervised the provisional licensed appraiser shall describe, in the certification section or in the dated and signed addendum to the certification page of the appraisal report, the extent to which the provisional licensed appraiser provided assistance in developing, preparing, or communicating the appraisal through generally accepted appraisal methods and techniques.

(e) Each provisional licensed appraiser shall be permitted to have more than one supervising appraiser.

(f) In order to be licensed as a real property appraiser, certified as a general real property appraiser, or certified as a residential real property appraiser, the provisional licensed appraiser shall complete the experience requirements in K.A.R. 117-2-2, K.A.R. 117-3-2, or K.A.R. 117-4-2.

(g) The requirements for real property appraisal experience specified in K.A.R. 117-2-2, K.A.R. 117-3-2, and K.A.R. 117-4-2 shall be met by time

involved in the appraisal process. The appraisal process shall consist of the following:

- (1) Analyzing factors that affect value;
- (2) defining the problem;
- (3) gathering and analyzing data;
- (4) applying the appropriate analysis and methodology; and
- (5) arriving at an opinion and correctly reporting the opinion in compliance with the national uniform standards of professional appraisal practice.

(h)(1) In order for the board to determine whether or not the experience requirements have been satisfied, each provisional licensed appraiser shall submit appraisal experience log sheets, in a format prescribed by the board, listing the appraisal reports completed by the applicant within the five-year period preceding the date of application.

(2) Each page of the log shall include the certification number and the signature of the supervising appraiser, which shall serve as verification of the accuracy of the information.

(3) Each applicant shall maintain a record of the actual number of hours involved in completing an appraisal. Unless the board approves a greater number of experience hours for a particular appraisal based upon the unusually difficult or complex nature of the appraisal, the maximum number of experience hours for each appraisal shall be in accordance with the board's document titled "experience hours table," dated April 25, 2014, which is hereby adopted by reference.

(i) Each provisional licensed appraiser shall maintain a separate log of appraisals completed with each supervising appraiser.

This regulation shall be effective on and after January 1, 2015. (Authorized by and implementing K.S.A. 58-4109; effective April 24, 1998; amended Dec. 5, 2003; amended April 17, 2009; amended Aug. 24, 2012; amended Aug. 22, 2014; amended Jan. 1, 2015.)

**117-5-2a. Provisional classification; supervisor requirements.** (a) In order for a provisional licensed appraiser's experience to be approved by the board, that individual's experience shall have been supervised by an appraiser according to all of the following conditions:

(1) The supervising appraiser was a certified appraiser in good standing for the three years immediately preceding supervision and during the period of supervision.

(2) The supervising appraiser did not supervise more than three provisional licensed appraisers or unlicensed appraiser applicants at the same time.

(3) The supervising appraiser maintained responsibility for supervision of the provisional licensed appraiser by meeting both of the following requirements:

(A) Before signing the certification section or addendum, the supervising appraiser reviewed each appraisal report that the applicant prepared or provided assistance in developing, preparing, or communicating.

(B) The supervising appraiser met the following requirements:

(i) Ensured that at least the first 25 properties for which the applicant provided assistance in developing, preparing, or communicating an appraisal report were personally inspected by a supervising appraiser; and

(ii) continued to personally inspect each property for which the applicant provided assistance in developing, preparing, or communicating an appraisal report until the supervising appraiser was satisfied that the applicant was competent to appraise the property type, in accordance with the competency provision of the uniform standards of professional appraisal practice (USPAP).

(4) The supervising appraiser has completed the course required in K.A.R. 117-5-2(b). The supervising appraiser shall submit proof of completion of the course to the board office before beginning supervision.

(b) The supervising appraiser shall supervise the work of a provisional licensed appraiser on appraisal reports performed on properties only if both of the following conditions are met:

(1) The supervising appraiser is permitted by the supervising appraiser's current credential to appraise the properties.

(2) The supervising appraiser is competent to appraise the properties. (Authorized by and implementing K.S.A. 58-4109; effective July 1, 2007; amended Jan. 18, 2008; amended April 17, 2009; amended Aug. 24, 2012; amended Jan. 1, 2015; amended May 26, 2017.)

## Article 6.—CONTINUING EDUCATION

**117-6-1. Continuing education; renewal requirements.** (a)(1) The continuing education requirement for renewal of any license or certificate for the provisional, licensed, residential, or general classification that has been in force

for one year or more shall be a total of 28 hours, which may be averaged over each two-year education cycle as defined in paragraph (a)(5) and as provided in paragraph (a)(6).

(2) The continuing education requirement for renewal of any license or certificate for the provisional, licensed, residential, or general classification that has been in force for less than one year but more than 184 days shall be a total of 14 hours, completed on or after the original date of issuance of the license or certificate.

(3) No hours of continuing education shall be required for renewal of any license or certificate for the provisional, licensed, residential, or general classification that has been in force for 184 days or less.

(4) Each course for which credit is requested shall have received the approval of the board or approval of the appraisal licensing agency of the state in which the course was held for renewal of the applicable classification before the completion of the course.

(5) The two-year education cycle shall commence on July 1 of each odd-numbered year and end on June 30 of the next odd-numbered year.

(6) Within every two-year education cycle, each certified or licensed appraiser required to complete 14 or more continuing education hours shall attend a seven-classroom-hour national uniform standards of professional appraisal practice update course, or its equivalent.

(b) An appraiser shall not receive continuing education credit for a course for which the appraiser received credit toward the original classroom-hour requirement specified in K.A.R. 117-2-1, 117-3-1, or 117-4-1, except for the course on the uniform standards of professional appraisal practice and updates of the course. However, if a licensed or certified appraiser receives credit for a course to apply toward a higher classification, the appraiser may also receive continuing education credit for the course if it is approved by the board or by the appraisal licensing agency of the state in which the course was held for continuing education credit.

(c)(1) Up to one-half of an individual's continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Activities for which credit may be granted shall include any of the following:

(A) Teaching of appraisal courses. Credit for any course or seminar shall be awarded only once during each two-year continuing education cycle;

(B) program development;

(C) attendance at a state appraiser regulatory agency meeting, according to the following requirements:

(i) Credit shall be granted for attendance at no more than one meeting per education cycle;

(ii) the meeting shall be at least two hours in length; and

(iii) total credit shall not exceed seven hours;

(D) authorship of textbooks; or

(E) similar activities that are determined by the board to be equivalent to obtaining continuing education.

(2) Each appraiser seeking credit for attendance at or participation in an educational activity that was not previously accredited shall submit to the board a request for credit, which shall include the following information:

(A) A description of the activity;

(B) the date or dates of the activity;

(C) the subject or subjects covered;

(D) the name of each instructor and the instructor's qualifications; and

(E) any other relevant information required by the board. Within 30 days after receipt of this request, the appraiser shall be advised by the board in writing whether credit is granted and what amount of continuing education credit will be allowed. Either the sponsor or appraiser shall submit a separate request for approval of each continuing education activity.

(d) It shall be the appraiser's responsibility to keep track of that individual's continuing education credit. At the time of renewal of a license or certificate, the appraiser shall provide verification of completion of continuing education by affidavit to the board.

(1) The affidavit shall contain a statement of continuing education courses completed by the appraiser.

(2) The appraiser shall list all courses completed on the affidavit.

(3) The appraiser shall retain all course completion certificates for five years and shall make the certificates available to the board for review upon request.

(e) If any appraiser requests credit according to subsection (c), the appraiser shall submit a detailed description of the activities with the application for renewal on a form obtained from the board.

This regulation shall be effective on and after January 1, 2015. (Authorized by K.S.A. 2013

Supp. 58-4105 and K.S.A. 58-4109; implementing K.S.A. 58-4109, K.S.A. 2013 Supp. 58-4112, and K.S.A. 2013 Supp. 58-4117; effective Jan. 21, 1991; amended, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended May 24, 1993; amended July 25, 1994; amended Feb. 6, 1995; amended Jan. 9, 1998; amended July 16, 1999; amended May 17, 2002; amended May 23, 2003; amended Sept. 1, 2006; amended Jan. 1, 2008; amended April 4, 2008; amended July 10, 2009; amended May 21, 2010; amended Jan. 1, 2015.)

**117-6-2. Continuing education; approval of courses; requirements.** (a) Each sponsor of a continuing education course approved by the board shall ensure that each appraiser participates in a program that maintains and increases the appraiser's skill, knowledge, and competency in real estate appraising.

(b) Courses approved by the board for renewal of a license or certificate shall cover real estate-related appraisal topics that may include the following:

- (1) Mass appraisal;
- (2) arbitration and dispute resolution;
- (3) courses related to the practice of real estate appraisal or consulting;
- (4) development cost estimating;
- (5) ethics and standards of professional practice;
- (6) land use planning and zoning;
- (7) management, leasing, and time-sharing;
- (8) property development and partial interests;
- (9) real estate appraisal;
- (10) real estate law, easements, and legal interests;
- (11) real estate litigation, damages, and condemnation;
- (12) real estate financing and investment;
- (13) real estate appraisal-related computer applications;
- (14) real estate securities and syndication;
- (15) developing opinions of real property value in appraisals that also include personal property or business value, or both;
- (16) seller concessions and the impact on real estate value; and
- (17) energy-efficient items and appraisals of "green buildings."

(c) The length of each course approved for continuing education credit shall be at least two classroom hours.

(d) Any distance education course may be approved for continuing education credit if all of the following conditions are met:

(1) The course provides an environment in which the student has verbal or written communication with the instructor.

(2) The sponsor obtains course content approval from any of the following:

(A) The appraiser qualifications board;

(B) an appraiser licensing or certifying agency in this or any other state; or

(C) an accredited college, community college, or university that offers distance education programs and is approved or accredited by the commission on colleges, a regional or national accreditation association, or an accrediting agency that is recognized by the U.S. secretary of education. Each non-academic credit college course provided by a college shall be approved by the appraiser qualifications board or the appraiser licensing or certifying agency in another state.

(3) The course design and delivery are approved by one of the following:

(A) An appraiser qualifications board-approved organization;

(B) a college that qualifies for course content approval as specified in paragraph (d)(2)(C) and awards academic credit for the distance education course; or

(C) a college that qualifies for course content approval as specified in paragraph (d)(2)(C) with a distance education delivery program that approves the course design and includes a delivery system incorporating interactivity.

(4) Each course includes at least one of the following:

(A) A written examination proctored by an official approved by the college or university or by the sponsor; or

(B) successful completion of prescribed course components required to demonstrate knowledge of the subject matter.

(e) To receive credit for a course, each applicant shall attend all classroom hours, even when the number of credit hours for which a course is approved is less than the total number of hours of the course presentation.

(f) The only course for which students or instructors may receive credit for attending or instructing any subsequent offering of the course after attending or teaching the course during the same education cycle shall be any update of the ethics and standards of professional practice course.

This regulation shall be effective on and after January 1, 2015. (Authorized by K.S.A. 2013 Supp. 58-4105; implementing K.S.A. 58-4109, K.S.A.

2013 Supp. 58-4112, and K.S.A. 2013 Supp. 58-4117; effective Jan. 21, 1991; amended, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended May 24, 1993; amended Feb. 6, 1995; amended May 23, 2003; amended Sept. 1, 2006; amended Jan. 1, 2008; amended Jan. 1, 2015.)

**117-6-3. Education; obtaining course approval.** (a) To request board approval of a course to meet any education requirement of the act or portion of it, for each course the sponsor shall perform the following:

(1) Appoint a coordinator, who shall monitor the course and ensure compliance with the appropriate statutes and regulations;

(2) submit all information, materials, and fees required by the board for course approval at least 30 days before the first scheduled class session, including the following:

(A) A completed application for course registration on a form prescribed by the board;

(B) the procedure for maintaining attendance records;

(C) the proposed dates and times of the course offering;

(D) the total amount of the attendance fee;

(E) the total number of class sessions and the length of time per session;

(F) the total number of hours in the course and the number of credit hours requested;

(G) if approval of the course is requested according to K.A.R. 117-2-1, 117-3-1, or 117-4-1, the amount of time allotted for the required examination;

(H) a course syllabus, including a detailed course outline and course objectives;

(I) an instructor resume, demonstrating that the instructor meets the qualifications in relation to knowledge of the subject matter and ability to teach;

(J) the methods of instruction or teaching techniques to be used in the course;

(K) a copy of any textbook or manual that will be used;

(L) a copy of all handout materials that will be used; and

(M) the course approval fee prescribed by K.A.R. 117-7-1.

(b) For continuing education purposes, each instructor shall demonstrate knowledge of the subject matter as indicated by either of the following:

(1) A college degree in an academic area related to the course; or

(2) at least three years of experience in a subject area directly related to the course.

(c) For prelicensing education or qualifying education purposes, according to K.A.R. 117-2-1, 117-3-1, and 117-4-1, each instructor shall demonstrate knowledge of the subject matter as indicated by any of the following:

(1) A current appraiser's license or certification pursuant to K.S.A. 58-4109(a)(1), (2), or (3), and amendments thereto;

(2) a current appraiser's license or certification issued by another state;

(3) a college degree in an academic area related to the course; or

(4) (A) Evidence of completion of all the required courses specified in K.A.R. 117-2-1, 117-3-1, or 117-4-1 within the past five years; and

(B) an appraisal log sheet that shows the equivalent of two years of appraisal experience within the past five calendar years in the subject area related to the course. One thousand hours shall constitute one year of appraisal experience.

(d) For purposes of continuing education or prelicensing education on the "uniform standards of professional appraisal practice" (USPAP), the only courses that will be accepted by the board for either prelicensing or continuing education shall be the "national uniform standards of professional appraisal practice" and "national uniform standards of professional appraisal practice update" courses that meet any of the following conditions:

(1) Have been developed by the appraisal foundation; or

(2) have been approved by the appraiser qualifications board or by an alternate entity specified by the appraiser qualifications board as being equivalent to these courses, if the requirements of subsections (a), (b), and (c) have been met.

Each instructor shall have a current certified residential or certified general classification in this or any other jurisdiction and be certified as a USPAP instructor by the appraiser qualifications board.

(e) For prelicensing education or qualifying education purposes, according to K.A.R. 117-2-1, 117-3-1, and 117-4-1, the ability to teach effectively shall be demonstrated by one of the following:

(1) Within the preceding two years, completing a board-approved program for instructors that is designed to develop the ability to communicate;

(2) holding a current teaching certificate issued by any state department of education or an equivalent agency;

(3) holding a four-year undergraduate degree in education; or

(4) having experience teaching in schools, seminars, or an equivalent setting.

(f) Each instructor shall perform the following:

(1) Comply with all laws and regulations pertaining to appraiser continuing education;

(2) provide students with the most current and accurate information;

(3) maintain an atmosphere conducive to learning in a classroom; and

(4) provide assistance to the students and respond to questions relating to course material.

(g) Course approvals shall expire on December 31 of each year. On or before November 15 a notification that includes the necessary forms shall be sent by the board, informing each sponsor that an application for renewal is necessary. The course renewal applications and necessary forms shall be received by the board before the following April 1, or the course approvals shall not be renewed. After notice and opportunity for a hearing, course approval or renewal of a course approval may be denied or revoked by the board under either of the following conditions:

(1) The course sponsor procured or attempted to procure course approval by knowingly making a false statement, submitting false information, or refusing to provide complete information in response to a question in an application for course approval or renewal of course approval.

(2) The course sponsor engages in any form of fraud or misrepresentation.

(h) The sponsor shall not advertise a course as approved unless written approval has been granted by the board.

(i) The sponsor shall conduct each course in a classroom or other facility that is adequate to comfortably accommodate the number of students enrolled.

(j) Each sponsor shall maintain, for at least five years, accurate records relating to course offerings, instructors, and student attendance. If a sponsor ceases operations, the coordinator appointed under paragraph (a)(1) shall be responsible for maintaining the records or providing a custodian acceptable to the board.

(k) Each sponsor shall provide each student with a certificate of completion within seven days of the date on which the student completes the course. The sponsor may require payment of course tuition as a condition for completing the course. (Authorized by and implementing K.S.A.

2013 Supp. 58-4105; effective Jan. 21, 1991; amended, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended May 3, 1996; amended Jan. 9, 1998; amended Nov. 30, 1998; amended April 21, 2000; amended June 15, 2001; amended May 23, 2003; amended Feb. 4, 2005; amended May 21, 2010; amended Dec. 29, 2014.)

### Article 7.—FEES

**117-7-1. Fees.** The following fees shall be submitted to the board: (a) For application for certification or licensure, the fee shall be \$50.

(b) For original certification or licensure, the fee shall be \$225.

(c) For renewal of a certificate or license, the fee shall be \$150.

(d) For late renewal of a certificate or license, the fee shall be the amount specified in subsection (c) and an additional \$50.

(e) Except as provided in subsection (h), for approval of a course of instruction to meet any portion of the education requirements of K.A.R. 117-2-1, 117-3-1, or 117-4-1, the fee shall be \$100.

(f) Except as provided in subsection (h), for approval of a course of instruction to meet the continuing education requirements of K.A.R. 117-6-1, the fee shall be \$50.

(g) Except as provided in subsection (h), for renewal of any course of instruction, the fee shall be \$25.

(h) For approval or renewal of any course of instruction that is endorsed by the appraiser qualifications board, the fee shall be \$10.

(i) For reinstatement of an inactive certificate or license, the fee shall be \$50. (Authorized by and implementing K.S.A. 2014 Supp. 58-4107; effective Jan. 21, 1991; amended, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended, T-117-4-22-92, April 22, 1992; amended June 22, 1992; amended Feb. 6, 1995; amended Jan. 28, 2000; amended June 15, 2001; amended Feb. 4, 2005; amended Jan. 18, 2008; amended April 17, 2009; amended Feb. 18, 2011; amended June 8, 2012; amended March 15, 2013; amended May 23, 2014; amended May 15, 2015.)

### Article 8.—UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE

**117-8-1.** (Authorized by K.S.A. 2008 Supp. 58-4105; implementing K.S.A. 2008 Supp. 58-4105 and K.S.A. 58-4121; effective, T-117-6-10-91, June 10, 1991; effective Aug. 5, 1991;

amended May 24, 1993; amended Feb. 6, 1995; amended May 3, 1996; amended Jan. 9, 1998; amended, T-117-3-6-98, March 6, 1998; amended Aug. 14, 1998; amended July 16, 1999; amended April 21, 2000; amended July 6, 2001; amended May 17, 2002; amended May 23, 2003; amended April 2, 2004; amended Feb. 4, 2005; amended July 7, 2006; amended Jan. 18, 2008; amended April 16, 2010; revoked Aug. 24, 2012.)

**117-8-3. “Uniform standards of professional appraisal practice”; adoption by reference.** The 2018-2019 edition of the “uniform standards of professional appraisal practice,” as published by the appraisal standards board of the appraisal foundation and effective January 1, 2018, is hereby adopted by reference, except for the following:

- (a) All materials before page 1; and
- (b) standards 7, 8, 9, and 10. (Authorized by K.S.A. 2017 Supp. 58-4105; implementing K.S.A. 2017 Supp. 58-4105 and 58-4121; effective March 25, 2016; amended Feb. 23, 2018.)

#### Article 10.—INACTIVE STATUS

**117-10-1. Reinstatement of certificate or license to active status; continuing education.** The holder of a certificate or license that has been on inactive status for less than two years, upon request for reinstatement, shall submit evidence satisfactory to the board of completion of all continuing education requirements as specified in K.A.R. 117-6-1. (Authorized by and implementing K.S.A. 2007 Supp. 58-4112a; effective April 17, 2009.)

#### Article 20.—APPRAISAL MANAGEMENT COMPANY REGISTRATION

**117-20-1. Definitions.** Each of the following terms used in this article shall have the meaning specified in this regulation, in addition to the terms defined in L. 2012, ch. 93, sec. 3 and amendments thereto:

(a) “Applicant” means an appraisal management company seeking registration.

(b) “Good moral character” shall include the qualities of good judgment, honesty, fairness, responsibility, credibility, reliability, self-discipline, self-evaluation, initiative, trustworthiness, integrity, respect for and obedience to the laws of the state and nation, and respect for the rights of others and for the judicial process.

(c) “Good standing” has the meaning specified in K.A.R. 117-1-1.

(d) “Oversee an appraiser panel” means to supervise or manage an appraiser panel. (Authorized by L. 2012, ch. 93, sec. 25; implementing L. 2012, ch. 93, secs. 4, 5, 9, 10, 11, 16, and 22; effective, T-117-7-3-12, July 3, 2012; effective Oct. 19, 2012.)

**117-20-2. Registration.** (a) Each controlling person shall submit the application forms prescribed by the board with the fees specified in K.A.R. 117-20-4.

(b) Each application shall be supported by a separate form for the controlling person and for each owner of more than 10 percent of the applicant.

(1) Each owner of more than 10 percent of the applicant shall submit that individual’s fingerprints and the fee specified in K.A.R. 117-20-4 in the manner prescribed by the board for a state and national criminal history record check. The individual shall not be fingerprinted more than 120 days before submitting the application for initial registration.

(2) The controlling person of the applicant shall submit that individual’s fingerprints and the fee specified in K.A.R. 117-20-4 in the manner prescribed by the board for a state and national criminal history record check. The individual shall not be fingerprinted more than 120 days before submitting the application for initial registration. (Authorized by L. 2012, ch. 93, sec. 25; implementing L. 2012, ch. 93, secs. 9 and 10; effective, T-117-7-3-12, July 3, 2012; effective Oct. 19, 2012.)

**117-20-3. Registration renewal.** To renew an AMC’s registration, the controlling person of the AMC with a current, valid registration shall submit an application for renewal on forms provided by the board and pay the fees specified in K.A.R. 117-20-4. (Authorized by L. 2012, ch. 93, sec. 25; implementing L. 2012, ch. 93, secs. 6, 9, and 10; effective, T-117-7-3-12, July 3, 2012; effective Feb. 8, 2013.)

**117-20-4. Fees.** The following fees shall be collected by the board: (a) For initial registration, \$1,500;

(b) for registration renewal, \$900;

(c) for late registration renewal, the amount specified in subsection (b) and an additional \$100;

(d) for processing fingerprints and a criminal history record check, \$50; and

(e) for initial registration and for registration renewal, the AMC federal registry fee in any amount assessed by the appraisal subcommittee of the federal financial institutions examination council for all AMCs holding a registration. (Authorized by and implementing K.S.A. 2013 Supp. 58-4708, 58-4709, 58-4710, and 58-4725; effective, T-117-7-3-12, July 3, 2012; effective Oct. 19, 2012; amended Sept. 6, 2013; amended Aug. 22, 2014.)

**117-20-5. Certificate of registration.**

Each certificate of registration shall show on its face in clear and concise language the following information:

- (a) The legal name of the AMC;
- (b) the certificate of registration number;
- (c) the date of issuance;
- (d) the date of expiration; and
- (e) the signature or facsimile signature of the chairperson of the board. (Authorized by and implementing L. 2012, ch. 93, sec. 25; effective, T-117-7-3-12, July 3, 2012; effective Oct. 19, 2012.)

**117-20-6. Change of information.**

(a) Each holder of a registration, controlling person, and owner of more than 10 percent of an AMC shall submit written notice to the board of each change to any of the information required by L. 2012, ch. 93, sec. 4, and amendments thereto, within 10 days of the change.

(b) Each holder of a registration shall report each change of the controlling person or an owner of more than 10 percent of an AMC within 10 days of the change. (Authorized by and implementing L. 2012, ch. 93, sec. 25; effective, T-117-7-3-12, July 3, 2012; effective Oct. 19, 2012.)

**117-20-7. Certification of annual review.**

The controlling person of each AMC applying for an initial registration or registration renewal shall certify that the AMC performed an appraisal review on at least five percent of all appraisal reports submitted by appraisers performing real estate appraisal services for the AMC within Kansas on an annual basis. (Authorized by L. 2012, ch. 93, sec. 25; implementing L. 2012, ch. 93, sec. 12; effective, T-117-7-3-12, July 3, 2012; effective Feb. 8, 2013.)

**Agency 120**  
**Health Care Data Governing Board**

**Editor's Note:**

The Health Care Data Governing Board was abolished on January 1, 2006. Powers, duties and functions were transferred to the Kansas Health Policy Authority. See L. 2005, Ch. 187.

*Articles*

120-1. CLIENT ASSESSMENT, REFERRAL, AND EVALUATION (CARE) PROGRAM.

**Article 1.—CLIENT ASSESSMENT,  
REFERRAL, AND EVALUATION  
(CARE) PROGRAM**

**120-1-2.** (Authorized by and implementing K.S.A. 39-968 and K.S.A. 65-6804; effective, T-120-8-22-05, Aug. 22, 2005; effective Dec. 2, 2005; revoked Aug. 5, 2011.)



# Agency 121

## Department of Credit Unions

### Articles

- 121-9. FOREIGN CREDIT UNIONS.
- 121-10. CREDIT UNION ANNUAL AUDIT REQUIREMENTS.
- 121-11. MERGER OF CREDIT UNIONS.
- 121-12. CREDIT UNION BRANCHES.

### Article 9.—FOREIGN CREDIT UNIONS

**121-9-1. Foreign credit union; requirements for approval.** (a) Before doing business in this state, the board of directors of each foreign credit union shall obtain the approval of the administrator of the Kansas department of credit unions.

(b) In order to apply for the administrator's approval of a foreign credit union, the board of directors of the foreign credit union shall meet the following requirements:

(1) Describe on a form provided by the administrator how the proposed field of membership meets the requirements of K.S.A. 17-2205 and amendments thereto;

(2) provide documentation by which the administrator can evaluate the financial safety and soundness of the credit union, including the following:

(A) A statement from the credit union regulator in the state where the foreign credit union is chartered or incorporated that the credit union is in good standing in that state;

(B) a copy of the most current insurance certificate from the national credit union share insurance fund;

(C) a copy of the credit union's most current balance sheet, the year-to-date income statement, and the most recent call report;

(D) a resolution from the foreign credit union's board of directors stating that, for loans originating in Kansas, the foreign credit union will comply with Kansas statutes and regulations;

(E) a copy of the most recent regulatory examination, annual supervisory committee audit report, or equivalent examination or report from the credit union regulator in the state where the foreign credit union is chartered or incorporated; and

(F) a description of the services that the credit union intends to provide to its members; and

(3) if deemed necessary by the administrator to determine the credit union's safety and soundness, undergo an examination by the Kansas department of credit unions.

(c) For purposes of this regulation, "doing business in this state" shall mean that a foreign credit union intends to establish or has a main office or a branch office in Kansas. (Authorized by K.S.A. 17-2260; implementing K.S.A. 17-2223a; effective Dec. 28, 2007; amended May 1, 2009.)

### Article 10.—CREDIT UNION ANNUAL AUDIT REQUIREMENTS

**121-10-1. Definitions.** For purposes of this article, the following definitions shall apply:

(a) "Agreed-upon procedures engagement" means an engagement to report on findings based on specific agreed-upon procedures performed by an independent certified public accountant. The nature and extent of the procedures to be performed shall be agreed to and specified in a written agreement between the supervisory committee and the independent certified public accountant.

(b) "Audit" means a review of a credit union's receipts, disbursements, income, assets, and liabilities.

(c) "Financial statement audit" and "opinion audit" mean the examination of a credit union's financial statements performed by an independent certified public accountant for the purpose of expressing an opinion as to whether those financial statements of the credit union present fairly, in all material respects, the financial position and results of operations of the credit union.

(d) "Independent certified public accountant" means a certified public accountant who meets the following requirements:

(1) Holds a valid permit to practice issued by a state board of accountancy. The independent cer-

tified public accountant's firm shall be registered with the Kansas board of accountancy; and

(2) is independent of the credit union as defined by the code of professional conduct issued by the American institute of certified public accountants.

(e) "Supervisory committee annual audit and internal control checklist" means the audit and list of a credit union's work procedures that a credit union submits to the Kansas department of credit unions on a form supplied by the department. (Authorized by and implementing K.S.A. 17-2211; effective Aug. 1, 2008; amended May 28, 2010.)

### **Article 11.—MERGER OF CREDIT UNIONS**

**121-11-1. Definitions.** For purposes of this article, the following definitions shall apply:

(a) "Continuing credit union" means a credit union that continues in operation after a merger.

(b) "Merging credit union" means a credit union that ceases to exist as an operating credit union at the time of a merger. (Authorized by K.S.A. 17-2260; implementing K.S.A. 2008 Supp. 17-2228; effective May 1, 2009.)

**121-11-2. Process for merger of credit unions.** (a) Either of the following may merge into a single credit union:

(1) Any two credit unions formed under the laws of this state; or

(2) any credit union formed under the laws of this state and any credit union formed under the laws of any other state or of the United States of America that is formed for the same purpose for which a credit union might be formed under the laws of this state.

(b) The two affected credit unions shall notify the administrator in writing of their intent to merge within 14 days after each credit union's board of directors formally agrees in principle to merge by the execution of a corporate resolution by each entity's board of directors.

(c) Upon approval of a proposal for merger by a majority of each board of directors, the credit unions shall jointly prepare a plan for the proposed merger, which shall include the following:

(1) The names of the proposed continuing credit union and the merging credit union;

(2) the terms and conditions of the proposed merger and the mode of carrying out the merger, which shall be referred to as the merger agree-

ment and shall be approved by a corporate resolution of each board of directors;

(3) the manner and basis of converting the membership shares of the merging credit union into the membership shares of the continuing credit union;

(4) a statement of any changes in the articles of incorporation or bylaws of the continuing credit union effected by the proposed merger, including any proposed change in the field of membership;

(5) documentation that any proposed change in the field of membership will meet the statutory requirements for field of membership specified in K.S.A. 17-2205, and amendments thereto;

(6) the current financial reports of each credit union, as follows:

(A) The current financial statements for each credit union;

(B) the current delinquent loan summaries and analyses of the adequacy of the allowance for loan and lease losses account;

(C) consolidated financial statements, including an assessment of the net worth of each credit union before the merger and the anticipated net worth of the proposed continuing credit union;

(D) an analysis of the asset-to-share ratio for the proposed merging credit union and the proposed continuing credit union;

(E) an explanation of proposed share adjustments, if any;

(F) an explanation of provisions for reserves, undivided earnings, or dividends;

(G) provisions with respect to the notification and payment of creditors; and

(H) an explanation of any changes relative to any type of insurance provided in conjunction with member accounts;

(7) disclosure of any financial benefit that is to be received by the officers, senior management, and directors but is not available to ordinary members;

(8) a summary of the products and services proposed to be available to the members of the continuing credit union that could differ from those available at the merging credit union, with an explanation of the effects of any changes from the current products and services provided to the members of the merging credit union;

(9) a summary of the advantages and disadvantages of the merger; and

(10) any other information deemed critical to the merger agreement by both boards of directors.

(d) An application for approval of the merger shall be complete when the following information is submitted to the administrator:

(1) The merger plan as described in subsection (c);

(2) a copy of the corporate resolution of each board of directors, formally agreeing in principle to merge pursuant to subsection (b);

(3) a copy of the corporate resolution of each board of directors, formally approving the merger agreement pursuant to subsection (c);

(4) (A) The proposed notice of special meeting of the members; or

(B) a copy of the ballot form to be sent to the members if the credit union decides to hold the vote without a meeting of the members; and

(5) a written explanation of the voting procedures.

(e) If the proposed continuing credit union is organized under the laws of another state or of the United States, an application to merge that is prescribed by the state or federal supervisory authority of the proposed continuing credit union may be accepted by the administrator. Additional information to determine whether to deny or approve the merger may be required by the administrator.

(f) Preliminary approval of an application for merger, conditioned upon meeting specific requirements, may be granted by the administrator. However, final approval shall not be granted unless all of the following conditions are met:

(1) The requirements have been met within the time frame, if any, specified in the preliminary approval granted by the administrator.

(2) National credit union share insurance fund approval has been granted by the national credit union administration for the proposed continuing credit union.

(3) Verification of continuance of a surety bond for the proposed continuing credit union has been provided to the administrator.

(g) An application for merger may be denied by the administrator if the administrator finds any of the following:

(1) The financial condition of the proposed merging credit union before the merger would substantially impair the financial stability of the proposed continuing credit union or negatively impact the financial interests of the members or creditors of either credit union.

(2) The plan includes a change in the products or services available to members of the proposed merging credit union that substantially harms the

financial interests of the members or creditors of the proposed merging credit union.

(3) The officers, directors, or senior management are to receive undue financial benefits not ordinarily received by similar credit unions and not available to ordinary members.

(4) The credit unions do not furnish to the administrator all information material to the application that is requested by the administrator.

(5) The field of membership that would result from the proposed merger would not meet the statutory requirements of K.S.A. 17-2205, and amendments thereto.

(6) The merger would be contrary to law or regulation.

(h) Upon approval of the plan of merger, the board of directors of each credit union shall direct, by resolution, that the plan be submitted to a vote at a special meeting to be called within 60 days of the preliminary approval by the administrator. Advance notice of the meeting shall be given by sending a letter addressed to each member at the last known address currently reflected on the books of the credit union or electronically at the member's last known electronic mail address. Additionally, the board of directors of each credit union may post the notice on the credit union's bulletin board or web site, or both. This notice shall be sent no more than 30 days and no less than 14 days before the meeting at which the merger will be voted on. The notice shall meet the following requirements:

(1) Specify the purpose, date, time, and place of the meeting;

(2) contain a summary of the merger plan and directions specifying how a member can obtain a copy of the complete merger plan;

(3) state the reasons for the proposed merger;

(4) provide the name and location, including the location of each branch, of the proposed continuing credit union;

(5) inform the members that they have the right to vote on the merger proposal in person at the meeting or by written ballot to be received no later than the date and time announced for the meeting called for that purpose; and

(6) be accompanied by a ballot for merger proposal and instructions on how to vote by written ballot by mail.

(i) The approval of a proposal to merge a credit union into another credit union shall require the affirmative vote of a majority of the members of each credit union who participate in the vote to

merge, either by presence at the special meeting or by participation by written ballot before the meeting.

(j) With the prior approval of the administrator, a credit union may accept member votes by an alternative method that is reasonably calculated to ensure that each member has an opportunity to vote on the merger.

(k) The board of directors of the proposed merging credit union shall appoint or hire an independent teller or tellers to ensure the accuracy and integrity of the vote.

(l) Upon approval of the merger plan by the membership, the secretary of the proposed continuing credit union shall submit in triplicate the completed and signed certificate of merger in compliance with K.S.A. 17-2228, and amendments thereto, along with any necessary amendments to the continuing credit union's articles of incorporation and bylaws, to the administrator. The final approval of the merger shall be forwarded by the administrator to the national credit union administration for share insurance approval. Upon final approval by the national credit union administration of share insurance for the proposed continuing credit union, a certified copy of the certificate of merger shall be issued by the administrator, and approval of any necessary amendments to the continuing credit union's articles of incorporation and bylaws shall be granted by the administrator to the continuing credit union.

(m) Upon receipt of a certified copy of the certificate of merger issued by the administrator and the national credit union administration's approval, the records of the merging credit union and the continuing credit union shall be combined on the effective date of the merger. The board of directors of the continuing credit union shall certify the completion of the merger to the administrator within 30 days after the effective date of the merger.

(n) Upon receipt by the administrator of the completion of the merger certification, the following shall be performed by the administrator:

(1) Sending a copy of the merger certification to the national credit union administration;

(2) approving any bylaw amendments; and

(3) canceling the charter of the merging credit union.

(o) For good cause shown, any time frame or deadline specified in this regulation may be extended by the administrator. (Authorized by K.S.A. 17-2260; implementing K.S.A. 2008 Supp. 17-2228; effective May 1, 2009.)

#### **Article 12.—CREDIT UNION BRANCHES**

**121-12-1. Definition.** For purposes of K.S.A. 17-2221a (c) (2) and amendments thereto, "branch" shall not include any automated teller machine, remote service unit, or similar device. (Authorized by K.S.A. 17-2260 and K.S.A. 2008 Supp. 17-2221a; implementing K.S.A. 2008 Supp. 17-2221a; effective May 1, 2009.)

Agency 123  
**Department of Corrections—  
Division of Juvenile Services**

**Editor's Note:**

Pursuant to Executive Reorganization Order (ERO) No. 42, the Kansas Juvenile Justice Authority was abolished on July 1, 2013. Jurisdiction, powers, functions and duties were transferred to the Kansas Department of Corrections—Division of Juvenile Services. See L. 2013, Ch. 143.

*Articles*

- 123-2. FACILITIES MANAGEMENT.
- 123-6. GOOD TIME CREDITS AND SENTENCE COMPUTATION.
- 123-15. OFFENDER GRIEVANCE PROCEDURE.
- 123-17. COMMUNITY JUVENILE SUPERVISION.

**Article 2.—FACILITIES MANAGEMENT**

**123-2-111. Trafficking in contraband.** (a) No person shall engage in any of the following without the prior consent of the superintendent:

(1) Introducing or attempting to introduce any item into or upon the grounds of a juvenile correctional facility or institution;

(2) taking, sending, or attempting to take or send any item from any juvenile correctional facility or institution;

(3) possessing any item while in any juvenile correctional facility or institution; or

(4) distributing any item within a juvenile correctional facility or institution.

(b) The phrase “any item,” as used in subsection (a), shall include the following:

(1) Guns, firearms of any type, and the components, diagrams, and plans thereof, except as authorized by K.S.A. 75-7c10(b)(1) and amendments thereto;

(2) ammunition, explosives, and the diagrams, formulas, and plans thereof;

(3) knives, tools, and materials including sandpaper, whetstones, and any similar items used to make knives and tools;

(4) hazardous or poisonous chemicals, flammable liquids and gases, and formulas thereof;

(5) escape paraphernalia, including ropes, grappling hooks, hacksaw blades, jeweler's wire, bar spreaders, maps, lock picks, handcuff keys, wire cutters, and any similar devices that could be used in an escape;

(6) identification documents and individual pho-

tographs of the juvenile offender of the style suitable for the production of identification documents;

(7) documents, plans, diagrams, and schematics that refer to electrical systems, escape alarms, overhead lighting, facility power supply, gate operations, body alarms, radio communications, and any similar systems;

(8) narcotics and any other controlled substances, including any synthetic narcotic, drug, stimulant, sleeping pill, barbiturate, and medicine, prescription or nonprescription, that was not dispensed or approved by the facility health authority. Medicines dispensed or approved by the health authority shall be considered contraband if not consumed or utilized in the manner prescribed;

(9) intoxicants, including liquor and alcoholic beverages;

(10) currency, in the form of paper, checks, money orders, coins, stamps, and any similar instruments with monetary value;

(11) hypodermic needles, hypodermic syringes, nasal inhalers, any other similar devices, and any component that could be used to inject or spray substances into the body;

(12) food items;

(13) cameras, recording devices, one-way or two-way transmitting devices, and any similar devices and components thereof, including tapes, batteries, memory cards, and film;

(14) letters, notes, books, and any other forms of written communication;

(15) portable electronic devices used, in any combination, for storing music, video, or data or

for mobile telecommunications, telephone calls, text messaging, or data transmission over a cellular network and their accessories, and any similar devices and the components of these devices;

(16) tobacco, including cigars, cigarillos, cigarettes, smokeless or electronic cigarettes, chewing tobacco, snuff, and any other tobacco products; and

(17) matches and any other portable devices used to create a flame. (Authorized by and implementing K.S.A. 2009 Supp. 21-3826, as amended by L. 2010, ch. 147, sec. 4, K.S.A. 2009 Supp. 75-7024, and K.S.A. 2009 Supp. 76-3203; effective, T-123-7-1-10, July 1, 2010; effective Oct. 15, 2010.)

**Article 6.—GOOD TIME CREDITS AND SENTENCE COMPUTATION**

**123-6-105. Good time credit rate for offenses committed before July 1, 2014.** (a) The portion of an offender’s sentence to a juvenile correctional facility, for crimes committed on and after December 1, 2006 but before July 1, 2014 may be reduced by no more than 30% through awarded and retained good time credits.

(b) Good time credits shall not reduce an offender’s sentence to less than the minimum term authorized under the specific category of the matrix sentence.

(c) The Kansas juvenile justice authority’s “good time credit rate charts,” dated August 3, 2006 and hereby adopted by reference, shall establish the minimum number of days to serve, the number of good time days available, and the rate of earning good time credit per day as calculated by dividing the number of good time days available by the minimum number of days required to be served.

(d) If the sum of all good time credits earned results in a fraction of a day, that fraction shall be rounded up to the next whole number.

(e) Intrafacility transfers and interfacility transfers shall not affect good time credits awarded. (Authorized by K.S.A. 2013 Supp. 38-2370 and 75-7024; implementing K.S.A. 2013 Supp. 38-2370; effective Dec. 1, 2006; amended, T-123-6-30-14, June 30, 2014; amended Aug. 7, 2015.)

**123-6-105a. Good time credit rate for offenses committed on and after July 1, 2014.** (a) The portion of an offender’s sentence to a juvenile correctional facility, for crimes committed on and after July 1, 2014, may be reduced by

no more than 30% through awarded and retained good time credits.

(b) The Kansas department of corrections’ “good time credit rate charts,” dated May 29, 2014 and hereby adopted by reference, shall establish the minimum number of days to serve, the number of good time days available, and the rate of earning good time credit per day as calculated by dividing the number of good time days available by the minimum number of days required to be served.

(c) If the sum of all good time credits earned results in a fraction of a day, that fraction shall be rounded up to the next whole number.

(d) Intrafacility transfers and interfacility transfers shall not affect good time credits awarded. (Authorized by K.S.A. 2013 Supp. 38-2370 and 75-7024; implementing K.S.A. 2013 Supp. 38-2370; effective, T-123-6-30-14, June 30, 2014; effective Aug. 7, 2015.)

**Article 15.—OFFENDER GRIEVANCE PROCEDURE**

**123-15-107. Special procedures for sexual abuse grievances; sexual harassment grievances and grievances alleging retaliation for filing same; reports of sexual abuse or sexual harassment submitted by third parties.** (a) Definitions. For the purpose of this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) “Sexual abuse” means either of the following:

(A) “Sexual abuse of an offender by another offender,” which means any of the following acts if the victim does not consent, is coerced into the act by overt or implied threats of violence, or is unable to consent or refuse:

(i) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(ii) contact between the mouth and the penis, vulva, or anus;

(iii) penetration of the anal or genital opening of another person, however slight, by a hand, finger, or object; or

(iv) any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation; or

(B) “sexual abuse of an offender by a staff member, contractor, or volunteer,” which means any of

the following acts, with or without the consent of the offender:

(i) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(ii) contact between the mouth and the penis, vulva, or anus;

(iii) contact between the mouth and any body part if the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(iv) penetration of the anal or genital opening, however slight, by a hand, finger, or object, that is unrelated to official duties or if the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(v) any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or if the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(vi) any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the acts described in paragraphs (a)(1)(B)(i)-(v);

(vii) any display by a staff member, contractor, or volunteer of that individual's uncovered genitalia, buttocks, or breast in the presence of an offender; or

(viii) voyeurism by a staff member, contractor, or volunteer.

(2) "Voyeurism by a staff member, contractor, or volunteer" means an invasion of privacy of an offender by staff for reasons unrelated to official duties, including peering at an offender who is using a toilet in the offender's cell to perform bodily functions; requiring an offender to expose the offender's buttocks, genitals, or breasts; or taking images of all or part of an offender's naked body or of an offender performing bodily functions.

(3) "Sexual harassment" means either of the following:

(A) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one offender directed to another; or

(B) repeated verbal comments or gestures of a sexual nature to an offender by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

(b) Submission of grievances concerning sexual abuse.

(1) Each offender submitting a grievance concerning sexual abuse alleged to have already occurred shall state that offender's intentions by marking "sexual abuse grievance" where indicated on the grievance form.

(2) Offenders shall not be required to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse of an offender by a staff member, contractor, or volunteer or a grievance in which it is alleged that sexual abuse of an offender by another offender or sexual abuse of an offender by a staff member, contractor, or volunteer was the result of staff neglect or violation of responsibilities.

(3) Any offender may submit a grievance to security staff, a program team member, or administrative personnel in person or by utilizing the offender internal mail system.

(4) Any offender who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint. The grievance shall not be referred to a staff member who is the subject of the complaint.

(c) Superintendent's response.

(1) Upon receipt of each grievance report form alleging sexual abuse, a serial number shall be assigned by the superintendent or designee, and the date of receipt shall be indicated on the form by the superintendent or designee.

(2) Each grievance alleging sexual abuse shall be returned to the offender, with an answer, within 10 working days from the date of receipt.

(3) Each answer shall contain findings of fact, conclusions drawn, the reasons for those conclusions, and the action taken by the superintendent. Each answer shall inform the offender that the offender may appeal by submitting the appropriate form to the secretary of corrections (secretary).

(4) In all cases, the original and one copy of the grievance report shall be returned by the superintendent to the offender. The copy shall be retained by the offender for the offender's files. The original may be used for appeal to the secretary if the offender desires. The necessary copies shall be provided by the superintendent.

(5) A second copy shall be retained by the superintendent.

(6) Each facility shall maintain a file for grievance reports alleging sexual abuse, with each grievance report indexed by offender name and coded as a sexual abuse complaint. Grievance re-

port forms shall not be placed in the offender's institution file.

(7) If no response is received from the superintendent in the time allowed, any grievance may be sent by an offender to the secretary with an explanation of the reason for the delay, if known, with a notation that no response from the superintendent was received.

(d) Appeal to the secretary.

(1) If the superintendent's answer is not satisfactory to the offender, the offender may appeal to the secretary's office by indicating on the grievance appeal form exactly what the offender is displeased with and what action the offender believes the secretary should take.

(2) The offender shall send the appeal directly and promptly by U.S. mail to the department of corrections' central office in Topeka.

(3) If an appeal of the superintendent's decision is made to the secretary, the secretary shall have 20 working days from receipt to return the grievance report form to the offender with an answer. The answer shall include findings of fact, conclusions made, and actions taken.

(4) If a grievance report form is submitted to the secretary without prior action by the superintendent, the form may be returned to the superintendent for further action, at the option of the secretary.

(5) In all cases, a final decision on the merits of any portion of a grievance alleging sexual abuse, or an appeal thereof, shall be issued by the secretary within 90 days of the initial filing of the grievance.

(6) Computation of the 90-day time period shall not include time taken by offenders in preparing and submitting any administrative appeal.

(7) At any level of the administrative process, including the final level, if the offender does not receive a response within the time allotted for reply, including any properly noticed extension, the offender may consider the absence of a response to be a denial at that level and may proceed to the next level of appeal.

(8) An appropriate official may be designated by the secretary to prepare the answer.

(e) Imminent sexual abuse.

(1) Each offender submitting a grievance concerning imminent sexual abuse shall state that offender's intentions by marking "emergency sexual abuse grievance" where indicated on the grievance form.

(2) Each grievance alleging that an offender is subject to a substantial risk of imminent sexual

abuse shall be treated as an emergency grievance under K.A.R. 123-15-106.

(3) After receiving an emergency grievance alleging imminent sexual abuse, the superintendent or designee shall provide an initial response within 48 hours and shall issue a final decision within five calendar days. The initial response and final decision shall document the determination whether the offender is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

(f) Submission of grievances concerning sexual harassment or concerning retaliation for submission of a report or grievance concerning sexual abuse or sexual harassment.

(1) Each offender shall be required to use the informal grievance process specified in K.A.R. 123-15-101 and 123-15-102 for grievances concerning sexual harassment or concerning retaliation for submission of a report or grievance concerning sexual abuse or sexual harassment. These grievances shall otherwise be treated and processed according to the ordinary grievance procedure specified in K.A.R. 123-15-101 and 123-15-102.

(2) Any offender who alleges sexual harassment or retaliation may submit a grievance without submitting it to a staff member who is the subject of the complaint. The grievance shall not be referred to a staff member who is the subject of the complaint.

(3) Each facility shall maintain a file for grievance reports alleging sexual harassment or retaliation for submission of a report or grievance alleging sexual abuse or sexual harassment, with each grievance report indexed by offender name and coded accordingly. No grievance report form shall be placed in the offender's institution file.

(g) Time limits.

(1) There shall be no time limit for submission of a grievance regarding an allegation of sexual abuse.

(2) The time limits for any grievance or portion thereof that does not allege an incident of sexual abuse or imminent sexual abuse shall be the limits specified in K.A.R. 123-15-101b.

(h) Third-party submissions.

(1) Third parties, including fellow offenders, staff members, family members, attorneys, and outside advocates, shall be permitted to assist any offender in filing requests for administrative remedies relating to allegations of sexual abuse and shall also be permitted to file these requests on behalf of any offender.

(2) If a third party files such a request on behalf of an offender, the alleged victim shall agree to have the request filed on behalf of the alleged victim. The alleged victim shall personally pursue any subsequent steps in the administrative remedy process.

(3) If the offender declines to have the request processed on that individual's behalf, the facility shall document the offender's decision.

(i) Grievances in bad faith. Any offender may be disciplined for filing a grievance related to alleged sexual abuse only if it can be demonstrated that the offender filed the grievance in bad faith. In this instance, a disciplinary report alleging violation of K.A.R. 123-12-303 or 123-12-317, as appropriate, may be issued. (Authorized by and implementing K.S.A. 2014 Supp. 75-7024 and 76-3203; effective Nov. 20, 2015.)

#### **Article 17. – COMMUNITY JUVENILE SUPERVISION**

**123-17-101. Community-based graduated responses for technical violations of probation, violations of conditional release,**

**and violations of a condition of sentence.** (a) For documenting and determining whether any technical violation of probation, violation of conditional release, or violation of a condition of sentence is a minor, moderate, or serious violation, each community supervision officer shall utilize the Kansas department of corrections' "violation levels report," dated February 2, 2017 and hereby adopted by reference.

(b) For determining graduated responses to technical violations of probation, violations of conditional release, and violations of a condition of sentence, each community supervision officer shall utilize the Kansas department of corrections' "response grid," dated February 2, 2017 and hereby adopted by reference.

(c) For determining graduated responses to positive and prosocial behaviors of juveniles on probation or conditional release, each community supervision officer shall utilize the Kansas department of corrections' "incentives grid," dated February 2, 2017 and hereby adopted by reference. (Authorized by and implementing K.S.A. 2016 Supp. 38-2392; effective May 12, 2017.)



## Agency 125

# Kansas Agricultural Remediation Board

### Articles

#### 125-1. KANSAS AGRICULTURE REMEDIATION REIMBURSEMENT PROGRAM.

##### **Article 1.—KANSAS AGRICULTURE REMEDATION REIMBURSEMENT PROGRAM**

##### **125-1-6. Eligible corrective action costs.**

An eligible person may be reimbursed by the board for any of the following corrective action costs if the board deems the cost necessary and reasonable:

(a) Costs for equipment owned by the eligible person and used during a corrective action for excavating, trucking, land spreading and other similar activities, if all of the following apply:

(1) The equipment is reasonably sized and designed to perform the corrective action;

(2) the hours or units of equipment use are reasonable and necessary for the task performed; and

(3) the equipment costs do not exceed reasonable rental costs for equivalent equipment, including any operator costs;

(b) any oversight costs that the eligible person has paid to the Kansas department of health and environment;

(c) costs for the land spreading of agricultural chemicals as approved by the Kansas department of agriculture, which shall be reimbursed at the custom rate as determined by the local farm service administration office, but not to exceed \$.50 per cubic yard per acre;

(d) normal employee wages, salaries, expenses, or fringe benefit allocations for time that the eligible party's employees actually spend on a corrective action;

(e) the cost of qualified professional services needed for the effective planning and implementation of corrective action, including engineering, hydrogeologic, field technician, hazardous waste disposal, and general contractor services;

(f) costs related to the investigation and source identification, including collecting and analyzing soil samples and groundwater. These costs may include costs for soil boring, installation of monitoring wells, sample collection, sample analysis, and related activities;

(g) costs to excavate contaminated soils and other contaminated media, including backfilling and grading to restore the contours or drainage characteristics of land altered by the corrective action. This subsection shall not authorize the reimbursement of costs incurred for the removal of buildings or other fixtures, except paving materials that are necessarily removed in the course of excavation;

(h) costs to collect, handle, transport, treat, and dispose of contaminated soils, groundwater, and other contaminated materials;

(i) costs associated with an emergency response that was necessary to abate acute risks to human health, safety, and the environment;

(j) costs to plant or till land on which the eligible person land spreads soils or water when the tilling or planting is required by the Kansas department of agriculture or the Kansas department of health and environment;

(k) costs associated with a corrective action that is required by the Kansas department of health and environment; or

(l) any other costs that the board deems necessary or reasonable. (Authorized by and implementing K.S.A. 2-3710; effective, T-125-9-5-01, Sept. 5, 2001; effective Jan. 4, 2002; amended June 10, 2016.)

**125-1-7. Eligible corrective action costs; exclusions.** Eligible corrective action costs shall not include the following:

(a) Costs that are not eligible for reimbursement as specified in the board's regulations;

(b) indirect costs charged by a contractor, unless those costs are allocated in the contract according to a reasonable cost allocation formula that the contractor uses for other similar contracts;

(c) an eligible person's indirect costs;

(d) the cost for the time that the eligible person or any officer of the eligible person spends planning or implementing a corrective action. Reimbursement of normal employee wages, salaries, expenses, or fringe benefit allocation

for time that any employee, other than officers, spends implementing a corrective action may be allowed by the board;

(e) costs to construct, repair, replace, improve, relocate, or demolish any building or fixture, unless the cost is required or approved by the secretary of health and environment and is a part of a corrective action;

(f) loss or decrease of property values;

(g) loss or decrease of revenue or income;

(h) attorney fees or other legal costs;

(i) costs for relocating residents or business operations;

(j) costs of aesthetic or other improvements that are not essential to a corrective action, except for restorative grading and filling costs;

(k) costs that are reimbursed from another source. If after being reimbursed by the board for any cost, an eligible person is reimbursed for the same cost from another source, the eligible person shall promptly notify the board and repay to the board any duplicative reimbursement;

(l) the cost of replacing the released agricultural chemicals;

(m) liability claims or judgments;

(n) costs incurred by any federal, state, or local governmental entity;

(o) costs for a contractor's services that exceed the contractor's bid price for those services, except for those costs that have increased due to services approved or required by the secretary of health and environment;

(p) costs not supported by a cancelled check or other conclusive proof of payment by the eligible person who is applying for reimbursement of those costs;

(q) costs to investigate or repair environmental contamination involving substances that are not agricultural chemicals. If a corrective action involving agricultural chemicals is combined with the investigation or repair of environmental contamination involving substances that are not agricultural chemicals, a portion of the combined project costs may be reimbursed by the board based on the information submitted to the board. If, for any combined project, an eligible person also submits a reimbursement claim to another governmental agency, the cost allocation shall reflect that submission so that this can be taken into account by the board when determining eligibility of the costs;

(r) costs to analyze environmental substances that are not agricultural chemicals, except that

costs for the analysis of environmental parameters may be reimbursed by the board if that analysis is needed for the design or implementation of a corrective action;

(s) costs to analyze environmental samples for agricultural chemicals that are not reasonably suspected of having been released at the discharge site;

(t) costs to prepare an application for reimbursement, to contest a decision by the board, or to consult with the board or administrator regarding the application;

(u) expense charges for meals, lodging, travel, mileage, or other personal expenses;

(v) supplementary charges for expedited services, including expedited laboratory analysis, mail service, and parcel delivery service, unless required by the secretary of health and environment;

(w) contractor charges that are not based on services provided by the contractor and are not documented;

(x) interest expenses or other financing costs;

(y) costs for the rental or use of land on which the eligible person land spreads soil, water, or other material as approved by the secretary of agriculture or the secretary of health and environment;

(z) costs for subcontractor service charges or markups;

(aa) costs for environmental audits, assessments, evaluations, or appraisals, unless ordered or requested by the secretary of health and environment;

(bb) any civil or criminal penalty assessed by a federal, state, county, or other governmental entity; and

(cc) any cost of a corrective action that causes the total amount of reimbursement for the site to exceed \$200,000. The maximum amount of reimbursement to any one site shall not exceed \$200,000, regardless of the period of time within which the reimbursement was received. However, if the property has been sold or leased and both the buyer and the seller, or both the lessee and the lessor, are responsible for remediation of an agricultural or specialty chemical released at the site, then the total amount of reimbursement for the costs of the corrective actions at the site shall not exceed \$400,000, regardless of the period of time within which the reimbursement was received. (Authorized by K.S.A. 2-3710; implementing K.S.A. 2015 Supp. 2-3708 and K.S.A. 2-3710; effective, T-125-9-5-01, Sept. 5, 2001; effective Jan. 4, 2002; amended Jan. 23, 2015; amended June 10, 2016.)

## Agency 127

# Kansas Housing Resources Corporation

### Articles

#### 127-2. KANSAS MANUFACTURED HOUSING INSTALLATION.

#### Article 2.—KANSAS MANUFACTURED HOUSING INSTALLATION

**127-2-1. Definitions.** As used in K.S.A. 58-4219(a) and amendments thereto, the following phrases shall have the meanings specified in this regulation:

(a) “Installation of heating and air conditioning systems” shall mean the installation of the heating system, the air conditioning unit, and the electrical branch circuit for that air conditioning unit.

(b) The phrase “the hookup of electric, gas and water utilities” shall mean the following:

(1) The installation of the electrical service line from the main service-disconnecting means to the manufactured home;

(2) the installation of a service line from the natural gas meter or the propane fuel tank to the manufactured home; and

(3) the installation of service lines from the water meter to the manufactured home and from the sewer riser to the manufactured home. (Authorized by K.S.A. 58-4225; implementing K.S.A. 58-4219; effective March 6, 2009.)

**127-2-2. Installation standards.** (a) Except as specified in this regulation, each of the terms defined in K.S.A. 58-4202, and amendments thereto, shall have the meaning specified in that statute.

(b) The definition of “manufactured home” in 24 C.F.R. 3280.2, as promulgated by the U.S. department of housing and urban development and in effect on February 8, 2008, is hereby adopted by reference.

(c) The following federal regulations promulgated by the U.S. department of housing and urban development, as in effect on November 10, 2014, are hereby adopted by reference:

(1) The following provisions of 24 C.F.R. Part 3280:

(A) In 3280.302, the definitions of “anchor assembly,” “anchoring equipment,” “anchoring system,” “diagonal tie,” “foundation system,”

“ground anchor,” “stabilizing devices,” and “support system”; and

(B) 3280.306(b)(2)(iii) and (iv); and

(2) the following provisions of 24 C.F.R. Part 3285:

(A) The following sections of subpart A:

(i) 3285.2(c) and (d);

(ii) 3285.4(b), (c), (d), (e), (f), (g), (h)(2) and (3), (i), and (j);

(iii) 3285.5; and

(iv) 3285.6;

(B) the following sections or portions of sections of subpart B:

(i) The first sentence of 3285.101;

(ii) 3285.102; and

(iii) 3285.103;

(C) subpart C, except that registered manufacturer’s installation instructions may be substituted for 3285.204;

(D) subpart D, except that 3285.302 shall not be adopted and except that registered manufacturer’s installation instructions may be substituted for the following:

(i) 3285.301;

(ii) the first sentence of 3285.302;

(iii) tables 1 and 2 to 3285.303;

(iv) figure A, “typical mate-line column pier and mating wall support when frame only blocking is required,” to 3285.310;

(v) figure B, “typical mate-line column pier and mating wall support when perimeter blocking is required,” to 3285.310(b);

(vi) 3285.312(b); and

(vii) figure A, “typical blocking diagrams for single section homes,” and figure B, “typical blocking diagram for multi-section home,” to 3285.312;

(E) subpart E, except that registered manufacturer’s installation instructions may be substituted for 3285.404;

(F) subpart F;

(G) subpart G;

(H) subpart H; and

(I) subpart I, except that registered manufacturer’s installation instructions may be substituted for 3285.802.

(d) Any manufacturer's installation designs and instructions that have been approved by the secretary of the U.S. department of housing and urban development or by a design approval primary inspection agency (DAPIA), as provided in 24 C.F.R. 3285.2, may be filed with the corporation. On and after the date on which designs and instructions are filed, they shall be considered "registered manufacturer's installation instructions" for purposes of subsection (c).

(e)(1) Each addition, modification, replacement, or removal of any equipment that affects the installation of a manufactured home and is made by the installer before completion of the installation of the home shall meet or exceed the protections and requirements of the installation standards specified in this regulation.

(2) An alteration specified in paragraph (e)(1) shall not affect the applicability of the manufactured home construction and safety standards. An alteration specified in paragraph (e)(1) shall

not impose additional loads on the manufactured home or its foundation, unless the alteration meets the following requirements:

(A)(i) Is included in the manufacturer's DAPIA-approved designs and installation instructions; or

(ii) is designed by a registered professional engineer or architect and is consistent with the manufacturer's design; and

(B) conforms to the requirements of the manufactured home construction and safety standards. (Authorized by K.S.A. 58-4218 and 58-4225; implementing K.S.A. 58-4217 and 58-4218; effective March 6, 2009; amended May 1, 2015.)

**127-2-3. Liability insurance requirement.**

Each applicant for a manufactured home installer's license shall demonstrate that the applicant carries liability insurance of at least \$200,000. (Authorized by K.S.A. 58-4225; implementing K.S.A. 58-4219; effective March 6, 2009.)

Agency 128

**Department of Commerce—  
Kansas Athletic Commission**

*Articles*

- 128-1. DEFINITIONS.
- 128-2. LICENSES AND PERMITS.
- 128-3. TICKETS AND FEES.
- 128-4. OFFICIALS AND LICENSEES AND THEIR RESPONSIBILITIES.
- 128-5. FACILITY AND EQUIPMENT REQUIREMENTS FOR PROFESSIONAL BOXING, PROFESSIONAL KICKBOXING, PROFESSIONAL FULL-CONTACT KARATE, PROFESSIONAL MIXED MARTIAL ARTS, AMATEUR MIXED MARTIAL ARTS, AND AMATEUR SANCTIONING ORGANIZATIONS.
- 128-6. RULES OF CONDUCT AND EQUIPMENT REQUIREMENTS FOR PROFESSIONAL BOXING, PROFESSIONAL KICKBOXING, PROFESSIONAL FULL-CONTACT KARATE, AND PROFESSIONAL MIXED MARTIAL ARTS.

**Article 1.—DEFINITIONS**

**128-1-1. Definitions.** (a) “Accidental foul” means any action specified in K.A.R. 128-6-1(qq), K.A.R. 128-6-2(x), or K.A.R. 128-6-4(q) that occurs during a contest if the referee determines that the action is done unintentionally.

(b) “Accidental injury” means an unintentional harm to an individual.

(c) “Act” means the Kansas professional regulated sports act, K.S.A. 2012 Supp. 74-50,181 et seq., and amendments thereto.

(d) “Amateur” means a contestant who has never accepted money or other remuneration for participating in a regulated sports competition and has not previously been licensed as a professional in Kansas or any other jurisdiction.

(e) “Announcer” means the person who is responsible for announcing the names of the officials and the contestants, the contestants’ weights, and the decisions of the referee and judges for one or more bouts during a contest.

(f) “Athlete” means an individual who is applying for a license to be a contestant or an individual that holds a contestant’s license.

(g) “Boxing commissioner” and “commissioner” mean the individual appointed by the commission pursuant to K.S.A. 2012 Supp. 74-50,184 and amendments thereto. This individual shall have oversight of all contests.

(h) “Chief inspector” means a person who is ap-

pointed by the boxing commissioner to supervise the inspectors at contests.

(i) “Co-main event” means a bout of the same importance as that of the main event.

(j) “Contestant” has the meaning specified in K.S.A. 2012 Supp. 74-50,182 and amendments thereto.

(k) “Contract inspector” means an inspector hired by the commission on a per-event basis who agrees to attend events and perform all duties pursuant to all applicable statutes and regulations.

(l) “Event” means an exhibition, contest, demonstration, match, performance, sparring, tournament, show, smoker, or other presentation of regulated sports for which a permit is required, whether or not an admission fee is charged.

(m) “Inspector” means a person who is appointed by the commission to attend contests and events to ensure that the licensees of the commission adhere to all applicable statutes and regulations.

(n) “Intentional foul” means any action specified in K.A.R. 128-6-1(qq), K.A.R. 128-6-2(x), or K.A.R. 128-6-4(q) that occurs during a contest if the referee determines that the action is done deliberately.

(o) “Judge” means a person who is licensed by the commission and who serves as a member of a panel, which shall consist of three judges responsible for determining a decision in each bout of a contest.

(p) “Low blow” means a strike below the belt line.

(q) “Main event” means the bout that is advertised as the most important during a contest.

(r) “Majority decision” means a decision in which two of the three judges decide in favor of one contestant, while the third judge calls the bout a draw. The decision is recorded as a win in the contestant’s fight record.

(s) “Majority draw” means a decision by the judges in which the scorecard of one of the three judges favors one contestant, while the other two judges’ scorecards have the bout scored as a tie. The decision is recorded as a draw on each contestant’s fight record.

(t) “Manager” means the person who is licensed by the commission and meets one of the following conditions:

(1) Procures, arranges, or conducts a professional contest or exhibition for participation by a contestant; or

(2) for compensation, undertakes to represent the interest of a contestant, by contract, agreement, or other arrangement.

(u) “Matchmaker” means the person who is licensed by the commission, hired by a promoter, and responsible for selecting the contestants for each bout of a contest on the basis of the contestants’ weights and relative levels of experience.

(v) “Mixed martial arts,” as defined by K.S.A. 2012 Supp. 74-50,182 and amendments thereto, shall include any form of unarmed combat involving the use of a combination of techniques including grappling, kicking and striking, boxing, kickboxing, wrestling, and various disciplines of the martial arts including karate, kung fu, tae kwon do, jiu-jitsu, or any combination of these.

(w) “No-contest decision” means a decision made by a referee, before the completion of the fourth round in a boxing or kickboxing contest and before the completion of the second round in a mixed martial arts contest, that the contest must be stopped and has no winner.

(x) “Official” means any referee, judge, announcer, timekeeper, or physician as those terms are defined in this regulation.

(y) “Permit” means a written authorization or license from the commission pursuant to K.S.A. 2012 Supp. 74-50,189, and amendments thereto, for a promoter to hold an event or a professional wrestling performance in Kansas.

(z) “Physician” means an individual who meets the applicable requirements of K.A.R. 128-2-7.

(aa) “Prize” means a material offering or award given for superiority or excellence in competition, including a belt, trophy, or monetary award. Receipt of a prize by an amateur shall not cause the amateur to be deemed a professional, unless the prize is a monetary award.

(bb) “Promoter” means a person, association, partnership, corporation, limited liability company, or any other form of business entity that meets the following requirements:

(1) Is licensed by the commission;

(2) arranges, advertises, or conducts events or professional wrestling performances; and

(3) is responsible for obtaining a permit for each contest and for payment of all applicable state athletic fees.

(cc) “Promotion” means a contest for which tickets or items of nominal value are sold or given for admission to the contest.

(dd) “Purse” means the contracted award or any other remuneration that contestants receive for participating in a bout of a contest. This term shall include each contestant’s share of any payment received for radio broadcasting, television, or motion picture rights.

(ee) “Referee” means the person who is licensed by the commission and is in charge of enforcing all commission regulations that apply to the conduct of each bout in a contest and to the conduct of the contestants and seconds while these individuals are in the ring.

(ff) “Round” means the period within a bout that occurs between two consecutive rest periods.

(gg) “Second” means an individual who is licensed by the commission and attends to a contestant between the rounds of a bout during a contest. This term shall include cut men, corner men, and trainers.

(hh) “Smoker” means an event at which contestants gather informally for noncompetitive sparring.

(ii) “Split decision” means a decision in which two of the three judges decide in favor of one contestant, while the third judge determines the other contestant to be the winner. A split decision is recorded as a win in the fight record of the contestant whom two of the judges deem the winner.

(jj) “Split draw” means a decision by the judges when a bout has reached its scheduled end in which one judge scores the bout in favor of one contestant, another judge scores the bout for the opposing contestant, and the remaining judge scores the bout as a tie. The contest has no winner,

and the contest is recorded as a tie, which is also known as a draw, towards each contestant's record.

(kk) "Tapout" means a verbal or physical signal by a contestant indicating that the contestant is forfeiting the bout.

(ll) "Technical decision" means a decision that is rendered by the referee if a contest is ended, after the fourth round has been completed, because of an accidental foul.

(mm) "Technical draw" means a decision that is rendered by the judges after a bout is completed and the contestants' scores are equal. The contest has no winner.

(nn) "Technical knockout" means the termination of a bout by the referee, who declares a winner for a reason that may consist of any of the following:

(1) It is the judgment of the physician, a contestant's second, or the referee that a contestant cannot continue fighting without sustaining serious or disabling injury.

(2) A contestant fails to engage the opponent for a reason other than that specified in paragraph (nn) (1).

(3) A contestant is disqualified.

(oo) "Technical submission" means that the referee or physician stops a fight because a contestant has sustained an injury or becomes unconscious while in an act of surrendering to a hold by the contestant's opponent.

(pp) "Ten-point must system" means a method of scoring a regulated sports contest.

(qq) "Ticket" means the part of a ticket, actually or electronically inventoried, retained by a promoter upon a person's entrance to an event.

(rr) "Ticket stub" means that part of a ticket retained by a person entering an event after the ticket has been collected.

(ss) "Timekeeper" means the person who is licensed by the commission and is responsible for keeping accurate time during each round of a bout in a contest. The timekeeper works in conjunction with the referee for any knockdown count required during the bout.

(tt) "Trainer" means any person primarily responsible for teaching, conditioning, and instructing an unarmed combatant.

(uu) "Unarmed combat" shall include boxing, kickboxing, karate, mixed martial arts, and any form of competition in which a blow that can reasonably be expected to inflict injury usually is struck and no weapon is used. This term shall not include professional wrestling.

(vv) "Unarmed combatant" means any contestant who engages in unarmed combat in a match or exhibition, whether or not the person receives remuneration. The term shall not include professional wrestlers. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186; effective, T-128-12-28-07, Jan. 14, 2008; effective April 4, 2008; amended Dec. 20, 2013.)

## Article 2.—LICENSES AND PERMITS

### 128-2-1. General licensure requirements.

(a) Each applicant applying for a license to compete or serve in any contest pursuant to this act shall comply with the following requirements, in addition to the individual licensure requirements:

(1) Each application shall be submitted on a form provided by the commission.

(2) Each applicant shall submit the applicable fee, as listed in K.A.R. 128-2-12, with the application. An application for a license that does not include the applicable fee and all required information and supporting documentation shall not be processed by the commission.

(3) Each applicant shall be at least 18 years of age.

(4) Each applicant for a contestant license shall submit a late fee of \$10 with each completed application received by the commission less than three business days before the proposed contest or event.

(b) Each applicant shall be allowed to compete or serve in a contest only after the commission has issued the appropriate license. Each individual participating in a contest shall possess a current license issued by the commission.

(c) Once the application is approved by the commission, the licensee shall notify the commission, in writing, of any change of name or address within 10 business days of the date on which the change becomes effective. The notice of each name change shall be accompanied by a copy of the court order approving the name change.

(d) Each licensee's information retained by the commission shall be deemed accurate for purpose of notification unless the licensee notifies the commission. The licensee shall be responsible for reporting any change of mailing address, electronic mail address, telephone number, and any other change in the information provided on the application to the commission. Failure by the licensee to comply with this subsection may result in a suspension of the license until the licensee notifies the commission of any changes.

(e) Any false statement submitted on the application to the commission may be deemed grounds for any of the following:

- (1) Denial of the application;
- (2) revocation or suspension of the license, if the license has already been issued; or
- (3) referral of the matter to the appropriate law enforcement authority for prosecution.

This regulation shall be effective on and after October 1, 2014. (Authorized by K.S.A. 2013 Supp. 74-50,187; implementing K.S.A. 2013 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013; amended Oct. 1, 2014.)

**128-2-3. Contestant.** (a) Each applicant seeking a contestant's license from the commission shall meet the following requirements, in addition to the requirements specified in K.A.R. 128-2-1:

(1) Submit the written certification of a physician meeting the requirements of K.A.R. 128-2-7 stating that the applicant is physically able to compete in a contest. The written certification shall be based on a complete physical examination performed by that physician, which shall include the following:

(A) Neurological and cardiac testing within 30 days of the date of the application;

(B) a negative test for HIV, hepatitis B surface antigen, and hepatitis C antibody within one year of the date of the examination. If the contestant fails the hepatitis B surface antigen test, the contestant shall be required to pass a hepatitis B "PCR" quantitative test. The quantitative limit shall be within permissible limits according to the laboratory where the test was administered; and

(C) an eye examination. No applicant shall be issued a license if the applicant is found to be blind in one eye or both eyes; and

(2) provide the commission with the applicant's legal name and, if any, the applicant's "ring name," which is the name that the applicant intends to use after receiving a contestant's license but only when competing in any contest. Each applicant with a ring name shall use the same ring name in each contest.

(b) For each regulated sport in which the applicant intends to participate as a contestant, the applicant shall complete a separate application and submit the application and the applicable fee to the commission. (Authorized by K.S.A. 2013 Supp. 74-50,187; implementing K.S.A. 2013 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Sept. 26, 2014.)

**128-2-3a. Prohibited substance use and submission to drug testing.** (a) The administration or use of alcohol, stimulants, drugs, or injections shall be prohibited. The world anti-doping agency's document titled "the world anti-doping code: the 2013 prohibited list international standard," effective January 1, 2013, is hereby adopted by reference, with the following alterations:

(1) The following provisions shall be excluded from adoption:

(A) At the bottom of each page, the text "the 2013 prohibited list 10 september 2012"; and

(B) at the top of page 4, the following boxed text: "for purposes of this section: 'exogenous' refers to a substance which is not ordinarily capable of being produced by the body naturally; 'endogenous' refers to a substance which is capable of being produced by the body naturally."

(2) The following modifications shall be made to page 9:

(A) In section P1, the phrase "in the following sports" at the end of the first sentence shall be replaced with "in all regulated sports." The list of sports shall be deleted.

(B) In section P2, the phrase "in the following sports" at the end of the first sentence shall be replaced with "in all regulated sports." The list of sports shall be deleted.

The use of any substance specified in this document by any contestant licensed or seeking licensure by the commission shall be prohibited, and the contestant may be subject to action, pursuant to K.S.A. 2012 Supp. 74-50,193 and 74-50,197 and amendments thereto.

(b) The preparations available to stop hemorrhaging in the ring or fenced area may be periodically reviewed by the commission. The use of Monsel's solution or silver nitrate, or both, by any contestant shall be prohibited. Any contestant using a prohibited substance may be subject to action, pursuant to K.S.A. 2012 Supp. 74-50,193 and 74-50,197 and amendments thereto.

(c) At any time either before or after a bout, any contestant may be required by the boxing commissioner or chief inspector, acting with reasonable cause or through random selection, to undergo a test for the use of illegal drugs or other performance-enhancing substances identified in the document adopted by reference in subsection (a).

(d) Any contestant's positive test for any prohibited substance or failure to cooperate in the testing process may be grounds for immediate suspension or revocation of the individual's li-

cense and may result in forfeiture of the related match. That individual may be subject to action, pursuant to K.S.A. 2012 Supp. 74-50,193 and 74-50,197 and amendments thereto.

(e) Any finding that a contestant is under the influence of any prohibited substance may result in immediate suspension or revocation of the individual's license, in addition to any action pursuant to K.S.A. 2012 Supp. 74-50,193 and 74-50,197 and amendments thereto. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186, 74-50,187, 74-50,193, and 74-50,197; effective Dec. 20, 2013.)

**128-2-4. Judge.** (a) Each applicant seeking a judge's license from the commission shall meet all of the following requirements, in addition to the requirements specified in K.A.R. 128-2-1:

(1) Certify in writing that the applicant has read and understands the act and these regulations;

(2) provide evidence that the applicant has at least four years of judging amateur contests and two years of experience judging professional contests;

(3) provide certification of competency from two individuals with personal knowledge relative to the applicant's qualifications to judge;

(4) provide certification that the applicant is in good standing in any other jurisdiction in which the applicant has a license and has a record of past performance of competent work;

(5) if seeking a license to judge professional boxing contests, be required to pass a written test approved by the commission. Each such applicant shall be certified by the association of boxing commissioners within two years after the issuance of the license;

(6) at the discretion of the boxing commissioner, submit a written certification from a physician stating that the applicant has undergone a physical examination by the physician and is physically able to perform the duties of a judge. The physician shall be licensed in the state where the physical examination was conducted. The certification shall be completed on a form provided by the commission. The form shall include an acknowledgment from the examining physician that the physician understands and certifies that the applicant is physically able to officiate a regulated sport contest; and

(7) pay the applicable fee specified in K.A.R. 128-2-12.

(b) For each regulated sport for which the applicant intends to act as a judge, the applicant shall

complete a separate application and submit the application and required fee to the commission. (Authorized by K.S.A. 2013 Supp. 74-50,187; implementing K.S.A. 2013 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Sept. 26, 2014.)

**128-2-6. Matchmaker.** Each applicant seeking a matchmaker's license from the commission shall meet all of the following requirements, in addition to the requirements specified in K.A.R. 128-2-1:

(a) Certify in writing that the applicant has read and understands the act and these regulations;

(b) provide a list of all events for which the applicant served as matchmaker;

(c) have at least three years of experience as an official; and

(d) have knowledge of all regulated sports, including the following for each contestant:

(1) Fighting experience and ability;

(2) fight record; and

(3) fighting style. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013.)

**128-2-7. Physician.** (a) Each applicant seeking a physician's license from the commission shall meet both of the following requirements, in addition to the requirements specified in subsection (b) and in K.A.R. 128-2-1:

(1) Hold a current license to practice either medicine and surgery or osteopathic medicine and surgery pursuant to the Kansas healing arts act, K.S.A. 65-2801 et seq. and amendments thereto; and

(2) provide verification that the applicant is in good standing with the Kansas state board of healing arts.

(b) No applicant shall currently be or, within the five years preceding the date of the physician's application to the commission for licensure, have been the subject of disciplinary action by the Kansas state board of healing arts or a comparable licensing agency in another state.

(c) A physician whose sole purpose is to conduct physical examinations of applicants shall not be required to be licensed by the commission. The physician shall be required to hold a current license to practice either medicine and surgery or osteopathic medicine and surgery in the state in which the physician conducts each applicant's

physical examination. The physician shall certify that the individual is in good standing in the state where the physician is licensed to practice either medicine and surgery or osteopathic medicine and surgery. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013.)

**128-2-8. Promoter.** (a) Each applicant seeking a promoter’s license from the commission shall meet all of the following requirements, in addition to the requirements specified in K.A.R. 128-2-1:

(1) Submit the financial documentation requested by the commission as necessary to determine the applicant’s ability to meet the requirements specified in K.A.R. 128-2-13(a)(4);

(2) submit a list of all promotional events conducted during the previous five years pertaining to the contests or professional wrestling performances that the applicant arranged or advertised; and

(3) submit three references from individuals who have knowledge of the applicant’s previous promotions pertaining to contests or professional wrestling performances.

(b) Each promoter shall pay the expenses required by K.A.R. 128-4-6. The promoter’s non-payment of any expenses for any contest or professional wrestling performance may result in indefinite suspension of the promoter’s license and may subject the promoter to action, pursuant to K.S.A. 2012 Supp. 74-50,197 and amendments thereto. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186, 74-50,187, and 74-50,193; effective April 4, 2008; amended Dec. 20, 2013.)

**128-2-9. Referee.** (a) Each applicant seeking a referee’s license from the commission shall meet all of the following requirements, in addition to the requirements specified in K.A.R. 128-2-1:

(1) Certify in writing that the applicant has read and understands the act and these regulations;

(2) provide evidence that the applicant has at least four years of experience refereeing amateur contests and two years of experience refereeing professional contests;

(3) provide the following:

(A) Certification of competency from two individuals with personal knowledge of the applicant’s qualifications to referee; and

(B) certification that the applicant is in good standing in any other jurisdiction in which the

applicant holds a license and has a record of past performance of competent work;

(4) for each applicant seeking a license to referee boxing contests, be certified by the association of boxing commissioners within two years after the issuance of the license;

(5) submit written certification from a physician stating that the applicant has undergone a physical examination from the physician and certifying that the applicant is physically able to perform the duties of a referee. The certification shall be completed on a form provided by the commission. The form shall include an acknowledgment from the examining physician that the physician understands and certifies that the applicant is physically able to referee a regulated sports contest; and

(6) pay the applicable fee specified in K.A.R. 128-2-12.

(b) For each regulated sport for which the applicant intends to act as a referee, the applicant shall complete a separate application and submit the application and applicable fee to the commission. (Authorized by K.S.A. 2013 Supp. 74-50,187; implementing K.S.A. 2013 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013.)

**128-2-12. Fees for permits and identification cards.** (a) Each applicant shall submit the applicable fee for initial licensure with the application, and each licensee shall submit the applicable fee for renewal of the permit, as follows:

(1) Professional contestant.....	\$45.00
(2) Amateur mixed martial arts contestant.....	\$25.00
(3) Judge .....	\$55.00
(4) Manager .....	\$110.00
(5) Matchmaker.....	\$150.00
(6) Physician .....	\$25.00
(7) Promoter.....	\$225.00
(8) Referee.....	\$60.00
(9) Second.....	\$30.00
(10) Timekeeper .....	\$30.00

(b) The following schedule of fees shall be charged for the cost of processing each federal identification card issued to a professional boxing contestant by the commission in accordance with 15 U.S.C. 6305(b):

(1) Initial federal identification card.....	\$20.00
(2) Duplicate federal identification card.....	\$15.00

(c) The following schedule of fees shall be charged for the cost of processing each national

identification card issued to a professional mixed martial arts contestant by the commission:

- (1) Initial national identification card..... \$20.00
- (2) Duplicate national identification card ..... \$15.00

This regulation shall be effective on and after October 1, 2014. (Authorized by K.S.A. 2013 Supp. 74-50,187; implementing K.S.A. 2013 Supp. 74-50,186 and 74-50,187; effective, T-128-12-28-07, Jan. 14, 2008; effective April 4, 2008; amended Dec. 20, 2013; amended Oct. 1, 2014.)

**128-2-13. Permits.** (a) Each promoter shall obtain from the commission a separate permit for each regulated sport contest for which the promoter is responsible. Each promoter shall meet the following requirements for each request for a permit:

(1) The permit application shall be submitted on a form provided by the commission.

(2) The promoter shall submit the following fee or fees, as applicable, with the permit application, including the following:

(A) For a permit for a contest, \$40.00 for each day of the contest and \$150.00 for each inspector assigned to the contest. The boxing commissioner shall determine the number of inspectors required for each contest;

(B) for a permit for a professional wrestling performance, \$175.00 for each day of the performance; or

(C) for a permit for brazilian jiujitsu, grappling submission wrestling, or pankration, \$175.00 for each day of the event.

(3) The promoter shall submit with the application a surety bond in the amount of \$10,000 to guarantee payment of all state athletic fees due to the commission and any unpaid amounts owed to officials and contestants, including medical expenses and the purse.

(4) An additional bond may be required in an amount specified by the commission if it is reasonable to expect that the original bond will not provide sufficient liability protection to the commission, officials, and contestants.

(5) The promoter shall submit with the permit application a policy of accident insurance on each contestant participating in the event in the amount of \$10,000 to compensate the contestant for any medical and hospital expenses incurred as the result of injuries received in the event. The premiums on the policies shall be paid by the promoter. The terms of the insurance coverage shall

not require the contestant to pay a deductible for any medical, surgical, or hospital care for any injuries that the contestant sustains while engaged in an event. A professional contestant who enters into a contract with a promoter may, if approved by the boxing commissioner, contract to pay any medical expenses, including deductibles, coinsurance, co-pays, and out-of-pocket costs.

(6) (A) The promoter of a professional wrestling performance shall provide documentation indicating that a physician or other emergency medical provider certified by the board of emergency medical services or the board of nursing will be present at the performance.

(B) The promoter of a contest shall provide documentation indicating that medical personnel will be present at the contest pursuant to K.A.R. 128-4-6.

(7) The request for a permit shall be received by the commission no later than 30 days before the date of the event. Each request for a permit received less than 30 days but more than 14 days before the date of the event shall be accompanied by a late fee of \$60. Each request for a professional wrestling performance permit received less than 14 days before the date of the event shall be accompanied by a late fee of \$100.

(b) If the commission receives more than one request for a permit for the same date, a permit for both events may be issued by the commission if each application is complete and the commission deems it to be in the best interest of the commission to issue more than one permit. Factors considered by the commission in making the determination shall include the geographic locations of the proposed events and the availability of the commission staff and officials. If the commission is unable to regulate more than one event, a permit shall be issued to the first applicant that submits a complete application.

(c) Any application for a permit may be approved or denied by the commission or may be issued with limitations, restrictions, or conditions as stipulated by the commission. Permits for the following types of contests shall not be approved by the commission:

- (1) Contests with any bouts between members of the opposite sex;
- (2) contests with any bouts between contestants and nonhumans; and
- (3) contests with any bouts using weapons.

(d) Each promoter shall have an approved permit before any publicity is issued on the contest

or professional wrestling performance. Violation of this provision shall be grounds for the nonissuance of permits. The promoter may be subject to disciplinary action, pursuant to K.S.A. 2013 Supp. 74-50,193 and 74-50,197 and amendments thereto.

(e) The promoter shall notify the commission if the event is to be televised or otherwise broadcast. The promoter shall provide a copy of the contract no later than 10 days before the event.

(f) No promoter may serve in any capacity at any event for which the commission has denied or revoked a permit or for which a permit has not been issued. If a promoter serves in any capacity at an event without a permit for that contest or performance, the promoter's license may be revoked or indefinitely suspended. The promoter may be subject to action, pursuant to K.S.A. 2013 Supp. 74-50,193 and 74-50,197 and amendments thereto.

(g) No event shall be held until the commission has approved the application and the date for the program.

(h) If the promoter cancels the event within 24 hours before weigh-in, the application fee shall be forfeited. The fee may be applied to a subsequent event if the subsequent event is scheduled to be held within 30 days of the originally scheduled event.

(i) The promoter may select the announcer for an event.

(j) All judges, referees, and timekeepers for the event shall be selected and approved by the boxing commissioner.

(k) If the permit is revoked, no refund for the permit shall be issued by the commission.

This regulation shall be effective on and after October 1, 2014. (Authorized by K.S.A. 2013 Supp. 74-50,187; implementing K.S.A. 2013 Supp. 74-50,186, 74-50,187, 74-50,189, and 74-50,196; effective April 4, 2008; amended Dec. 20, 2013; amended Oct. 1, 2014.)

### **Article 3.—TICKETS AND FEES**

**128-3-1. Tickets and fees.** (a) Each person admitted to an event shall have a ticket or pass.

(b) Each ticket shall indicate on the ticket the price, the name of the promoter, and the date and time of the event. The price of the ticket shall be indicated either on the ticket and the ticket stub or on the electronic ticket. Each ticket shall be printed on cardboard or issued electronically, with a different color for each event.

(c) The promoter shall not sell any tickets for a price other than the price printed on the ticket.

(d) The promoter of each event shall prohibit the sale of any tickets for a price other than the price printed on the ticket, except as provided in subsections (e) and (f).

(e) Each ticket for an event sold for less than the price printed on the ticket shall be over stamped with the actual price charged. The over stamp shall be placed on the printed face of the ticket as well as on the stub retained by the ticket holder. Failure to comply with this subsection shall result in the full ticket price being used for purposes of computing the athletic fee required to be paid.

(f) Each complimentary ticket shall be clearly marked "COMPLIMENTARY." A promoter shall not issue complimentary tickets for more than 15 percent of the seats in the venue, without the boxing commissioner's prior written authorization. Failure to comply with this subsection shall result in the required use of the full ticket price for the purpose of computing the athletic fee required to be paid.

(g) The boxing commissioner, the commission's staff, each inspector, and each member of the athletic commission shall be admitted without a ticket or pass to any contest or professional wrestling performance over which the commission has jurisdiction.

(h) No person without a ticket shall be admitted to an event unless that person is one of the following:

(1) A contestant scheduled to compete at the event;

(2) an employee or independent contractor who provides identification from the promoter indicating that the individual is an employee or independent contractor working for the promoter;

(3) a member of the media approved by the promoter to attend the event;

(4) an on-duty law enforcement officer; or

(5) an on-duty emergency responder.

(i) The holder of a ticket for an event shall not be allowed to perform either of the following:

(1) Pass through the gate of the premises where the event is being held, unless the ticket is separated from the ticket stub, marked, scanned, or inventoried as having been presented at the gate; or

(2) occupy a seat unless the ticket holder is in possession of the electronic ticket, ticket stub, or marked ticket.

(j) If a ticket is electronic, the ticket shall be scanned before the ticket holder's admission into the venue.

(k) Once the ticket holder gains entry to a venue by way of ticket, the individual shall be readmitted after leaving only if the individual presents a ticket stub or other evidence of admission and a notation stamp or other similar marking indicating that the individual is permitted to reenter.

(l) The following duties shall be the responsibility of each inspector assigned to each event:

(1) Supervising ticket sales, ticket boxes, and the entrances and exits to the site of the contest or performance for the purpose of checking admission controls; and

(2) ensuring that all tickets are counted and that a final accounting, including computation of the number of complimentary tickets and passes that are used, the price of admission charged for each ticket, and the gross receipts from all ticket sales, is completed.

(m) The final accounting shall be conducted in a private room or secured area and in the presence of both the promoter's representative and the assigned inspector. The final accounting shall include a determination by the assigned inspector of the amount of athletic fee due from the promoter.

(n) Each promoter who obtains a permit for an event shall pay to the commission the athletic fee, which is five percent of the gross receipts derived from the admission charges for the event.

(o) Gross receipts shall mean the total amount of all ticket sales, including complimentary tickets and passes, after sales tax is deducted. For the purposes of this subsection, complimentary tickets and passes shall be included in the calculation of gross receipts and counted as if the complimentary tickets and passes had been sold at the average ticket price of all those tickets offered for sale for the event.

(p) If no admission is charged for an event and the promoter is promoting the event for a contracted amount, the five percent athletic fee shall be based on the contract price. A copy of the contract shall be submitted to the commission with the fee payment. If there is no written contract, the promoter and the entity with which the promoter has entered into an oral contract shall sign a notarized affidavit stating the amount paid to the promoter for the event. (Authorized by K.S.A. 2013 Supp. 74-50,187; implementing K.S.A. 2013 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013; amended Sept. 26, 2014.)

#### **Article 4.—OFFICIALS AND LICENSEES AND THEIR RESPONSIBILITIES**

**128-4-2. Contestant.** (a) Each contestant shall at all times meet the applicable requirements of the act and these regulations.

(b) Each contestant shall at all times comply with the directions and decisions of all officials.

(c) Each contestant shall be required to pass a physical examination given by a physician as provided by K.A.R. 128-4-5, before participating in a contest. The physician conducting the examination shall submit to the commission the findings, together with the physician's written opinion of whether the contestant should fight. A contestant who does not pass the physical examination shall not be permitted to fight in that contest.

(d) A contestant shall not wear eyeglasses during a contest or professional wrestling performance.

(e) Each contestant shall disclose to the physician any prior or existing medical conditions that could affect the contestant's fitness to compete. Nondisclosure to the physician of any prior or existing medical condition by the contestant shall be cause for suspension or revocation of the contestant's license.

(f) Any contestant may be required before the contest to submit to additional medical examinations or tests ordered by the boxing commissioner as needed to determine the contestant's fitness to compete.

(g)(1) Each contestant shall submit to a drug test if directed to do so by the boxing commissioner. At any time, the contestant may be directed by the boxing commissioner, with reasonable cause or through random selection, to complete a test for use of illegal drugs or other performance-enhancing substances specified in K.A.R. 128-2-3a.

(2) All fees involved with drug tests shall be the responsibility of the promoter if the contestant has a contract with the promoter stipulating that the promoter will pay these fees. Otherwise, the contestant shall be responsible for payment of these fees.

(3) If a contestant fails to submit to a drug test when directed to do so by the boxing commissioner, disciplinary action may be taken against the contestant, including suspension, fines, or revocation of the contestant's license.

(h)(1) Each contestant in a non-boxing contest shall present to the chief official, when the contestant weighs in before the beginning of the bout, a contestant's license issued by the commission.

(2) Each contestant in a boxing contest shall present to the chief official both of the following documents when the contestant weighs in before the beginning of the bout:

(A) A professional boxing contestant's license issued by the commission; and

(B) the federal identification card required by 15 U.S.C. 6305. The contestant may present a federal identification card issued by the commission or by the boxing commission of another state. To obtain a federal identification card in the state of Kansas, the applicant shall appear in person at the office of the commission, present a photo identification showing the applicant's date of birth, and pay the fee established by the commission.

(3) Each contestant in a mixed martial arts contest shall present both of the following documents to the chief official when the contestant weighs in before the beginning of the bout:

(A) A professional mixed martial arts contestant's license issued by the commission; and

(B) the national identification card required by K.A.R. 128-2-12. Any professional mixed martial arts contestant may present a national identification card issued by the commission or by the commission of another state. To obtain a national identification card in Kansas, the applicant shall appear in person at the office of the commission, present a photo identification showing the applicant's date of birth, and pay the fee specified in K.A.R. 128-2-12.

(i) If a contestant is under contract or is scheduled to compete in a bout but is unable to take part in the bout because of illness or injury, the contestant or the contestant's manager shall immediately report that fact to the inspector. The contestant shall then submit to an examination by the physician designated by the commission to determine whether or not the contestant is unfit to compete.

(j) Any contestant who fails to appear for and participate in an event in which the contestant is scheduled or for which the contestant has signed a bout agreement to appear, without a written excuse determined to be valid by the commission or a certificate from a physician approved by the commission in case of physical disability, may be subject to action, pursuant to K.S.A. 2012 Supp. 74-50,197 and 74-50,193 and amendments thereto. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013.)

**128-4-3. Judge.** (a) Three judges shall be assigned by the boxing commissioner for each bout of a contest.

(b) The three judges shall be stationed at ring-side, each at a different side.

(c) Before the start of each bout, each judge shall receive an official scorecard from an inspector. Each judge shall use only the official scorecards that are provided by the commission or a sanctioned body approved by the commission.

(d) Each judge shall reach a scoring decision for each round of a bout without conferring in any manner with any other official or person, including the other judges on the panel. Each judge shall award points for each round immediately after the end of the round, total the scores of both contestants from that round, and sign or initial the scorecard.

(e) (1) The judges shall score each round on the ten-point must system using the following criteria:

(A) The maximum total score awarded by each judge in any round shall be 20 points. The better contestant of each round shall receive 10 points, and the opponent shall receive a score that is proportionately lower.

(B) If the round is tied, each contestant shall receive 10 points.

(C) No fraction of a point shall be awarded.

(2) Each erasure or change on a scorecard shall be approved and initialed by both the judge and the inspector.

(3) At the end of each round, each judge shall give that judge's scorecard to the referee. At the end of each bout for professional and amateur mixed martial arts, each judge shall give that judge's scorecard to the referee.

(f) A final decision regarding the outcome of the bout shall be made before the judges may leave the arena.

(g) After the final decision for the bout has been announced, the referee shall give the scorecards to the chief inspector, who shall retain custody of the scorecards and transmit the scorecards to the commission for safekeeping. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186, 74-50,187, and 74-50,190; effective April 4, 2008; amended Dec. 20, 2013.)

**128-4-4. Matchmaker.** (a) A matchmaker shall be present at each contest. The matchmaker for a contest shall not directly or indirectly serve as the promoter for the same contest or as the

manager or the second for any contestant competing in that contest.

(b) Each bout shall be arranged by the matchmaker, and the contestants shall be evenly matched based on the contestants' win-loss records and weight classifications. The matchmaker shall sign the fight card, attesting that the contestants have been evenly matched.

(c) The duties of the matchmaker shall include the following:

(1) At least 15 days before each proposed event, submitting the following information to the commission:

(A) The proposed number of rounds for each bout; and

(B) for each contestant, the following information:

(i) Name;

(ii) federal identification number or national identification number, if applicable;

(iii) weight;

(iv) date of birth; and

(v) city and state of residence;

(2) designating the glove size to be used for each boxing or kickboxing bout at an event; and

(3) matching the contestants for each bout of an event on the basis of each contestant's weight and relative level of fighting experience.

(d) A proposed bout scheduled by the matchmaker for each bout of a contest shall not be approved by the commission under either of the following circumstances:

(1) A contestant who has lost the contestant's last six bouts by a technical knockout or a knockout is scheduled to compete in a bout.

(2) A contestant who has competed in fewer than 10 professional bouts is scheduled to compete against an opponent who has been a contestant in more than 15 professional bouts.

(e) The experience and skill of each boxing contestant shall be verified by the commission in accordance with 15 U.S.C. 6306. The experience and skill of each non-boxing contestant shall be verified by the commission through the national registry applicable to that contestant's sport. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013.)

**128-4-5. Physician.** (a) (1) A physician shall be selected by the promoter and licensed by the commission for each contest. This physician shall

be in charge of the physical examinations of the contestants as required by the act and these regulations, shall be present at ringside during all events, and if called upon, shall be ready to advise the referee and to make a determination pursuant to these regulations.

(2) The physician shall be prepared to assist if any emergency arises and shall render temporary or emergency treatments for any cuts and minor injuries sustained by the contestants. The physician shall not leave the event until after the decision in the final contest or exhibition.

(b) The physician shall be provided with an adequate room in which to perform the pre-contest physical examination of each contestant.

(c) Within 48 hours before each contest but no later than one hour before the contest, the physician shall perform a physical examination of each contestant. The physician shall record, at a minimum, each contestant's weight, resting pulse, and blood pressure and an assessment of the general physical condition of the contestant. The physical examination of each female contestant shall include a pregnancy test.

(d) Based on the physical examination specified in subsection (c), the physician shall certify in writing, on a form prescribed by the commission, each contestant whose physical condition is sufficiently sound to permit the contestant to compete. If the physician determines that a contestant is unfit for competition, the contestant shall be prohibited from competing during that contest. The physician's determination of each contestant's fitness to participate shall be final.

(e) After each contest, the physician shall examine each contestant immediately following the bout but before the contestant leaves the site of the contest. If it appears that a contestant is injured, the physician shall attend to the injuries. If the physician determines that the contestant needs to be hospitalized, the physician shall arrange for hospitalization or continuation of medical care. The physician shall report all injuries disclosed in the post-fight examination to the commission. The report shall list, at a minimum, each case in which a contestant met either of the following conditions:

(1) Was injured during the contest or exhibition;

or  
(2) requested medical aid after the contest or exhibition.

(f) The physician may authorize a second to administer any of the substances listed in K.A.R.

128-4-8(g) to a contestant. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013.)

**128-4-6. Promoter.** (a) Each promoter shall supervise that promoter’s employees and shall be liable for the conduct of each employee and for any violation of the act or these regulations committed by the employee. Each violation committed by an employee or other representative of a promoter shall be deemed to be a violation committed by the promoter. The promoter may be subject to action, pursuant to K.S.A. 2012 Supp. 74-50,193 and 74-50,197 and amendments thereto. Any such violation may result in cancellation of the contest, disciplinary action against the promoter, denial of future permits for contests, suspension of the promoter’s license, or any combination of these actions by the commission.

(b) In accordance with K.A.R. 128-3-1, each promoter shall pay the state athletic fee to the commission immediately at the conclusion of the contest or professional wrestling performance.

(c) Each promoter shall pay all purses according to one of the following:

(1) Immediately after the contest or exhibition; or

(2) if the contestant is to receive a percentage of the net receipts, immediately after that amount is determined.

(d) The promoter may withhold that portion of the purse for payment of expenses incurred by the contestant. A reconciliation of those expenses and payment of the undistributed portion of the purse shall be made to the contestant within five working days after the contest or exhibition, and a copy shall be submitted to the commission. If good cause is shown, an extension of the date for reconciliation may be granted by the commission for not more than 30 days after the event.

(e) At any time before the award of a purse to a contestant, any amount that shall be retained from the purse of the contestant and transferred from the promoter to the commission may be specified by the commission. The money transferred to the commission shall not be given to the contestant until the commission determines that no penalty will be prescribed pursuant to K.S.A. 2012 Supp. 74-50,197, and amendments thereto, for any action or condition of the contestant.

(f) Any promoter who fails to pay to a contestant the purse that is due to that contestant as required

by subsection (c) may be subject to action, pursuant to K.S.A. 2012 Supp. 74-50,193 and 74-50,197 and amendments thereto. If the purse is not paid within seven working days, the bond may be required by the commission to pay the purse pursuant to subsections (c) and (d).

(g) If the commission orders any amount of the purse of the contestant to be transferred from the promoter to the commission pursuant to K.S.A. 2012 Supp. 74-50,197 and amendments thereto, the promoter shall transfer the money to the commission by use of a cashier’s check made payable to the commission, unless the commission approves another method for the transfer of the money.

(h) The promoter shall be responsible to the officials for all compensation and costs associated with the contest. The amount of compensation and costs paid to these officials by the promoter shall be no less than the following:

(1) Announcer.....	\$100.00
(2) Judge	
(A) Amateur events .....	\$150.00
(B) Mixed professional and amateur events..	\$200.00
(C) Professional events.....	\$250.00
(3) Physician .....	\$450.00
(4) Referee	
(A) Amateur events .....	\$150.00
(B) Mixed professional and amateur events..	\$300.00
(C) Professional events.....	\$350.00
(5) Timekeeper.....	\$150.00

(i) For any event consisting of more than 12 bouts, the promoter shall pay to each official an additional \$25 for each additional bout.

(j) Before the start of an event, the promoter shall deliver to the commission checks or another method of payment that is approved by the commission for distributing to all officials.

(k) Immediately after the event, the commission or its designee shall release the payments to the entitled officials and shall obtain each official’s signature on a list to acknowledge the payment.

(l) Each promoter shall be responsible for public safety at all events. Failure of a promoter to ensure that public safety is protected at an event may result in cancellation of the event, disciplinary action against the promoter, denial of future permits for events, suspension of the promoter’s license, or any combination of these actions by the commission.

(m) The promoter of an event shall submit a proposed fight card signed by the matchmaker as required by K.A.R. 128-4-4(b) for the event

at least 15 days before the scheduled date of the event. The fight card shall be submitted on a form approved by the commission.

(n) The promoter or matchmaker shall notify the commission of any proposed changes or substitutions of contestants on the approved fight card. All changes and substitutions shall be subject to the approval of the commission.

(o) Each promoter who obtains a permit for a contest shall provide all facilities and materials necessary to conduct the contest, including the following:

- (1) A ring;
- (2) stools;
- (3) resin;
- (4) water buckets;
- (5) clean white towels;
- (6) dental appliances or mouthpieces;
- (7) a bell, buzzer, horn, or whistle;
- (8) a timer;
- (9) boxing gloves and mixed martial arts gloves. These gloves shall be new or in good condition;
- (10) latex gloves;
- (11) gauze and tape for hand wraps; and
- (12) bottled water, in a case with at least 24 bottles for each bout.

(p) Each promoter shall provide female contestants with adequate dressing rooms separate from those of the male contestants.

(q) Each promoter shall ensure that if a substitute contestant is needed for any contestant who has been advertised as a participant in a contest, the name of the substitute contestant is publicly announced as soon as the name is known.

(r) To adequately provide for the safety of the public, the promoter shall ensure that no glass-bottled drinks are permitted in any hall or facility where any contest is being held, except that glass-bottled drinks may be poured into disposable cups by vendors at the time of sale.

(s) (1) Each promoter who obtains a permit for a contest shall ensure that two medical personnel certified at or above the level of emergency medical technician or paramedic are on-site during the contest, with resuscitation equipment. At least one of the certified emergency personnel shall be stationed at ringside during the contest. The resuscitation equipment specified in paragraph (t) (1) and the medical equipment shall be located within 10 feet of the ring or the fenced-in area. The certified emergency personnel and the ringside physician shall be stationed within a distance deemed appropriate by the chief inspector.

(2) Each promoter who obtains a permit for a professional wrestling performance shall ensure that either a physician or two medical personnel certified at or above the level of emergency medical technician or paramedic and resuscitation equipment are on-site during the performance.

(3) Each promoter shall ensure that the certified emergency medical technicians or paramedics are in attendance at the contest or performance from the commencement of the contest or performance and until the last contestant leaves the contest or performance location.

(t)(1) Resuscitation equipment shall include a portable resuscitator with all additional equipment and supplies necessary for its operation. Supplies shall include all necessary equipment to open an airway and to maintain an open airway in a contestant that is not breathing.

(2) If an ambulance is not available because of the location of the event or contest, the highest level of medical transport in the locale shall be present and available to transport any injured contestant to a medical facility. If the ambulance or emergency personnel certified at or above the level of emergency medical technician or paramedic leave the site of the contest or event to transport a contestant to a medical facility, the contest or performance shall not continue until the replacement of the ambulance or the certified emergency personnel.

(u) Each promoter shall provide the physician with a suitable place to examine each contestant at the weigh-in, before the contest, and after each bout.

(v) The promoter shall arrange for the attendance of at least two law enforcement officers at the event, or as otherwise directed by the boxing commissioner.

(w) Each promoter shall ensure that a physician is at ringside during each contest.

(x) Each promoter shall ensure that the ringside area within the physical barrier has controlled access and is free of nonessential, unauthorized individuals. No nonessential, unauthorized individual shall be allowed to sit ringside or cageside. The promoter shall also be responsible for ensuring that no person is smoking within the venue area.

(y) The promoter shall schedule the site, date, and time for the weigh-in and physical examination, which shall be subject to the approval of the commission.

(z) The promoter shall ensure that an extra set of gloves is available for each size of glove used

during the contest, which shall be used if any gloves are broken or in any way damaged during the course of a bout.

(aa) The promoter shall not coach or act as a second for any contestant at the promoter's event.

(bb) Any promoter may hang at least two video screens that are approved by the commission to allow patrons to view the contest or performance. (Authorized by K.S.A. 2013 Supp. 74-50,187; implementing K.S.A. 2013 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013.)

**128-4-7. Referee.** (a) A referee shall be present at each contest to make determinations as required by the act and these regulations regarding the conduct of each bout in the contest and the conduct of the contestants and the contestants' seconds while the contestants or seconds are in the ring. An alternate referee shall be present at each contest.

(b) The referee shall have general supervision of each bout. If the chief inspector determines that the referee is not properly enforcing the contest rules established by these regulations, the chief inspector may overrule the referee.

(c) Any licensee who believes that the referee improperly interpreted or applied the act or these regulations, or both, may request that the chief inspector provide an interpretation or application of the act or these regulations, or both, with respect to the disputed issue.

(d) If there are no regulations in effect that address a particular set of circumstances during a contest, the chief inspector assigned to the contest shall decide how the contest is to be conducted under those circumstances. The chief inspector shall advise the referee of the inspector's decision, and the referee shall carry out the referee's duties in accordance with the chief inspector's decision. The decision of the chief inspector shall be final.

(e) A referee shall not wear eyeglasses while refereeing.

(f) The referee for each bout of a contest shall be selected by the boxing commissioner and approved by the commission.

(g) The referee and the alternate referee assigned to officiate at an event shall undergo a precontest physical examination by the physician assigned to the event before the commencement of the first bout. The physician shall examine the referee and the alternate referee, including the heart, lungs, pulse, blood pressure, and eyes. Af-

ter the examination, the referee and the alternate referee shall be allowed to officiate only if cleared by the physician.

(h) Before starting each bout, the referee shall check with each judge and the timekeeper to determine if each individual is ready. The referee shall also verify that the physician is present at the ringside.

(i) Before starting each bout, the referee shall ascertain from each contestant the name of the contestant's chief second and shall hold the chief second responsible for the conduct of the assistant seconds throughout the contest or exhibition. The referee may call contestants together before each contest or exhibition for final instructions.

(j) The referee shall ensure that no foreign substances detrimental to an opponent have been applied to the body of any contestant.

(k) The referee shall decide whether or not to wear rubber or plastic gloves during the bout.

(l) (1) The referee shall stop any bout under either of the following circumstances:

(A) The referee determines that one of the contestants is clearly less experienced or skilled than the contestant's opponent, to the extent that allowing the bout to continue would pose a substantial risk of serious harm or injury to the less experienced or less skilled contestant.

(B) The referee decides that a contestant is not making the contestant's best effort.

(2) If a contestant receives a cut or other injury, the referee may consult the physician to determine whether the bout will be stopped or whether the bout can continue. If the physician is consulted, the final authority to determine whether to continue the bout shall rest with the physician.

(3) If serious cuts or injuries occur to either contestant, the referee shall summon the physician, who shall aid the contestant and decide if the bout will be stopped. If the physician determines before the fourth round that a contestant who is cut or injured by legal blows cannot continue, the referee shall announce that the contestant loses by a technical knockout. If the physician determines during or after the fourth round that a contestant who is cut or injured by legal blows cannot continue, the referee shall use the scorecards to determine the winner.

(m) Each referee, when assessing any foul, shall assess how damaging the foul is to the contestant against whom the foul was committed. If the referee assesses a foul on one of the contestants, the referee shall instruct each judge to

deduct one point from that contestant's score for that round.

(n) At the conclusion of each round, the referee shall pick up the scorecard from each judge. When picking up the scorecards from the judges, the referee shall ensure that each scorecard shows each contestant's name and score for that round and the name of the judge. If this information has not been recorded, the judges shall be instructed to complete the scorecards correctly. The referee shall then deliver the official scorecards to the chief inspector.

(o) The referee may request that the attending physician examine a contestant during a bout. The physician may order the referee to stop the bout. The referee shall then render the decision regarding the outcome of the bout.

(p) Before the referee requests the physician to aid or examine a contestant, the referee shall direct the timekeeper to stop the clock until otherwise directed by the referee.

(q) The referee shall ensure that each bout proceeds in a regulated and timely manner. Each contestant who employs delaying or avoidance tactics shall be subject to scoring penalties or disqualification. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186, 74-50,187, and 74-50,193; effective April 4, 2008; amended Dec. 20, 2013.)

**128-4-8. Second.** (a) (1) A maximum of three seconds shall be allowed for each contestant. However, four seconds for each contestant may be authorized by the commission for special events. One of the seconds shall be designated as the chief second, and this designation shall be announced to the referee at the start of the bout.

(2) For boxing contests, only one second for each contestant shall be inside the ring between rounds. For mixed martial arts contests, two of the seconds for each contestant may be inside the fenced-in area during a period of rest. Any other seconds for that contestant may be on the ring platform outside the enclosed area.

(b) Each manager shall be permitted to act as a second without obtaining a second's license if at least one licensed second is also serving that contestant. While acting as a second, the manager shall comply with all regulations pertaining to the conduct of seconds.

(c) A second shall not enter the ring until the timekeeper indicates the end of the round. Each second shall leave the ring at the sound of the

timekeeper's whistle or buzzer before the beginning of each round. If any second enters the ring before the bell ending the round has sounded, the referee shall take action as provided in subsection (l). While the round is in progress, the chief second may mount the apron of the ring and attract the referee's attention to indicate that the contestant is forfeiting the bout. The chief second shall not enter the ring unless the referee stops the bout. No second shall interfere with a count that is in progress.

(d) Except at the request of the physician, no second shall be permitted to aid a stricken contestant.

(e) No second shall stand or lean on the ring apron during a round.

(f) The chief second shall ensure that the following equipment is provided:

- (1) A clear plastic bottle;
- (2) a bucket containing ice;
- (3) adhesive tape;
- (4) gauze;
- (5) a pair of scissors;
- (6) an extra mouthpiece;
- (7) cotton swabs;
- (8) Vaseline® or a similar petroleum-based product;

(9) pressure plates or ice packs; and

(10) a clean white towel.

(g) Only the substances specified in this subsection, if authorized and directed by the physician, may be administered to a contestant by a second. The use of any other substance administered by the second shall disqualify the contestant. The following substances may be administered by a second to a contestant:

- (1) A topical solution of epinephrine 1:1000;
- (2) microfibrillar collagen hemostat; and
- (3) thrombin.

(h) No ammonia or type of smelling salts may be used during a contest or exhibition.

(i) All spraying or throwing of water on a contestant by a second during a period of rest shall be prohibited.

(j) Before leaving the ring at the start of each round, the seconds shall remove all obstructions from the ring floor and ropes, including the buckets, stools, bottles, towels, and robes.

(k) The physician or an inspector may, at any time, inspect the contents of the chief second's first-aid kit.

(l) If any second commits a violation of any regulation relating to seconds, the referee shall issue

a warning to that second. If, after that warning, the second continues to violate any applicable regulation, the referee shall apply the penalties specified in K.A.R. 128-6-1(x), 128-6-2(o), or 128-6-4(o). The referee shall also warn the second that any additional violation may result in disqualification of the contestant.

(m) Any second may choose whether or not to wear rubber or plastic gloves during any bout in which the second is serving a contestant. (Authorized by K.S.A. 2012 Supp. 75-50,187; implementing K.S.A. 2012 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013.)

**128-4-9. Timekeeper.** (a) Each timekeeper shall have the following equipment:

- (1) A bell;
- (2) a horn;
- (3) a clapper;
- (4) a whistle; and
- (5) two stopwatches.

(b) A timekeeper shall be present at each contest and shall perform the following duties:

(1) The timekeeper shall sound the bell at the beginning and end of each round. The timekeeper shall also signal the approaching end of the round to the referee when 10 seconds remain in the round. When 10 seconds remain in the rest period between rounds, the timekeeper shall sound a whistle, bell, buzzer, or horn to warn the referee, contestants, and seconds of the beginning of the next round.

(2) The timekeeper shall keep accurate time for each bout. The timekeeper shall keep an exact record of each time-out taken at the request of a referee for an examination of a contestant by the physician, the replacement of a glove, or the adjustment of any equipment during a round. The timekeeper shall report the exact time at which a bout is stopped for a time-out.

(c) Each timekeeper shall be impartial. No timekeeper shall signal to any contestant or second at any time during a bout. Any timekeeper who fails to meet the requirements of this subsection may be subject to discipline by the commission.

(d) The timekeeper shall be responsible for each knockdown count. The timekeeper shall begin the mandatory count of eight as soon as a contestant has been knocked down. If the knockdown occurs less than 10 seconds before the end of the round, the timekeeper shall not signal to the referee until the referee indicates that the contestant is ready.

(e) The timekeeper for each bout shall be selected by the boxing commissioner and approved by the commission. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013.)

**Article 5.—FACILITY AND EQUIPMENT REQUIREMENTS FOR PROFESSIONAL BOXING, PROFESSIONAL KICKBOXING, PROFESSIONAL FULL-CONTACT KARATE, PROFESSIONAL MIXED MARTIAL ARTS, AMATEUR MIXED MARTIAL ARTS, AND AMATEUR SANCTIONING ORGANIZATIONS**

**128-5-1. Professional boxing, professional kickboxing, professional bare-knuckle fighting, and professional full-contact karate contests.** (a) Each ring used for professional boxing, professional kickboxing, professional bare-knuckle fighting, or professional full-contact karate contests shall consist of an area that is no smaller than 16 by 16 feet square and no larger than 20 by 20 feet square when measured within the ropes. The apron of the ring platform shall extend at least two feet beyond the ropes. The ring platform shall not be more than four feet above the floor of the building or the grounds of an outdoor arena. Steps to the ring shall be provided for the use of the contestants and officials.

(b)(1) Except as specified in paragraph (b)(2), each ring shall be fenced in with at least three ropes and not more than four ropes. Each rope shall be at least one inch in diameter. The ropes may be composed of Manila hemp, synthetic material, plastic, or any other similar material. Each rope shall be wrapped securely in soft material. If three ropes are used, the ropes shall extend in triple parallel lines at the heights of two feet, three feet, and four feet above the platform floor. If four ropes are used, the ropes shall be placed in parallel lines at the following heights:

**Height above the ring floor**

- |                 |           |
|-----------------|-----------|
| (A) Lowest rope | 18 inches |
| (B) second rope | 30 inches |
| (C) third rope  | 42 inches |
| (D) top rope    | 54 inches |

(2) For professional and amateur mixed martial art contests, a ring may have a fifth-rope conversion to meet the requirements of the act.

(3) The ring platform shall be padded with a one-inch layer of Ensolite<sup>®</sup>, foam rubber, or an equivalent closed-cell foam material, which shall be placed on a one-inch base of Celotex<sup>™</sup> or an equivalent type of building board. The padding shall be covered with canvas, duck, or a similar material that is tightly stretched and laced securely in place. Material that tends to gather in lumps or ridges shall not be used for the padding or the covering.

(c) Each ring post shall be at least three inches and not more than four inches in diameter and shall extend from the floor of the building or the ground in an outdoor arena to a minimum height of 58 inches above the ring platform. Each ring post shall be at least 18 inches away from the ring ropes. Each turnbuckle shall be covered with a protective padding.

(d) The promoter shall provide a bell, buzzer, gong, or horn that is sufficiently loud to enable the officials and contestants to hear it clearly.

(e) The spectator seats shall be placed no closer than eight feet from the outside edge of the apron of the ring. A physical barrier shall be placed eight feet outside the ring. The ringside area within that physical barrier shall be under the jurisdiction of the commission and shall be reserved for the sole use of designated working officials and the contestants.

(f) Gloves used in a boxing or kickboxing contest or exhibition shall meet the following requirements and shall be delivered to the commission at least one hour before the commencement of the first match of the event:

(1) Each glove shall weigh at least eight ounces but not more than 16 ounces, except that the weight of the gloves to be used in a championship contest shall be specified by the commission.

(2) The gloves shall be examined by the inspector and the referee. If padding in any glove is found to be misplaced or lumpy or if any glove is found to be imperfect, the glove shall be changed before the event starts. No breaking, roughing, or twisting of any glove shall be permitted.

(3) If the gloves to be used have been used before, they shall be whole, clean, and in sanitary condition. The gloves shall be subject to inspection by the referee and a representative of the commission. If any glove is found to be unfit, it shall be replaced with a glove that meets the requirements of this subsection.

(4) Each promoter shall have an extra set of gloves of the appropriate weight available to be

used if a glove is broken or otherwise damaged during an event.

(5) Each glove shall have the distal portion of the thumb attached to the body of the glove to minimize the possibility of injury to an opponent's eye. (Authorized by K.S.A. 74-50,187; implementing K.S.A. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013; amended Oct. 25, 2019.)

**128-5-2. Professional and amateur mixed martial arts contests.** Each ring used for professional or amateur mixed martial arts contests shall meet either the requirements of K.A.R. 128-5-1 or the following requirements for the fenced-in area:

(a) Each fenced-in area used in a contest of mixed martial arts shall either be circular, with a diameter of at least 20 feet, or have at least four equal sides and be no smaller than 20 feet by 20 feet and no larger than 32 feet by 32 feet.

(b) The supporting platform structure of each fenced-in area shall be made of steel. The ring floor of each fenced-in area shall extend at least 18 inches beyond the ropes. The ring floor shall be padded with Ensolite<sup>®</sup> or another similar type of closed-cell foam, with at least a one-inch layer of foam padding. Padding shall extend beyond the fenced-in area and over the edge of the platform with a top covering of canvas, duck, or similar material tightly stretched and laced to the ring platform. There shall be no open space between the platform floor and the padding connected to the platform side walls. Material that tends to gather in lumps or ridges shall not be used for the floor, padding, or covering.

(c) The platform of each fenced-in area shall not be more than four feet above either the floor on which the platform is located in a building or the grounds of an outdoor arena. The platform and the structure supporting the platform floor shall be made of steel. Steps into the fenced-in area shall be provided for the use of the contestants and officials.

(d) Except for fencing, the fenced-in area shall be secure with no openings or space to allow any body part of a contestant to fit or pass through the area between the platform floor and fence.

(e) Each fence post and all metal components shall be padded and shall be inspected and approved by an inspector.

(f) The fencing used to enclose the fenced-in area shall be made of chain-link fencing that

is coated with vinyl or a similar material and that prevents contestants from falling out of the fenced-in area or breaking through the fenced-in area onto the floor of the building or onto the spectators. The metal portion of the fencing shall not be abrasive to the contestants. The top and bottom rails of the fencing shall have at least one-inch foam padding and shall be covered in vinyl or another nonabrasive material.

(g) The corner padding of each platform shall be covered in vinyl or another nonabrasive material. No Velcro may be used on the platform area. The corner pads shall be secured to the fencing and platform.

(h) Each fenced-in area shall have at least one entrance. Each entrance shall be inspected and approved by the commission.

(i) No objects or materials shall be attached to any part of the fence surrounding the platform on which the contestants are to be competing.

(j) The final determination of whether a cage meets safety standards shall rest with the commission. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013.)

**128-5-3. Approval of nationally recognized amateur sanctioning organization.** (a) Each nationally recognized amateur sanctioning organization seeking approval by the commission shall submit an application on a form provided by the commission. The application shall include information outlining the organization's operational structure, governing rules, the name of a person responsible for communicating with the commission, and any other information deemed necessary by the commission. The applicant may be required by the commission to appear before it for a hearing on the application.

(b) Each nationally recognized amateur sanctioning organization approved to supervise an amateur event shall meet the following requirements:

(1) Demonstrate that all contestants are tested for HIV, hepatitis BsAG, and hepatitis Cab within 12 months of the date of any scheduled contest;

(2) demonstrate that all contestants undergo a complete physical examination within one year of the date of any scheduled contest and that all examining physicians are aware that the contestants compete in combative sports;

(3) demonstrate that the promoter of each event has a policy of accident insurance on each partici-

pating contestant in the amount of at least \$5,000 to compensate the contestant for any medical or hospital expenses incurred as the result of injuries received in the match and a policy in the amount of at least \$50,000 to be paid to the estate of the deceased contestant if the contestant dies as a result of participating in a match. The organization shall also demonstrate that the premiums on the policies are paid by the promoter and the terms of the insurance coverage do not require the contestant to pay a deductible for the medical, surgical, or hospital care for injuries that the contestant sustains while engaged in a contest;

(4) demonstrate that the organization requires shin guards for any striking or kicking;

(5) demonstrate that the organization does not enter into any exclusivity agreements with any promoters, contestants, or officials that prevent the promoters, contestants, or officials from working with other organizations; and

(6) demonstrate that the organization requires at least six-ounce gloves to be worn by the contestants.

(c) Before sanctioning any amateur events, each approved nationally recognized amateur sanctioning organization shall file with the commission a copy of the governing rules. The organization may be directed by the commission to amend its governing rules at any time. Failure to enforce the submitted and approved governing rules may be grounds for revocation of the organization's approval. The approval of any organization may be revoked or suspended by the commission, after a hearing. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186, 74-50,187, and 74-50,195; effective Dec. 20, 2013.)

**Article 6.—RULES OF CONDUCT  
AND EQUIPMENT REQUIREMENTS  
FOR PROFESSIONAL BOXING,  
PROFESSIONAL KICKBOXING,  
PROFESSIONAL FULL-CONTACT  
KARATE, AND PROFESSIONAL MIXED  
MARTIAL ARTS**

**128-6-1. Professional boxing.** Each professional boxing contest shall be conducted in accordance with this regulation. (a) Each bout of professional boxing shall consist of at least four rounds but no more than 12 rounds. Each round involving male contestants shall be no more than three minutes in length, with a one-minute rest

period between rounds. Each round involving female contestants shall be no more than two minutes in length, with a one-minute rest period between rounds.

(b) The schedule for each professional boxing contest may include a main bout consisting of at least six rounds and at least one co-main event consisting of at least six rounds. All other bouts shall be at least four rounds each. Any contest may have a minimum of four bouts with a total of at least 24 rounds.

(c) No professional boxing bout shall be advertised or promoted as a championship bout unless the commission specifically approves the bout as a championship bout.

(d) A boxing contestant shall not participate in a boxing, kickboxing, karate, or mixed martial arts bout in Kansas for at least seven days following a previous bout in Kansas or in any other jurisdiction.

(e) A boxing contestant whose license is currently suspended or has been revoked by the commission or any other athletic commission, domestic or foreign, shall not participate in any bout in Kansas until the suspension is lifted or until the license is reinstated.

(f) If a bout is deemed by the commission to be a mismatch that could expose one or both contestants to serious injury based on the record, experience, skill, or condition of each of the contestants, the bout shall be disapproved and cancelled by the commission.

(g) The schedule of weight classifications shall be as follows:

Classification	Weight
(1) Strawweight	up to and through 105 pounds
(2) Light flyweight	over 105 and through 108 pounds
(3) Flyweight	over 108 and through 112 pounds
(4) Super flyweight	over 112 and through 115 pounds
(5) Bantamweight	over 115 and through 118 pounds
(6) Super bantamweight	over 118 and through 122 pounds
(7) Featherweight	over 122 and through 126 pounds
(8) Super featherweight	over 126 and through 130 pounds
(9) Lightweight	over 130 and through 135 pounds
(10) Super lightweight	over 135 and through 140 pounds

(11) Welterweight	over 140 and through 147 pounds
(12) Super welterweight	over 147 and through 154 pounds
(13) Middleweight	over 154 and through 160 pounds
(14) Super middleweight	over 160 and through 168 pounds
(15) Light heavyweight	over 168 and through 175 pounds
(16) Cruiserweight	over 175 and through 195 pounds
(17) Heavyweight	over 195 pounds

(h) Each contestant shall be weighed by the boxing commissioner or the boxing commissioner's designee within 48 hours before the contest. The contestant shall have all weights stripped from the contestant's body before the contestant is weighed in, but any female contestant may wear shorts and a top. If a contestant's weight does not fall within the range for the weight classification of the contested weight in which the contestant is scheduled to compete in that contest, the contestant shall be reweighed within two hours. If the contestant's weight still does not fall within the range for that weight category, the contestant shall be disqualified by the boxing commissioner.

(i) Any contestant may be required by the commission to be reweighed one additional time if doubt concerning the contestant's actual weight exists.

(j) For each boxer whose weight exceeds the maximum amount, one or more of the following shall be determined by the commission:

(1) The boxer shall be allowed to lose up to two pounds of the boxer's existing weight.

(2) The boxer shall forfeit a portion of the purse.

(3) The boxer shall forfeit the contest.

(k) Each subsequent weigh-in shall be conducted at the venue of the event, before the commencement of the event, as directed by the commission. Any boxer, or the boxer's designee, may be present to witness the weigh-in of the opponent.

(l) No boxing contest or exhibition may be scheduled, and no boxer may engage in a boxing contest or exhibition, without the approval of the commission if the difference in weight between both boxers exceeds the allowance shown in the following schedule:

Weight Group	Allowance
(1) up to and through 118 lbs.	not more than 3 lbs.

- (2) over 118 lbs. and through 126 lbs. not more than 5 lbs.
- (3) over 126 lbs. and through 135 lbs. not more than 7 lbs.
- (4) over 135 lbs. and through 147 lbs. not more than 9 lbs.
- (5) over 147 lbs. and through 160 lbs. not more than 11 lbs.
- (6) over 160 lbs. and through 175 lbs. not more than 12 lbs.
- (7) over 175 lbs. and through 195 lbs. not more than 20 lbs.
- (8) over 195 lbs. no limit

(m) After the time of the weigh-in, weight loss in excess of two pounds of the weight that the contestant had at the weigh-in shall not be permitted and shall not occur later than one hour after the boxer's initial weigh-in.

(n) Contestants scheduled to compete against one another may mutually agree to waive the requirements of subsection (j). This agreement shall be evidenced by a provision in the respective bout agreement and initialed by the contestants. The provision shall also provide notice to the contestants that there will be no restriction as to the amount of weight that the opponent may put on after the initial weigh-in and before the scheduled match.

(o) A one-pound allowance in the weight agreed upon in the bout agreement may be allowed by the commission. The one-pound allowance shall still be within the weight limits specified in subsection (l). No allowance shall be made for a championship bout.

(p) Any contestant who fails to appear at the appointed place and at the specified time to be examined and weighed or who leaves the designated area without permission of the commission before the weigh-in or the physical examination is completed may be subject to discipline by the commission, including suspension of license.

(q) For each failure to make weight as specified in this regulation, the contestant may be subject to penalties and sanctions, a fine, and a suspension or revocation of the contestant's license.

(r) Except as otherwise provided by this regulation, during the two hours following the time of weighing in, if a contestant is able to make the weight or weighs one pound or less outside the agreed limits, no forfeit may be imposed or fine assessed upon the contestant.

(s) If a contestant is unable due to illness to take part in a contest or exhibition in which the contestant has agreed to fight, the contestant shall im-

mediately report the fact to the commission and, if requested by the commission, shall submit to an examination by a physician. The fee for the physician's examination shall be paid by the promoter if an examination is requested. Otherwise, the fee shall be paid by the contestant.

(t) The weight of each contestant or the classification in which each contestant will compete, or both, shall be announced at ringside.

(u) Each contestant's equipment shall meet the following requirements:

(1) Bandages on the hand of a contestant shall not exceed one winding of surgeon's adhesive tape, which shall not be over two inches wide, placed directly on the hand to protect the part of the hand near the wrist. The tape shall cross the back of the hand twice, but shall not extend within  $\frac{3}{4}$  inch of the knuckles when the hand is clenched to make a fist.

(2) Each contestant shall use soft surgical bandage not over two inches wide, held in place by not more than 10 feet of surgeon's adhesive tape for each hand. Up to one 15-yard roll of gauze bandage shall be used to complete the wrappings for each hand. Strips of tape may be used between the fingers to hold down the bandages.

(3) Each bandage of the contestant shall be applied in the presence of both an inspector and the other contestant.

(4) Each hand wrapping placed on a contestant shall be examined and approved by an inspector. Each approved hand wrap shall be initialed by the inspector who examined it. The opponent may be present.

(5) Either contestant may witness the bandage and hand wrapping of the contestant. A contestant may waive the witnessing the bandaging or hand wrapping of the opponent's hands.

(6) The weight of each glove shall be at least eight ounces and not more than 16 ounces, and each glove shall have the thumb attached.

(7) Each contestant shall be gloved only in the presence of an inspector. The tape around the string of each approved glove shall be initialed by the inspector.

(8) No contestant or second shall twist or manipulate that contestant's gloves in any way. If a glove breaks or a string becomes untied during the bout, the referee shall instruct the timekeeper to signal a time-out while the glove is being adjusted.

(9) Each contestant's gloves shall be inspected by the referee of each bout. The referee shall ascertain that no foreign substances detrimental to

an opponent have been applied to the gloves of any contestant. If the referee detects a problem with the gloves or any other equipment, the problem shall be fixed to the satisfaction of the referee and the inspector before the bout continues.

(10) Each contestant shall wear boxing-appropriate attire and protective devices, including a dental appliance or mouthpiece that has been individually fitted and approved by the boxing commissioner. Each male contestant shall wear a protective cup. Each contestant shall wear an abdominal protector, which shall protect the contestant against injury from a foul blow. The abdominal protector shall not cover or extend above the umbilicus. Each female contestant shall wear a protective pelvic girdle and either a plastic breast protector or a sport bra.

(11) The belt of the shorts shall not extend above the waistline. Shorts shall be without pockets or openings and shall be subject to approval by the chief inspectors.

(12) For each bout, male contestants shall not wear the same colors in the ring or, if the contest or exhibition is being held in a fenced area, without the approval of the chief inspector. Female contestants shall have two uniforms in contrasting colors, with each uniform consisting of a body shirt, blouse, and shorts.

(13) Contestants shall not use any cosmetic when competing.

(14) The inspector shall determine whether head or facial hair presents any hazard to the safety of a contestant or contestant's opponent or will interfere with the supervision of the contest or exhibition. A contestant shall not compete in the contest or exhibition unless the circumstances creating the hazard or potential interference are corrected to the satisfaction of the inspector.

(15) A contestant shall not wear any jewelry or any piercing accessories when competing in the contest or exhibition.

(16) The contestants' fingernails and thumbnails shall not extend past the tip of the fingers and thumbs.

(17) Only Vaseline® or a similar petroleum-based product may be lightly applied to the face, arms, or any other exposed part of a contestant's body.

(v) Before starting a bout, the referee shall ascertain from each contestant the name of the contestant's chief second. Before each bout, the referee shall call together both of the contestants and their chief seconds for final instructions.

(w) No person other than the contestants and the referee shall enter the ring during a bout. A second or manager shall not stand or engage in any distracting actions while the bout is in progress. For each contestant's seconds and manager, a combined total of two warnings for violating any requirement of this subsection shall result in the removal of the seconds and manager from the ringside area, all of whom may be subject to discipline by the commission.

(x) Each preliminary contestant shall be ready to enter the ring immediately after the end of the preceding bout. Any contestant who is not ready to immediately proceed when called and, as a result, causes a delay may be subject to discipline by the commission.

(y) Before the referee requests the physician to aid or examine a contestant, the referee shall direct the timekeeper to stop the clock until otherwise directed by the referee.

(z) Any serious cuts or injuries to either contestant shall be treated by the physician. The physician shall determine whether to continue the bout as follows:

(1) The physician may enter the ring if requested by the referee to examine an injury to a contestant.

(2) If serious cuts or injuries to either contestant occur, the referee shall summon the physician, who shall aid the contestant and decide if the bout will be stopped. The final authority to determine whether to continue the bout shall rest with the physician.

(3) If the physician determines that a contestant who is cut or injured by legal blows cannot continue, the referee shall announce that contestant loses by a technical knockout.

(4) The referee may request that the attending physician examine a contestant during the bout. The physician may order the referee to stop the bout. The referee shall then render the appropriate decision regarding the outcome of the bout in accordance with K.A.R. 128-4-7.

(5) Except at the request of the physician, no manager or second shall be permitted to aid a stricken contestant.

(aa) If a contestant loses a dental appliance or mouthpiece during a round, the referee may call a time-out. If the referee calls a time-out for this reason, the referee shall direct the contestant's second to replace the dental appliance or mouthpiece.

(bb) Before a contestant may resume competing after having been knocked down or having

fallen or slipped to the floor of the ring, the referee shall wipe the gloves of the contestant with a damp towel or the referee's shirt.

(cc) A boxer shall be deemed to be down when either of the following occurs:

(1) Any part of the boxer's body other than the feet is on the floor.

(2) The boxer is hanging over the ropes without the ability to protect that boxer, and the boxer cannot fall to the floor.

(dd) When a boxer is knocked down, the referee shall order the opponent to retire to the farthest neutral corner of the ring, by pointing to the corner, and shall immediately begin the count over the contestant who is down. The referee shall audibly announce the passing of the seconds and accompany the count with motions of the referee's arm, with the downward motion indicating the end of each second.

(ee) The timekeeper, by signaling, shall give the referee the correct one-second interval for the referee's count. The referee's count shall be the official count. Once the referee picks up the count from the timekeeper, the timekeeper shall cease counting. No boxer who is knocked down may be allowed to resume competing until the referee has finished counting to 10. The boxer may take the count either on the floor or standing.

(ff) If the opponent fails to stay in the farthest corner, the referee shall cease counting until the contestants have returned to their corners and shall then resume the count from the point at which the count was interrupted. If the boxer who is down arises before the count of 10, the referee may step between the contestants long enough to assure the referee that the contestant who has just arisen is in a condition to continue. If so assured, the referee shall, without loss of time, order both contestants to go on with the contest or exhibition. During the intervention by the referee, the striking of a blow by either contestant may be ruled a foul.

(gg) When a boxer is knocked out, the referee shall perform a full 10-second count unless, in the judgment of the referee, the safety of the boxer would be jeopardized by such a count. If the boxer who is knocked down is still down when the referee calls a count of 10, the referee shall wave both arms to indicate that the downed contestant has been knocked out.

(hh) If both contestants go down at the same time, the count shall continue as long as one contestant is still down. If both contestants remain

down until the count of 10, the contest or exhibition shall be stopped and the decision shall be a technical draw.

(ii) If a boxer is down and the referee is in the process of counting at the end of a round, the bell indicating the end of a round shall not be sounded, but the bell shall be sounded as soon as the downed contestant stands up.

(jj) When a contestant has been knocked down before the normal termination of a round and the round is terminated before the contestant has arisen from the floor of the ring, the referee's count shall continue. If the contestant who is down fails to arise before the count of 10, the contestant shall be considered to have lost the contest or exhibition by a knockout in the round that just concluded.

(kk) If a legal blow struck in the final seconds of a round causes a contestant to go down after the bell has sounded, that knockdown shall be regarded as having occurred during the round just ended and the appropriate count shall continue.

(ll) If a knockdown occurs before the normal termination of a round and the contestant who is down stands up before the count of 10 is reached and then falls down immediately without being struck, the referee shall resume the count from the point at which the count was left off.

(mm) A contest or exhibition may be adjudged a technical knockout to the credit of the winner if the contest or exhibition is terminated because a boxer meets any of the following conditions:

- (1) Is unable to continue;
- (2) is not honestly competing;
- (3) is injured; or
- (4) is disqualified.

(nn) Each contest or exhibition that is won by other than a full count of 10 or the scoring of the judges shall be adjudged a technical knockout to the credit of the winner.

(oo) A referee may count a contestant out if the contestant is on the floor or being held up by the ropes.

(pp) Each contestant who has been knocked out shall be kept lying down until the contestant has recovered. If a contestant is knocked out, no one other than the referee and the physician shall touch the contestant. The referee shall remove the injured contestant's mouthpiece and stay with the contestant until the ringside physician enters the ring, personally attends to the contestant, and issues any necessary instructions to the contestant's second.

(qq) Each of the following tactics or actions shall be an intentional foul:

- (1) Hitting the opponent below the belt;
- (2) hitting an opponent who is down or is getting up after being down;
- (3) holding the opponent with one hand and hitting the opponent with the other hand;
- (4) holding the opponent or deliberately maintaining a clinch;
- (5) wrestling or kicking the opponent;
- (6) striking an opponent who is helpless as the result of blows but is supported by the ropes and does not fall;
- (7) butting the opponent with the head, shoulder, or knee;
- (8) hitting the opponent with the open glove, with the butt of the hand, with the wrist or the elbow, or with backhand blows;
- (9) going down without being hit;
- (10) striking the opponent's body over the kidneys;
- (11) hitting the opponent on the back of the head or neck;
- (12) jabbing the opponent's eyes with the thumb of the glove;
- (13) using abusive language in the ring;
- (14) hitting during a break, which is signaled by the referee's command or physical act to separate two contestants;
- (15) hitting the opponent after the bell has sounded, ending the round;
- (16) using the ropes to gain an advantage over the opponent;
- (17) pushing the opponent around the ring or into the ropes;
- (18) spitting out the mouthpiece;
- (19) biting the opponent; and
- (20) engaging in any other action not described in this subsection that is deemed an intentional foul by the referee on the basis that the action poses a danger to the safety of either contestant, impedes fair and competitive play, or is unsportsmanlike.

(rr)(1) If a boxer fouls the opponent during a contest or exhibition or commits any other infraction, the referee may penalize the boxer by deducting points from boxer's score, whether or not the foul or infraction was intentional. The referee may determine the number of points to be deducted in each instance and shall base the determination on the severity of the foul or infraction and its effect upon the opponent.

(2) If the referee determines that it is necessary to deduct a point or points because of a foul or

infraction, the referee shall warn the offender of the penalty to be assessed.

(3) The referee shall, as soon as is practical after the foul, notify the judges and both boxers of the number of points, if any, to be deducted from the score of the offender.

(4) Each point to be deducted for any foul or infraction shall be deducted in the round in which the foul or infraction occurred. These points shall not be deducted from the score in any subsequent round.

(ss) A contestant shall not be declared the winner of a contest or exhibition on the basis of that contestant's claim that the opponent committed a foul by hitting the contestant below the belt. If a contestant falls to the floor of the ring or otherwise indicates that the contestant is unwilling to continue because of an overruled claim of a low blow, the contest or exhibition shall be declared to be a technical knockout in favor of the boxer who is willing to continue.

(tt) Any boxer guilty of a foul in a contest or exhibition may be disqualified by the referee, and the boxer's purse may be ordered withheld by the commission. Disposition of the purse and the penalty to be imposed upon the boxer shall be determined by the commission.

(uu) If the referee determines that a contest or exhibition shall not continue because of an injury caused by an intentional foul, the boxer who committed the intentional foul shall lose by disqualification.

(vv) If the referee determines that a contest or exhibition may continue despite an injury caused by an intentional foul, the boxer who committed the intentional foul shall lose by disqualification.

(ww) If an injury caused by an intentional foul results in the contest or exhibition being stopped in a later round, one of the following shall apply:

(1) The injured contestant shall win by technical decision if that individual is ahead on the scorecards.

(2) The contest or exhibition shall be declared a technical draw if the injured boxer is behind or even on the scorecards.

(xx) If a boxer is injured while attempting to foul the boxer's opponent, the referee shall not take any action in the boxer's favor and the injury shall be treated the same as an injury produced by a fair blow.

(yy) If a contest or exhibition is stopped because of an accidental foul, the referee shall determine whether the boxer who has been fouled can con-

tinue. If the boxer's chance of winning has not been seriously jeopardized as a result of a foul and if the foul did not involve a concussive impact to the head of the contestant who was fouled, the referee may order the contest or exhibition to be continued after a reasonable interval. Before the contest or exhibition resumes, the referee shall inform the commission of the referee's determination that the foul was accidental.

(zz) If the referee determines that a contest or exhibition shall not continue because of an injury suffered as a result of an accidental foul, the contest or exhibition shall be declared a no-contest decision if the foul occurs during either of the following:

(1) The first three rounds of a contest or exhibition that is scheduled for six rounds or less; or

(2) the first four rounds of a contest or exhibition that is scheduled for more than six rounds.

(aaa) The outcome of a contest or exhibition shall be determined by scoring the completed rounds and the round during which the referee stops the contest or exhibition if an accidental foul renders a boxer unable to continue the contest or exhibition after either of the following:

(1) The completed third round of a contest or exhibition that is scheduled for six rounds or less; or

(2) the completed fourth round of a contest or exhibition that is scheduled for more than six rounds.

(bbb) If an injury inflicted by an accidental foul later becomes aggravated by fair blows and the referee orders the contest or exhibition stopped because of the injury, the outcome shall be determined by scoring the completed rounds and the round during which the referee stops the contest or exhibition.

(ccc) A contestant shall not leave the ring or, if the contest or exhibition is being held in a fenced area, the fenced area, during any period of rest that follows each round. If any contestant fails or refuses to resume competing when the bell sounds signaling the commencement of the next round, the referee shall award a decision of technical knockout to the contestant's opponent at the round that has last been finished, unless the circumstances indicate to the commission the need for investigation or punitive action, in which case the referee shall not give a decision and shall recommend that the purse or purses of either or both contestants be withheld.

(ddd) If a contestant has been knocked or has fallen through the ropes and over the edge of the

ring platform during a contest or exhibition, both of the following shall apply:

(1) The contestant may be helped back by anyone except the contestant's seconds or manager. The referee shall stop the clock, assess the contestant's condition, and resume time once the contestant is able to safely reenter the ring.

(2) The contestant shall be given 20 seconds to return to the ring.

(eee) For a contestant who has been knocked or has fallen on the ring platform outside the ropes but not over the edge of the ring platform, both of the following shall apply:

(1) The contestant shall not be helped back by anyone, including the contestant's second and manager. The referee may stop the clock and assess the situation until the contestant is able to return to the ring.

(2) The contestant shall be given 10 seconds to regain the contestant's feet and get back into the ring.

(fff) If the second or manager of a contestant who has been knocked down or has fallen helps the contestant back into the ring, this help may be cause for disqualification.

(ggg) If one contestant has fallen through the ropes, the other contestant shall retire to the farthest corner and stay there until ordered by the referee to continue the contest or exhibition.

(hhh) Any contestant who deliberately wrestles or throws an opponent from the ring or who hits an opponent when the opponent is partly out of the ring and is prevented by the ropes from assuming a position of defense may be penalized.

(iii) At the termination of each contest or exhibition, the announcer shall announce the winner and the referee shall raise the hand of the winner.

(jjj) A decision rendered at the end of any contest or exhibition shall not be changed by the commission, unless one of the following occurs:

(1) The commission determines that there was collusion affecting the result of the contest or exhibition.

(2) The compilation of the scorecards of the judges discloses an error showing that the decision was given to the wrong contestant.

(3) The referee has rendered an incorrect decision as the result of an error in interpreting a provision of these regulations.

(kkk) Each judge of a boxing contest shall score the contest and determine the winner through the use of the ten-point must system as follows:

(1) The better boxer of each round shall receive 10 points and the opponent proportionately less.

(2) If the round is even, each boxer shall receive 10 points.

(3) No fraction of a point may be given.

(4) Points for each round shall be awarded immediately after the end of the round.

(III)(1) After the end of the boxing contest or exhibition, the announcer shall pick up the scores of the judges from the commission's desk. The majority opinion shall be conclusive and, if there is no majority opinion, the decision shall be a draw.

(2) When the inspector has checked the scores, the inspector shall inform the announcer of the decision, and the announcer shall inform the audience of the decision over the speaker system.

(3) Incomplete rounds shall be scored by the judges. If the referee penalizes either contestant in an incomplete round, the appropriate points shall be deducted. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013.)

**128-6-4. Professional mixed martial arts contests.** Except as otherwise specified in this regulation, each professional mixed martial arts contest shall be conducted in accordance with this regulation. If a contestant is a professional in boxing, kickboxing, or karate, the contestant shall compete only as a professional in any mixed martial arts contest.

(a) Each contest shall be limited to those forms of martial arts that consist of unarmed combat.

(b) Except with the prior approval of the commission, a nonchampionship bout shall not exceed three rounds in duration. Each championship bout shall be five rounds in duration. Each contest shall consist of at least four bouts.

(c) Each round during a bout of professional mixed martial arts shall be five minutes in duration. Each period of rest following a round of combat shall be one minute in duration.

(d) Each contestant shall be weighed by the commissioner or designee within 48 hours before the contest. If a contestant's weight does not fall within the range for the weight classification in which the contestant is scheduled to compete in that contest, the contestant shall be reweighed within two hours. If the contestant's weight does not then fall within the range for that weight classification, the contestant shall be disqualified by the boxing commissioner.

(e) A mixed martial arts contestant shall not participate in a boxing, kickboxing, full-contact

karate, or professional mixed martial arts bout in Kansas for at least seven days following a previous bout in Kansas or in any other jurisdiction.

(f) Each contestant shall fight only opponents who are in the contestant's weight classification. A bout between two contestants in different weight classifications may be approved by the commission if the difference between the weights of the two contestants does not exceed nine pounds, except for heavyweights and super heavyweights.

(g) The schedule of weight classifications shall be as follows:

Classification	Weight
(1) Atomweight	over 95 and through 105 pounds
(2) Strawweight	over 105 and through 115 pounds
(3) Flyweight	over 115 and through 125 pounds
(4) Bantamweight	over 125 and through 135 pounds
(5) Featherweight	over 135 and through 145 pounds
(6) Lightweight	over 145 and through 155 pounds
(7) Welterweight	over 155 and through 170 pounds
(8) Middleweight	over 170 and through 185 pounds
(9) Light heavyweight	over 185 and through 205 pounds
(10) Heavyweight	over 205 and through 265 pounds
(11) Super heavyweight	over 265 pounds

(h) If a substitute contestant is scheduled for a bout, the substitute contestant shall be subject to the same physical examination requirements as those for the original contestant, and the substitute contestant shall be approved by both the physician and the commission.

(i) Any contestant who fails to appear at the appointed place and at the specified time to be examined and weighed or who leaves the designated area without the permission of the commission before the weigh-in or the physical examination is complete may be subject to discipline by the commission.

(j) If a bout is deemed by the commission to be a mismatch that could expose one or both contestants to serious injury based on the record, experience, skill, or condition of each of the contestants,

the bout shall be disapproved and cancelled by the boxing commissioner.

(k) The weight of each contestant or the classification in which the contestant will compete, or both, shall be announced at ringside.

(l) Each contestant's equipment shall meet the following requirements:

(1) Each contestant shall wear mixed martial arts-appropriate attire and protective devices, including a dental appliance or a mouthpiece approved by the commissioner. Each male contestant shall wear a protective cup. Each female contestant shall wear a protective pelvic girdle and either a short-sleeved or sleeveless formfitting rash guard or a sports bra. Any female contestant may also wear a plastic breast protector. Contestants shall not wear shoes or any padding on their feet during the contest.

(2) Only Vaseline® or a similar petroleum-based product may be lightly applied to the face, arms, or any other exposed part of a contestant's body.

(m) Only officials and members of the media may enter into the contestants' dressing rooms or area.

(n) Each contestant shall be ready to enter the ring immediately after the end of the preceding bout. Any contestant who is not ready to immediately proceed when called and, as a result, causes a delay may be subject to discipline by the commission.

(o) No person other than the contestants and the referee shall enter the ring during a bout. A second or manager shall not stand or engage in distracting actions while the bout is in progress. For each contestant's seconds and manager, a combined total of two warnings for violating any requirement of this subsection shall result in the removal of the seconds and manager from the ringside area, all of whom shall be subject to discipline by the commission.

(p) Before starting a bout, the referee shall call together both of the contestants and the chief seconds for final instructions.

(q) Each of the following acts shall constitute an intentional foul in a contest:

- (1) Using a head butt;
- (2) gouging the opponent's eye in any manner;
- (3) biting the opponent;
- (4) pulling the opponent's hair;
- (5) attacking the opponent's groin in any manner;
- (6) putting a finger into any orifice of the opponent or into any cut or laceration on an opponent, including fishhooking;

(7) manipulating any of the opponent's joints in the fingers or toes;

(8) striking the opponent's spine or the back of the opponent's head;

(9) striking downward using the point of the elbow;

(10) striking the opponent's throat, including grabbing the trachea;

(11) clawing, pinching, or twisting the opponent's flesh;

(12) in the standing position, moving the arm toward the opponent with an open hand and fingertips pointed at the opponent's face or eyes;

(13) kicking or kneeing the head of a grounded opponent. An opponent shall be deemed grounded if any part of the body, other than a single hand and soles of the feet, is touching the fighting area floor;

(14) stomping a grounded opponent;

(15) thrusting an opponent to the canvas on the opponent's head or neck;

(16) throwing an opponent out of the ring or fenced area;

(17) holding the shorts or gloves of an opponent;

(18) spitting at an opponent;

(19) engaging in any unsportsmanlike conduct that causes an injury to an opponent;

(20) using the ropes or fence to gain an advantage over the opponent;

(21) using abusive language in the ring or fenced area;

(22) attacking an opponent on or during a break, which is signaled by the referee's command or physical act to separate two contestants;

(23) attacking an opponent who is under the care of the referee;

(24) attacking an opponent after the bell has sounded the end of the round;

(25) disregarding the instructions of the referee;

(26) competing in a noncombative manner, including avoiding contact with an opponent, consistently dropping the mouthpiece, or faking an injury;

(27) abandoning the contest during competition; and

(28) engaging in any other action not described in this subsection that is deemed an intentional foul by the referee on the basis that the action poses a danger to the safety of either contestant, impedes fair and competitive play, or is unsportsmanlike.

(r)(1) If a contestant or the contestant's second commits any intentional foul, the contestant may have points deducted or be disqualified.

(2) The referee may penalize the contestant by directing the judges to deduct points from the contestant's score for that round, whether or not the foul was an intentional foul. Except as otherwise provided by this regulation, the referee may determine the number of points to be deducted for each intentional foul and shall base that determination on the severity of the foul and its effect upon the opponent.

(3) If the referee determines that it is necessary to deduct one or more points because of an intentional foul or an accidental foul, the referee shall inform the offender of the penalty to be assessed and, as soon as it is practical after the foul, notify the judges and both contestants of the number of points to be deducted from the offender's score.

(4) All points deducted from a contestant's score for any intentional foul or any accidental foul shall be deducted in the round in which the foul occurred. These points shall not be deducted from the score of any subsequent round.

(s) If a contestant loses a mouthpiece during a bout, the referee may call a time-out. If the referee calls a time-out for this reason, the referee shall direct the contestant's second to replace the mouthpiece.

(t) If a contestant claims to be injured during the bout, the referee may request that the physician examine the contestant. If the physician decides that the contestant has been injured and should not continue, the physician shall so advise the referee.

(u)(1) If a round is interrupted because of an accidental foul, the physician shall determine whether the contestant who has been fouled can continue. If the physician determines that the injured contestant's chance of winning has not been seriously jeopardized as a result of the accidental foul and that the foul did not involve a concussive impact to the head of the injured contestant, the referee may order the contestants to continue the round after a recuperative interval of not more than five minutes. Immediately after separating the contestants, the referee shall inform the inspector or other representative of the commission of the referee's determination that the foul was an accidental foul.

(2) If the physician determines that a contest cannot continue due to an injury caused by an accidental foul during the first two rounds of a contest that is scheduled for three rounds or less or during the first three rounds of a contest that is

scheduled for more than three rounds, the referee shall declare a no-contest decision.

(3) If the physician determines that an accidental foul has rendered a contestant unable to continue the contest after completion of the second round of a contest that is scheduled for three rounds or less or after completion of the third round of a contest that is scheduled for more than three rounds, the outcome shall be determined by scoring both the completed rounds and the round during which the referee stops the contest. The contest shall be awarded to the contestant who has the higher score when the contest is stopped.

(4) If an injury inflicted by an accidental foul later becomes aggravated by any legal blow and the physician orders the contest stopped because of that injury, the outcome shall be determined by scoring both the completed rounds and the round during which the referee stops the contest. The contest shall be awarded to the contestant who has the higher score when the contest is stopped.

(v) Each contestant who fails to engage an opponent shall receive an immediate warning from the referee. If the contestant continues to fail to engage the opponent after a warning, the referee shall direct each of the judges to deduct a point from the contestant's score for that round.

(w) If a contestant fails to resume fighting when the bell sounds starting the next round, the referee shall award a technical knockout to the contestant's opponent.

(x) Each contest shall end with one of the following outcomes:

- (1) A technical knockout;
- (2) a decision by the judges consisting of one of the following:
  - (A) A unanimous decision;
  - (B) a split decision;
  - (C) a majority decision;
  - (D) a unanimous draw;
  - (E) a majority draw;
  - (F) a split draw;
  - (G) a technical decision; or
  - (H) a technical draw; or
- (3) a decision by the referee consisting of one of the following:
  - (A) A disqualification;
  - (B) a forfeit;
  - (C) a no-contest decision; or
  - (D) a submission, either verbally or by tapout.

(Authorized by K.S.A. 2016 Supp. 74-50,187; implementing K.S.A. 2016 Supp. 74-50,186 and

74-50,187; effective April 4, 2008; amended, T-128-12-20-16, Jan. 1, 2017; amended April 21, 2017.)

**128-6-6. Grappling.** The north American grappling association’s “no gi rules,” dated January 31, 2012, is hereby adopted by reference, except for the following portions:

(a) In the table on page 11, the two rows of text applicable to “Kids (ages 13 and under) & Teens (ages 14-17) Novice, Beginner & Intermediate” and “Kids (ages 13 and under) & Teens (ages 14-17) Expert”;

(b) on pages 15 and 16, the text titled “Kids and Teens No-Gi Competitors”;

(c) on pages 17 and 18, the column titled “Kids & Teens (Kids Novice Divisions DO NOT ALLOW Submissions)”;

(d) on page 19, the “Note.” (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186 and 74-50,187; effective Dec. 20, 2013.)

**128-6-7. Pankration.** The rule book by the U.S.A. federation of pankration athlima titled “class ‘B’ limited contact pankration aka combat grappling,” dated March 1, 2012, is hereby adopted by reference, except for the following portions:

(a) Article VI;

(b) article VII;

(c) article VIII;

(d) article X; and

(e) the following text at the bottom of the last page: “Copyright© 2010 USA Federation of Pankration Athlima. All rights reserved. Personal use of this material, including one hard copy reproduction, is permitted. Permission to reprint, republish and/or distribute this material in whole or in part for any other purposes must be obtained from the USA Federation of Pankration Athlima. For information on obtaining permission email: jfrank128@cox.net.” (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186 and 74-50,187; effective Dec. 20, 2013.)

**128-6-8. Professional bare-knuckle fighting.** Each professional bare-knuckle fighting (BKF) contest, also known as a professional bare-knuckle boxing contest, shall be conducted in accordance with this regulation.

(a) Each bout of professional BKF shall consist of at least four rounds but no more than 12 rounds. Each round shall be no more than two

minutes in length, with a one-minute rest period between rounds.

(b) No professional BKF bout shall be advertised or promoted as a championship bout unless the commission specifically approves the bout as a championship bout.

(c) A BKF contestant shall not participate in a boxing, BKF, kickboxing, karate, or mixed martial arts bout in Kansas for at least seven days following a previous bout in Kansas or in any other jurisdiction.

(d) A BKF contestant whose license is currently suspended or has been revoked by the commission or any other athletic commission, domestic or foreign, shall not participate in any bout in Kansas until the suspension is lifted or until the license is reinstated.

(e) If a bout is deemed by the commission to be a mismatch that could expose one or both contestants to serious injury based on the record, experience, skill, or condition of each of the contestants, the bout shall be disapproved and cancelled by the commission.

(f) The schedule of weight classifications shall be as follows:

<b>Classification</b>	<b>Weight</b>
(1) Atomweight	over 105 and through 115 pounds
(2) Strawweight	over 115 and through 125 pounds
(3) Flyweight	over 125 and through 135 pounds
(4) Bantamweight	over 135 and through 145 pounds
(5) Featherweight	over 145 and through 155 pounds
(6) Lightweight	over 155 and through 165 pounds
(7) Welterweight	over 165 and through 175 pounds
(8) Middleweight	over 175 and through 185 pounds
(9) Light heavyweight	over 185 and through 200 pounds
(10) Cruiserweight	over 200 and through 225 pounds
(11) Heavyweight	over 225 and through 265 pounds
(12) Super heavyweight	over 265 pounds

(g) Each contestant shall be weighed by the commissioner or the commissioner’s designee.

nee within 48 hours before the contest. During the weigh-in, each male contestant shall have only his body on the scale, without any attire or equipment, but any female contestant may wear shorts and a top. If a contestant's weight does not fall within the range for the weight classification of the contested weight in which the contestant is scheduled to compete, the contestant shall be reweighed within two hours. If the contestant's weight still does not fall within the range for that weight category, the contestant may be disqualified by the commissioner for the safety of both contestants.

(h) Any contestant may be required by the commission to be reweighed one additional time if doubt concerning the contestant's actual weight exists.

(i) For each contestant whose weight exceeds the maximum amount, one or more of the following may be required as determined by the commission:

(1) The contestant shall be allowed to lose up to two pounds of the contestant's existing weight.

(2) The contestant shall forfeit a portion of the purse.

(3) The contestant shall forfeit the contest.

(j) Each subsequent weigh-in shall be conducted at the venue of the event before the commencement of the event, as directed by the commission. Any contestant or the contestant's designee may be present to witness the weigh-in of the opponent.

(k) Each contestant shall fight only opponents who are in the contestant's weight classification. A bout between two contestants in different weight classifications may be approved by the commission if the difference between the weights of the two contestants does not exceed nine pounds, except for heavyweights and super heavyweights.

(l) After the time of the weigh-in, weight loss in excess of two pounds of the weight that the contestant had at the weigh-in shall not be permitted and shall not occur later than one hour after the contestant's initial weigh-in.

(m) Contestants scheduled to compete against one another may mutually agree to waive the requirements of subsection (i). This agreement shall be evidenced by a provision in the respective bout agreement and initialed by the contestants. The provision shall also provide notice to the contestants that there will be no restriction as to the amount of weight that the opponent may put on after the initial weigh-in and before the scheduled match.

(n) A one-pound allowance in the weight agreed upon in the bout agreement may be allowed by the commission. The one-pound allowance shall still be within the weight limits specified in subsection (f). No allowance shall be made for a championship bout.

(o) A contestant who is required to appear at the specified time and place to be examined and weighed shall not leave the designated area without permission of the commission before the weigh-in or the physical examination.

(p) For each failure to make weight as specified in this regulation, the contestant may be subject to discipline or imposition of a civil penalty.

(q) If a contestant is unable due to illness to take part in a contest or exhibition in which the contestant has agreed to fight, the contestant shall immediately report the fact to the commission and, if requested by the commission, shall submit to an examination by a physician. The fee for the physician's examination shall be paid by the promoter if an examination is requested. Otherwise, the fee shall be paid by the contestant.

(r) The weight of each contestant or the classification in which each contestant will compete, or both, shall be announced at ringside.

(s) Each contestant's equipment shall meet the following requirements:

(1) The contestant's hands may be wrapped with gauze and tape that end no closer than 1 ¼ inch from the contestant's knuckles. The wrap shall include the wrist and may extend up to three inches past the junction of the wrist bone.

(A) Gauze may be applied to the wrist, palm of the hand, back of the hand, and thumb. The length of gauze used shall not exceed 15 feet per hand.

(B) Tape may be applied to the wrist, palm of the hand, back of the hand, and thumb. The tape shall not be greater than one inch in width and shall not exceed 10 feet in length per hand.

(2) Each bandage of the contestant shall be applied in the presence of both an inspector and the other contestant.

(3) Each hand wrapping placed on a contestant shall be examined and approved by an inspector. Each approved hand wrap shall be initialed by the inspector who examined it. The opponent may be present.

(4) Either contestant may witness the bandaging and hand wrapping of the other contestant. A contestant may waive witnessing the bandaging or hand wrapping of the opponent's hands.

(5) Each contestant shall wear BKF-appropriate attire and protective devices, including a dental appliance or mouthpiece that has been individually fitted to the contestant and approved by the commissioner. Each male contestant shall wear a protective cup. Each contestant shall wear an abdominal protector that protects the contestant against injury from a foul blow. The abdominal protector shall not cover or extend above the umbilicus. Each female contestant shall wear a protective pelvic girdle and either a plastic breast protector or a sport bra.

(6) The belt of the shorts shall not extend above the waistline. Shorts shall be without pockets or openings and shall be subject to approval by the chief inspectors.

(7) Contestants shall not use any cosmetics when competing in the contest or exhibition.

(8) The inspector shall determine whether head or facial hair presents any hazard to the safety of a contestant or contestant's opponent or will interfere with the supervision of the contest or exhibition. A contestant shall not compete in the contest or exhibition unless the circumstances creating the hazard or potential interference are corrected to the satisfaction of the inspector.

(9) A contestant shall not wear any jewelry or any piercing accessories when competing in the contest or exhibition.

(10) The contestants' fingernails and thumbnails shall not extend past the tip of the fingers and thumbs.

(11) Only Vaseline® or a similar petroleum-based product may be lightly applied to the face, arms, or any other exposed part of a contestant's body.

(t) Before starting a bout, the referee shall ascertain from each contestant the name of the contestant's chief second. Before each bout, the referee shall call together both contestants and their chief seconds for final instructions.

(u) No person other than the contestants and the referee shall enter the ring during a bout. A second or manager shall not stand or engage in any distracting actions while the bout is in progress. For each contestant's seconds and manager, a combined total of two warnings for violating any requirement of this subsection shall result in the removal of the seconds and manager from the ringside area, and any licensee may be subject to disciplinary action or civil penalty.

(v) Each preliminary contestant shall be ready to enter the ring immediately after the end of the

preceding bout. Any contestant who is not ready to immediately proceed when called and, as a result, causes a delay may be subject to disciplinary action or civil penalty.

(w) Before the referee requests the physician to aid or examine a contestant, the referee shall direct the timekeeper to stop the clock until otherwise directed by the referee.

(x) All serious cuts or injuries to either contestant shall be treated by the physician. The physician shall determine whether to continue the bout as follows:

(1) The physician may enter the ring if requested by the referee to examine an injury to a contestant.

(2) If serious cuts or injuries to either contestant occur, the referee shall summon the physician, who shall aid the contestant and decide if the bout will be stopped. The final authority to determine whether to continue the bout shall rest with the physician.

(3) If the physician determines that a contestant who is cut or injured by legal blows cannot continue, the referee shall announce that the cut or injured contestant loses by a technical knockout.

(4) The referee may request that the attending physician examine a contestant during the bout. The physician may order the referee to stop the bout. The referee shall then render the appropriate decision regarding the outcome of the bout in accordance with K.A.R. 128-4-7.

(5) Except at the request of the physician, no manager or second shall be permitted to aid a stricken contestant.

(y) If a contestant loses a dental appliance or mouthpiece during a round, the referee may call a time-out. If the referee calls a time-out for this reason, the referee shall direct the contestant's second to replace the dental appliance or mouthpiece.

(z) Before a contestant may resume competing after having been knocked down or having fallen or slipped to the floor of the ring, the referee shall wipe the hands of the contestant with a damp towel or the referee's shirt.

(aa) A contestant shall be deemed to be down when either of the following occurs:

(1) Any part of the contestant's body other than the feet is on the floor.

(2) The contestant is hanging over the ropes without the ability to protect that contestant, and the contestant cannot fall to the floor.

(bb) When a contestant is knocked down, the referee shall order the opponent to retire to the

farthest neutral corner of the ring by pointing to the corner and shall immediately begin the count over the downed contestant. The referee shall audibly announce the passing of the seconds and accompany the count with motions of the referee's arm, with the downward motion indicating the end of each second.

(cc) The timekeeper, by signaling, shall give the referee the correct one-second interval for the referee's count. The referee's count shall be the official count. Once the referee picks up the count from the timekeeper, the timekeeper shall cease counting. No contestant who is knocked down may be allowed to resume competing until the referee has finished counting to 10. The contestant may take the count either on the floor or standing.

(dd) If the opponent fails to stay in the farthest corner, the referee shall cease counting until the contestants have returned to their corners. The referee shall then resume the count from the point at which the count was interrupted. If the contestant who is down arises before the count of 10, the referee may step between the contestants long enough to assure the referee that the contestant who has just arisen is in a condition to continue. If so assured, the referee shall, without loss of time, order both contestants to continue the contest or exhibition. During the intervention by the referee, the striking of a blow by either contestant may be ruled a foul.

(ee) When a contestant is knocked out, the referee shall perform a full 10-second count unless, in the judgment of the referee, the safety of the contestant would be jeopardized by such a count. If the contestant who is knocked down is still down when the referee calls a count of 10, the referee shall wave both arms to indicate that the downed contestant has been knocked out.

(ff) If both contestants go down at the same time, the count shall continue as long as one contestant is still down. If both contestants remain down until the count of 10, the contest or exhibition shall be stopped and the decision shall be a technical draw.

(gg) If a contestant is down and the referee is in the process of counting at the end of a round, the bell indicating the end of a round shall not be sounded, but the bell shall be sounded as soon as the downed contestant stands up.

(hh) When a contestant has been knocked down before the normal termination of a round and the round is terminated before the contestant has arisen from the floor of the ring, the refer-

ee's count shall continue. If the contestant who is down fails to arise before the count of 10, the contestant shall be considered to have lost the contest or exhibition by a knockout in the round that just concluded.

(ii) If a legal blow struck in the final seconds of a round causes a contestant to go down after the bell has sounded, that knockdown shall be regarded as having occurred during the round just ended and the appropriate count shall continue.

(jj) If a knockdown occurs before the normal termination of a round and the downed contestant stands up before the count of 10 is reached and then falls down immediately without being struck, the referee shall resume the count from the point at which the count was left off.

(kk) Any contest or exhibition may be adjudged a technical knockout to the credit of the winner if the contest or exhibition is terminated because a contestant meets any of the following conditions:

- (1) Is unable to continue;
- (2) is not honestly competing;
- (3) is injured; or
- (4) is disqualified.

(ll) Each contest or exhibition that is won by other than a full count of 10 or the scoring of the judges shall be adjudged a technical knockout to the credit of the winner.

(mm) A referee may count a contestant out if the contestant is on the floor or being held up by the ropes.

(nn) Each contestant who has been knocked out shall be kept lying down until the contestant has recovered. If a contestant is knocked out, only the referee and the physician may touch the contestant. The referee shall remove the injured contestant's mouthpiece and stay with the contestant until the physician enters the ring, personally attends to the contestant, and issues any necessary instructions to the contestant's second.

(oo) Each of the following tactics or actions shall be an intentional foul:

- (1) Hitting an opponent below the belt;
- (2) hitting an opponent who is down or is getting up after being down;
- (3) holding an opponent with one hand and hitting the opponent with the other hand;
- (4) holding an opponent or deliberately maintaining a clinch;
- (5) wrestling or kicking an opponent;
- (6) striking an opponent who is helpless as the result of blows but is supported by the ropes and does not fall;

(7) butting an opponent with the head, shoulder, knee, or elbow;

(8) hitting an opponent with the back of the hand, with the butt of the hand, with the wrist or the elbow, or with pivot blows or spinning back fists;

(9) going down without being hit;

(10) striking an opponent's body over the kidneys;

(11) hitting an opponent on the back of the head or neck;

(12) gouging an opponent's eye;

(13) using abusive language in the ring;

(14) hitting during a break, which is signaled by the referee's command or physical act to separate two contestants;

(15) hitting an opponent after the bell has sounded, ending the round;

(16) using the ropes to gain an advantage over an opponent;

(17) pushing an opponent around the ring or into the ropes;

(18) showing timidity, including intentionally spitting out the mouthpiece;

(19) biting an opponent;

(20) putting a finger into any orifice of an opponent or into any cut or laceration on an opponent;

(21) pulling an opponent's hair;

(22) manipulating an opponent's fingers; and

(23) engaging in any other action not described in this subsection that is deemed an intentional foul by the referee on the basis that the action poses a danger to the safety of either contestant, impedes fair and competitive play, or is unsportsmanlike.

(pp)(1) If a contestant fouls the opponent during a contest or exhibition or commits any other infraction, the referee may penalize the contestant by deducting points from contestant's score, whether or not the foul or infraction was intentional. The referee may determine the number of points to be deducted in each instance and shall base the determination on the severity of the foul or infraction and its effect upon the opponent.

(2) If the referee determines that it is necessary to deduct one or more points because of a foul or infraction, the referee shall warn the offender of the penalty to be assessed.

(3) The referee shall, as soon as is practical after the foul, notify the judges and both contestants of the number of points, if any, to be deducted from the score of the offender.

(4) Each point to be deducted for any foul or infraction shall be deducted in the round in

which the foul or infraction occurred. These points shall not be deducted from the score in any subsequent round.

(qq) A contestant shall not be declared the winner of a contest or exhibition on the basis of that contestant's claim that the opponent committed a foul by hitting the contestant below the belt. If a contestant falls to the floor of the ring or otherwise indicates that the contestant is unwilling to continue because of an overruled claim of a low blow, the contest or exhibition shall be declared to be a technical knockout in favor of the contestant who is willing to continue.

(rr) Any contestant guilty of a foul in a contest or exhibition may be disqualified by the referee, and the contestant's purse may be withheld by the commission. Disposition of the purse and the penalty to be imposed upon the contestant shall be determined by the commission.

(ss) If the referee determines that a contest or exhibition shall not continue because of an injury caused by an intentional foul, the contestant who committed the intentional foul shall lose by disqualification.

(tt) If the referee determines that a contest or exhibition may continue despite an injury caused by an intentional foul, the contestant who committed the intentional foul shall lose by disqualification.

(uu) If an injury caused by an intentional foul results in the contest or exhibition being stopped in a later round, one of the following shall apply:

(1) The injured contestant shall win by technical decision if that individual is ahead on the scorecards.

(2) The contest or exhibition shall be declared a technical draw if the injured contestant is behind or even on the scorecards.

(vv) If a contestant is injured while attempting to foul the contestant's opponent, the referee shall not take any action in the contestant's favor and the injury shall be treated the same as an injury produced by a fair blow.

(ww) If a contest or exhibition is stopped because of an accidental foul, the referee shall determine whether the contestant who has been fouled can continue. If the contestant's chance of winning has not been seriously jeopardized as a result of a foul and if the foul did not involve a concussive impact to the head of the contestant who was fouled, the referee may order the contest or exhibition to be continued after a rea-

sonable interval. Before the contest or exhibition resumes, the referee shall inform the commission of the referee's determination that the foul was accidental.

(xx) If the referee determines that a contest or exhibition shall not continue because of an injury suffered as a result of an accidental foul, the contest or exhibition shall be declared a no-contest decision if the foul occurs during either of the following:

(1) The first three rounds of a contest or exhibition that is scheduled for six rounds or less; or

(2) the first four rounds of a contest or exhibition that is scheduled for more than six rounds.

(yy) The outcome of a contest or exhibition shall be determined by scoring the completed rounds and the round during which the referee stops the contest or exhibition if an accidental foul renders a contestant unable to continue the contest or exhibition after either of the following:

(1) The completed third round of a contest or exhibition that is scheduled for six rounds or less; or

(2) the completed fourth round of a contest or exhibition that is scheduled for more than six rounds.

(zz) If an injury inflicted by an accidental foul later becomes aggravated by fair blows and the referee orders the contest or exhibition stopped because of the injury, the outcome shall be determined by scoring the completed rounds and the round during which the referee stops the contest or exhibition.

(aaa) A contestant shall not leave the ring or, if the contest or exhibition is being held in a fenced area, the fenced area, during any period of rest that follows each round. If any contestant fails or refuses to resume competing when the bell sounds signaling the commencement of the next round, the referee shall award a decision of technical knockout to the contestant's opponent at the round that has last been finished. However, a determination of whether the circumstances warrant reversal of the referee's decision, disciplinary action, or civil penalty may be made later by the commission.

(bbb) If a contestant has been knocked or has fallen through the ropes and over the edge of the ring platform during a contest or exhibition, both of the following shall apply:

(1) The contestant may be helped back by anyone except the contestant's seconds or manager. The referee shall stop the clock, assess the con-

testant's condition, and resume time once the contestant is able to safely reenter the ring.

(2) The contestant shall be given 20 seconds to return to the ring.

(ccc) For a contestant who has been knocked or has fallen on the ring platform outside the ropes but not over the edge of the ring platform, both of the following shall apply:

(1) The contestant shall not be helped back by anyone, including the contestant's second and manager. The referee may stop the clock and assess the situation until the contestant is able to return to the ring.

(2) The contestant shall be given 10 seconds to regain the contestant's feet and get back into the ring.

(ddd) If the second or manager of a contestant who has been knocked down or has fallen helps the contestant back into the ring, this help may be cause for disqualification.

(eee) If one contestant has fallen through the ropes, the other contestant shall retire to the farthest corner and stay there until ordered by the referee to continue the contest or exhibition.

(fff) Any contestant who deliberately wrestles or throws an opponent from the ring or who hits an opponent when the opponent is partly out of the ring and is prevented by the ropes from assuming a position of defense may be penalized.

(ggg) At the termination of each contest or exhibition, the announcer shall announce the winner and the referee shall raise the hand of the winner.

(hhh) A decision rendered at the end of any contest or exhibition shall not be changed by the commission, unless one of the following occurs:

(1) The commission determines that there was collusion affecting the result of the contest or exhibition.

(2) The compilation of the scorecards of the judges discloses an error showing that the decision was given to the wrong contestant.

(3) The referee has rendered an incorrect decision as the result of an error in interpreting a provision of this regulation.

(iii) Each judge of a BKF contest shall score the contest and determine the winner through the use of the ten-point must system as follows:

(1) The better contestant of each round shall receive 10 points and the opponent proportionately less.

(2) If the round is even, each contestant shall receive 10 points.

(3) No fraction of a point may be given.

(4) Points for each round shall be awarded immediately after the end of the round.

(jjj)(1) After the end of the BKF contest or exhibition, the announcer shall pick up the scores of the judges from the commission's desk. The majority opinion shall be conclusive. If there is no majority opinion, the decision shall be a draw.

(2) When the inspector has checked the scores, the inspector shall inform the announcer of the

decision, and the announcer shall inform the audience of the decision over the speaker system.

(3) Incomplete rounds shall be scored by the judges. If the referee penalizes either contestant in an incomplete round, the appropriate points shall be deducted. (Authorized by K.S.A. 74-50,187, 74-50,193, and 74-50,197; implementing K.S.A. 74-50,186, 74-50,187, and 74-50,197; effective Oct. 25, 2019.)

## Agency 129

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

### Editor's Note:

Pursuant to Executive Reorganization Order (ERO) No. 38, the Kansas Health Policy Authority was abolished on July 1, 2011. Powers, duties and functions were transferred to the Kansas Department of Health and Environment (KDHE), Division of Health Care Finance. See L. 2012, Ch. 102.

### Editor's Note:

K.S.A. 2005 Supp. 75-7401 thru 75-7405 and Section 42 of Chapter 187, 2005 Session Laws of Kansas transferred specific powers, duties, and regulatory authority of the Division of Health Policy and Finance (DHPF) within the Department of Administration to the Kansas Health Policy Authority (KHPA), effective July 1, 2006. The statutes provide that KHPA will be the single state agency for Medicaid, Medikan and Healthwave in Kansas.

### Editor's Note:

The Division of Health Policy and Finance was established by 2005 Senate Bill 272. K.S.A. 2005 Supp. 75-7413 transferred specific powers, duties, and regulatory authority of the Secretary of Social and Rehabilitation Services on an interim basis to a new Division of Health Policy and Finance (DHPF) within the Department of Administration, created under K.S.A. 2005 Supp. 75-7406, effective July 1, 2005. The statute provides that DHPF will be the single state agency for Medicaid, Medikan and Healthwave in Kansas. The statute also establishes the Kansas Health Policy Authority (HPA) which will eventually assume these programs as well as other medical programs for the state of Kansas.

### Articles

- 129-1. DEFINITIONS.
- 129-2. GENERAL.
- 129-5. PROVIDER PARTICIPATION, SCOPE OF SERVICES, AND REIMBURSEMENTS FOR THE MEDICAID (MEDICAL ASSISTANCE) PROGRAM.
- 129-6. MEDICAL ASSISTANCE PROGRAM—CLIENTS' ELIGIBILITY FOR PARTICIPATION.
- 129-9. MANAGED CARE PROVIDER GRIEVANCES, RECONSIDERATIONS, APPEALS, EXTERNAL INDEPENDENT THIRD-PARTY REVIEW, AND STATE FAIR HEARINGS; FEE-FOR SERVICE PROVIDER GRIEVANCES AND STATE FAIR HEARINGS.
- 129-10. ADULT CARE HOME PROGRAM.
- 129-14. CHILDREN'S HEALTH INSURANCE PROGRAM.

### Article 1.—DEFINITIONS

**129-1-1. Definitions.** (a) "Affordable care act" and "ACA" mean the patient protection and affordable care act of 2010, public law 111-148, as amended by the health care and education reconciliation act of 2010, public law 111-152, and any subsequent amendments.

(b) "Applicant" means any individual who is seeking an eligibility determination for that individual through the submission of an application for medical assistance.

(c) "Department" means Kansas department of health and environment and its designees authorized to administer the medicaid program and kancare CHIP.

(d) "Division" means division of health care finance in the Kansas department of health and environment.

(e) "Federally facilitated exchange" and "FFE" mean an insurance exchange operated by the federal government as established under the patient protection and affordable care act, public law 111-148.

(f) "Kancare-CHIP" means the health insurance program for children administered by the department and authorized under title XXI of the social security act.

(g) "Medicaid" means the federal medical assistance program authorized under title XIX of the social security act.

(h) “Medical assistance” means assistance that covers all or part of the cost of medical care for eligible persons through joint federal and state funding and state-only funding, including medicare, kancare-CHIP, and medikan.

(i) “Medikan” means a totally state-funded program covering all or part of the cost of medical care for disabled individuals who do not qualify for medicaid but who are eligible for benefits under K.A.R. 129-6-95.

(j) “Recipient” means any individual who has been determined eligible and is receiving medical assistance.

(k) “Secretary” means secretary of the Kansas department of health and environment. (Authorized by and implementing K.S.A. 2013 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

## Article 2.—GENERAL

### 129-2-1. Uniformity of interpretation.

The contracted staff of the department shall follow the interpretation provided by manuals, other policy materials, and official releases or communications from the secretary or the secretary’s designee. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

### 129-2-2. Fees for providing copies.

(a) Except as specified in subsection (b), the following fees may be charged for providing copies of department documents and records:

(1)(A) For copies, a fee of \$.25 per single-sided page; and

(B) an additional fee not exceeding the actual cost of furnishing copies, including the cost of staff time required to make the information available; and

(2) for electronic records in department data systems, a fee equal to the cost of any computer services, including staff time.

(b) No fee shall be charged if the request for documents or records meets any of the following conditions:

(1) Is in the administration of a department program;

(2) is in relationship to a fair hearing;

(3) is for medical diagnosis or treatment;

(4) is from a state department; or

(5) is pursuant to a regulation authorizing the release of the document or record without

charging a fee. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective Feb. 28, 2014.)

## Article 5.—PROVIDER PARTICIPATION, SCOPE OF SERVICES, AND REIMBURSEMENTS FOR THE MEDICAID (MEDICAL ASSISTANCE) PROGRAM

**129-5-1. Prior authorization.** (a) Any medical service may be placed by the Kansas department of health and environment, division of health care finance on the published list of services requiring prior authorization or precertification for any of the following reasons:

(1) To ensure that provision of the service is medically necessary;

(2) to ensure that services that could be subject to overuse are monitored for appropriateness in each case; and

(3) to ensure that services are delivered in a cost-effective manner.

(b) Administration of covered pharmaceuticals in the following classes shall require prior authorization. A cross-reference of generic and brand names shall be made available upon request:

(1) Ace inhibitors:

(A) Quinapril;

(B) moexipril;

(C) perindopril;

(D) ramipril; and

(E) trandolopril;

(2) retinoids:

(A) Tretinoin;

(B) alitretinoin; and

(C) bexarotene;

(3) adjunct antiepileptic drugs:

(A) Gabitril;

(B) zonegran;

(C) clobazam;

(D) lacosamide;

(E) rufinamide;

(F) eslicarbazepine;

(G) perampanel;

(H) ezogabine;

(I) oxcarbazepine; and

(J) vigabatrin;

(4) angiotensin II receptor antagonists:

(A) Candesartan;

(B) candesartan-HCTZ;

(C) eprosartan;

(D) eprosartan-HCTZ;

- (E) olmesartan;  
 (F) olmesartan-HCTZ;  
 (G) azilsartan;  
 (H) irbesartan;  
 (I) irbesartan-HCTZ;  
 (J) telmisartan; and  
 (K) telmisartan-HCTZ;
- (5) antibiotics:  
 (A) Telithromycin; and  
 (B) rifaximin;
- (6) anticholinergic urinary incontinence drugs:  
 (A) Flavoxate;  
 (B) oxybutynin XL;  
 (C) oxybutynin patches;  
 (D) trospium chloride;  
 (E) darifenacin;  
 (F) oxybutynin, topical;  
 (G) tolterodine; and  
 (H) tolterodine ER;
- (7) antiemetics:  
 (A) Nabilone;  
 (B) doxylamine succinate-pyridoxine hydrochloride; and  
 (C) dronabinol;
- (8) antipsoriatics:  
 (A) Alefacept; and  
 (B) ustekinumab;
- (9) antiretroviral drugs:  
 (A) Enfuvirtide; and  
 (B) maraviroc;
- (10) antirheumatics:  
 (A) Leflunomide;  
 (B) infliximab;  
 (C) anakinra;  
 (D) adalimumab;  
 (E) etonercept;  
 (F) abatacept;  
 (G) rituximab;  
 (H) golimumab;  
 (I) certolizumab;  
 (J) tocilizumab;  
 (K) tofacitinib; and  
 (L) apremilast;
- (11) cervical dystonias:  
 (A) Onabotulinum toxin A;  
 (B) abobotulinum toxin A;  
 (C) rimabotulinum toxin B; and  
 (D) incobotulinum toxin A;
- (12) drugs for the treatment of osteoporosis:  
 teriparatide;  
 (13) antituberculosis products:  
 (A) Aminosalicylate sodium;  
 (B) capreomycin;  
 (C) ethambutol;  
 (D) ethionamide;  
 (E) isoniazid;  
 (F) pyrazinamide; and  
 (G) rifampin and rifampin-isoniazid combinations;
- (14) all decubitus and wound care products;  
 (15) all intravenous and oral dietary and nutritional products, including the following:  
 (A) Amino acids, injectable;  
 (B) L-cysteine;  
 (C) lipids, injectable; and  
 (D) sodium phenylbutyrate;
- (16) beta-blockers:  
 (A) Betaxolol;  
 (B) bisoprolol;  
 (C) carteolol;  
 (D) penbutolol;  
 (E) propranolol XL; and  
 (F) nebivolol;
- (17) short-acting, inhaled beta 2 agonists:  
 (A) Metaproterenol inhaler;  
 (B) levalbuterol solution;  
 (C) albuterol solutions: 0.021% and 0.042%;  
 (D) levalbuterol inhaler; and  
 (E) pirbuterol inhaler;
- (18) calcium channel blockers:  
 (A) Diltiazem extended release, with the following brand names:  
 (i) Cardizen SR<sup>®</sup>;  
 (ii) Cardizem CD<sup>®</sup>;  
 (iii) Cartia XT<sup>®</sup>;  
 (iv) Dilacor XR<sup>®</sup>;  
 (v) Taztia XT<sup>®</sup>; and  
 (vi) Cardizem LA<sup>®</sup>;  
 (B) verapamil sustained release, with the following brand names:  
 (i) Covera HS<sup>®</sup>; and  
 (ii) Verelan PM<sup>®</sup>;  
 (C) nifedipine sustained release, with the following brand names:  
 (i) Nifedical XL<sup>®</sup>; and  
 (ii) Procardia XL<sup>®</sup> and all generic equivalents;  
 (D) nisoldipine;  
 (E) felodipine;  
 (F) isradipine;  
 (G) nicardipine SR; and  
 (H) nifedipine immediate release, with the following brand names:  
 (i) Adalat<sup>®</sup> and all generic equivalents; and  
 (ii) Procardia<sup>®</sup> and all generic equivalents;
- (19) fibric acid derivatives:  
 (A) Antara<sup>®</sup>;  
 (B) Lofibra<sup>®</sup>;

- (C) Fenoglide®;  
 (D) Tricor®;  
 (E) Triglide®; and  
 (F) Trilipix®;  
 (20) all growth hormones and growth hormone stimulating factor, including the following:  
 (A) Somatrem;  
 (B) somatropin;  
 (C) sermorelin; and  
 (D) mecasermin rinfabate;  
 (21) intranasal corticosteroids:  
 (A) Flunisolide;  
 (B) beclomethasone;  
 (C) ciclesonide;  
 (D) triamcinolone; and  
 (E) budesonide;  
 (22) inhaled corticosteroids:  
 (A) Flunisolide-menthol;  
 (B) flunisolide; and  
 (C) budesonide inhaled suspension;  
 (23) proton pump inhibitors:  
 (A) Esomeprazole;  
 (B) omeprazole;  
 (C) omeprazole OTC;  
 (D) lansoprazole;  
 (E) pantoprazole;  
 (F) rabeprazole;  
 (G) omeprazole NaHCO<sub>3</sub>; and  
 (H) dexlansoprazole;  
 (24) monoclonal antibody for respiratory syncytial virus (RSV), including palivizumab;  
 (25) muscle relaxants:  
 (A) Tizanidine;  
 (B) orphenadrine;  
 (C) carisoprodol;  
 (D) carisoprodol-aspirin;  
 (E) carisoprodol-aspirin-caffeine;  
 (F) cyclobenzaprine;  
 (G) metaxalone;  
 (H) dantrolene; and  
 (I) orphenadrine-aspirin-caffeine;  
 (26) narcotics:  
 (A) Buprenorphine-naloxone;  
 (B) buprenorphine;  
 (C) morphine-naltrexone;  
 (D) hydromorphone HCL ER;  
 (E) morphine sulfate ER;  
 (F) tapentadol;  
 (G) oxymorphone;  
 (H) tramadol ER; and  
 (I) hydrocodone bitartrate ER;  
 (27) nonsteroidal, anti-inflammatory drugs:  
 (A) Nabumetone;  
 (B) diclofenac patches;  
 (C) diclofenac, topical; and  
 (D) ketorolac, intranasal;  
 (28) drugs for the treatment of obesity:  
 (A) Orlistat;  
 (B) phentermine;  
 (C) lorcaserin;  
 (D) phentermine-topiramate ER; and  
 (E) naltrexone-bupropion;  
 (29) oxazolidinones, including linezolid;  
 (30) HMG-CoA reductase inhibitors:  
 (A) Pravastatin;  
 (B) fluvastatin;  
 (C) lovastatin;  
 (D) pitavastatin; and  
 (E) rosuvastatin;  
 (31) nonседating antihistamines:  
 (A) Desloratadine;  
 (B) fexofenadine;  
 (C) levocetirizine; and  
 (D) loratadine;  
 (32) H<sub>2</sub> antagonists: nizatidine;  
 (33) triptans:  
 (A) Zolmitriptan;  
 (B) frovatriptan;  
 (C) almotriptan;  
 (D) Alsuma®;  
 (E) Sumavel®;  
 (F) rizatriptan;  
 (G) sumatriptan pens, vials, cartridges, and nasal sprays; and  
 (H) naratriptan;  
 (34) antidiabetic drugs:  
 (A) Glipizide XL;  
 (B) glipizide-metformin;  
 (C) repaglinide;  
 (D) acarbose;  
 (E) Glucophage XR®;  
 (F) Fortamet®;  
 (G) Glumetza®;  
 (H) exenatide;  
 (I) pramlintide acetate;  
 (J) liraglutide;  
 (K) canagliflozin;  
 (L) dapagliflozin;  
 (M) empagliflozin; and  
 (N) dulaglutide;  
 (35) the following types of syringes, penfills, and cartridges of insulin:  
 (A) Humalog®;  
 (B) Humalog Mix®;  
 (C) Humulin R®;  
 (D) Humulin N®;

- (E) Humulin 70/30<sup>®</sup>;  
 (F) Novolog<sup>®</sup>;  
 (G) Novolog Mix<sup>®</sup>  
 (H) Novolin R<sup>®</sup>  
 (I) Novolin N<sup>®</sup>  
 (J) Novolin 70/30<sup>®</sup>  
 (K) Velosulin BR<sup>®</sup> and  
 (L) insulin detemir;  
 (36) hypnotics:  
 (A) Zaleplon;  
 (B) zolpidem;  
 (C) zolpidem CR;  
 (D) eszopiclone; and  
 (E) tasimelteon;  
 (37) serotonin 5-HT<sub>3</sub> receptor antagonist  
 antiemetics:  
 (A) Granisetron;  
 (B) dolasetron; and  
 (C) ondansetron film;  
 (38) influenza vaccines: Flumist<sup>®</sup>;  
 (39) monoclonal antibody for asthma:  
 omalizumab;  
 (40) bisphosphonates:  
 (A) Risedronate; and  
 (B) risedronate-calcium;  
 (41) combination products for hypertension:  
 (A) Enalapril maleate-felodipine;  
 (B) trandolapril-verapamil; and  
 (C) telmisartan-amlodipine;  
 (42) ophthalmic prostaglandin analogues:  
 (A) Bimatoprost; and  
 (B) unoprostone;  
 (43) topical immunomodulators:  
 (A) Protopic<sup>®</sup> (topical formulation);  
 (B) Elidel<sup>®</sup>; and  
 (C) Restasis<sup>®</sup>;  
 (44) narcotic analgesics: any transmucosal form  
 of fentanyl;  
 (45) tramadol and all opioids, opioid combina-  
 tions, and skeletal muscle relaxants, at any dose  
 greater than the maximum recommended dose in  
 a 31-day period;  
 (46) progestin for preterm labor: Makena<sup>®</sup>;  
 (47) aromatase inhibitors:  
 (A) Letrozole;  
 (B) anastrozole; and  
 (C) exemestane;  
 (48) long-acting, inhaled beta 2 agonists:  
 (A) Salmeterol;  
 (B) formoterol;  
 (C) arformoterol; and  
 (D) indacaterol;  
 (49) miscellaneous biologic agents;  
 (A) Canakinumab;  
 (B) natalizumab;  
 (C) denosumab; and  
 (D) rilonacept;  
 (50) hematopoietic agents:  
 (A) Eltrombopag;  
 (B) filgrastim;  
 (C) oprelvekin;  
 (D) pegfilgrastim;  
 (E) plerixafor;  
 (F) romiplostim; and  
 (G) sargramostim;  
 (51) antidotes: methylnaltrexone;  
 (52) complement inhibitors:  
 (A) C1 esterase inhibitor;  
 (B) ecallantide;  
 (C) icatibant; and  
 (D) eculizumab;  
 (53) anti-hepatitis C virus agents:  
 (A) Boceprevir;  
 (B) telaprevir;  
 (C) simeprevir;  
 (D) sofosbuvir;  
 (E) ledipasvir-sofosbuvir; and  
 (F) ombitasvir-paritaprevir-ritonavir-dasabuvir;  
 (54) cystic fibrosis agents: ivacaftor;  
 (55) agents for gout:  
 (A) Febuxostat; and  
 (B) pegloticase;  
 (56) phenylketonurics: sapropterin;  
 (57) topical anesthetics: lidocaine;  
 (58) long-acting, inhaled beta 2 agonists and  
 anticholinergic products: umeclidinium-vilanterol;  
 (59) anti-malarials: quinine;  
 (60) hormone analog for precocious puberty:  
 histrelin acetate;  
 (61) agents for chorea associated with Hunting-  
 ton's disease: tetrabenazine;  
 (62) enzyme preparations: collagenase  
 clostridium histolyticum;  
 (63) agents for cataplexy: sodium oxybate;  
 (64) topical acne agents:  
 (A) Adapalene;  
 (B) adapalene-benzyl peroxide;  
 (C) azelaic acid;  
 (D) dapsone;  
 (E) tazarotene; and  
 (F) tretinoin-clindamycin;  
 (65) interferons:  
 (A) Interferon alfacon-1;  
 (B) interferon alfa-2b;  
 (C) interferon beta-1a;  
 (D) interferon beta-1b;

- (E) peginterferon alfa-2a; and  
 (F) peginterferon alfa-2b;  
 (66) pulmonary arterial hypertension agents:  
 (A) Ambrisentan;  
 (B) bosentan;  
 (C) epoprostenol;  
 (D) iloprost;  
 (E) macitentan;  
 (F) riociguat;  
 (G) sildenafil;  
 (H) tadalafil; and  
 (I) treprostinil;  
 (67) testosterone agents:  
 (A) Androderm Transdermal®;  
 (B) AndroGel®;  
 (C) Axiron Topical Solution®;  
 (D) Delatestryl®;  
 (E) Fortesta Gel®;  
 (F) Striant Buccal®;  
 (G) Testim Gel®; and  
 (H) Testopel Pellets®;  
 (I) Vogelxo®;  
 (J) Natesto®; and  
 (K) testosterone powder;  
 (68) antineoplastic agents:  
 (A) Afatinib;  
 (B) dabrafenib;  
 (C) everolimus;  
 (D) methotrexate;  
 (E) sipuleucel-T;  
 (F) trametinib; and  
 (G) trastuzumab;  
 (69) multiple sclerosis agents:  
 (A) Dalfampridine;  
 (B) dimethyl fumarate;  
 (C) fingolimod;  
 (D) glatiramer;  
 (E) teriflunomide; and  
 (F) alemtuzumab;  
 (70) immunosuppressive agents: belimumab;  
 (71) long-acting, inhaled beta 2 agonists and corticosteroid products:  
 (A) Budesonide-formoterol; and  
 (B) fluticasone-vilanterol;  
 (72) ammonia detoxicants:  
 (A) Glycerol phenylbutyrate; and  
 (B) sodium phenylbutyrate;  
 (73) heavy metal antagonists:  
 (A) Deferasirox;  
 (B) deferiprone; and  
 (C) trientine;  
 (74) pituitary corticotropin: H.P. Acthar® Gel;  
 (75) ocular agents:  
 (A) Ocriplasmin; and  
 (B) ranibizumab;  
 (76) miscellaneous antilipemic agents:  
 (A) Lomitapide; and  
 (B) mipomersen;  
 (77) miscellaneous analgesics: ziconotide intrathecal infusion;  
 (78) miscellaneous central nervous system agents: riluzole;  
 (79) calcimimetics: cinacalcet;  
 (80) radioactive agents: radium Ra 223 dichloride;  
 (81) dipeptidyl peptidase IV inhibitors:  
 (A) Alogliptin; and  
 (B) linagliptin;  
 (82) antimuscarinics-antispasmodics: acridinium bromide;  
 (83) ophthalmic antihistamine-mast cell stabilizer combinations:  
 (A) Bepotastine;  
 (B) epinastine;  
 (C) alcaftadine; and  
 (D) azelastine;  
 (84) inhaled tobramycin products: Tobi Podhaler®;  
 (85) oral mesalamine products:  
 (A) Mesalamine DR; and  
 (B) mesalamine ER;  
 (86) pancreatic enzyme replacements: pancrelipase;  
 (87) alpha-1 proteinase inhibitors:  
 (A) Aralast NP®;  
 (B) Glassia®;  
 (C) Prolastin C®; and  
 (D) Zemaira®;  
 (88) enzyme replacement therapy:  
 (A) Eliglustat;  
 (B) imiglucerase;  
 (C) taliglucerase alfa; and  
 (D) velaglucerase alfa;  
 (89) cholesterol absorption inhibitor: ezetimibe;  
 (90) gonadotropin-releasing hormone agonist: leuprolide;  
 (91) constipation agents:  
 (A) Linaclotide; and  
 (B) lubiprostone; and  
 (92) idiopathic pulmonary fibrosis agents:  
 (A) Nintedanib; and  
 (B) pirfenidone.  
 (c) Failure to obtain prior authorization, if required, shall negate reimbursement for the service and any other service resulting from the unauthorized or noncertified treatment. The pri-

or authorization shall affect reimbursement to all providers associated with the service.

(d) The only exceptions to prior authorization shall be the following:

(1) Emergencies. If certain surgeries and procedures that require prior authorization are performed in an emergency situation, the request for authorization shall be made within two working days after the service is provided.

(2) Situations in which services requiring prior authorization are provided and retroactive eligibility is later established. When an emergency occurs or when retroactive eligibility is established, prior authorization for that service shall be waived, and if medical necessity is documented, payment shall be made.

(e) Services requiring prior authorization shall be considered covered services within the scope of the program, unless the request for prior authorization is denied. (Authorized by K.S.A. 2014 Supp. 39-7,120, K.S.A. 75-5625; implementing K.S.A. 2014 Supp. 39-7,120 and K.S.A. 2014 Supp. 39-7,121a; effective Oct. 28, 2005; amended June 2, 2006; amended Aug. 11, 2006; amended Nov. 17, 2006; amended March 16, 2007; amended Oct. 19, 2007; amended May 23, 2008; amended Feb. 17, 2012; amended Oct. 19, 2012; amended Aug. 1, 2014; amended, T-129-1-23-15, Jan. 23, 2015; amended May 1, 2015.)

**129-5-10. Definitions.** Each of the following terms, when used in K.A.R. 129-5-10 through 129-5-21, shall have the meaning specified in this regulation:

(a) “Act” means kancare prompt payment act, K.S.A. 2014 Supp. 39-709f and amendments thereto.

(b) “Allowed amount” means any claim or portion of a claim that the provider and the managed care organization agree in good faith is correct and should be paid under the participating provider agreement with the managed care organization and under kancare program policies.

(c) “Claim” means any of the following:

(1) A bill for services;

(2) a line item of service; or

(3) all services for one beneficiary within a bill.

(d) “Clean claim” means any claim that can be processed without obtaining additional information from the provider of the service or from a third party. This term shall include any claim with errors originating in the state’s claims system. This term shall not include any claim from

a provider who is under investigation for fraud or abuse and any claim under review for medical necessity.

(e) “Day” means calendar day. If the 30th calendar day or the 90th calendar day falls on a weekend or a holiday, then the 30th calendar or 90th calendar day shall be deemed to occur on the following business day.

(f) “Managed care organization” means an entity that has contracted with the Kansas medical assistance program for the provision of managed care services to medicaid beneficiaries in Kansas.

(g) “Provider” means a health care provider that has entered into a participating provider agreement with a managed care organization.

(h) “Unpaid claim” means any claim that has not been paid by a managed care organization and meets one of the following conditions:

(1) Is not subject to a bona fide dispute as specified in K.A.R. 129-5-15; or

(2) has not yet been processed and denied by a managed care organization. (Authorized by and implementing K.S.A. 2014 Supp. 39-709f and 75-7403; effective Aug. 28, 2015.)

**129-5-11. Applicability.** The act shall apply only to each claim with a date of service on or after the effective date of the act, which was July 1, 2014. (Authorized by and implementing K.S.A. 2014 Supp. 39-709f and 75-7403; effective Aug. 28, 2015.)

**129-5-12. Electronic and paper claims.** The act shall apply to each claim submitted under kancare to a managed care organization, whether the claim is submitted in electronic or paper format. (Authorized by and implementing K.S.A. 2014 Supp. 39-709f and 75-7403; effective Aug. 28, 2015.)

**129-5-13. Date claim is deemed to be received.** If a provider submits a claim to a managed care organization by mail, the managed care organization shall be deemed to have received the claim no more than three business days after the claim was mailed, unless proven otherwise. If the provider submits the claim electronically, the managed care organization shall be deemed to have received the claim no more than 24 hours after the claim was submitted, unless proven otherwise. (Authorized by and implementing K.S.A. 2014 Supp. 39-709f and 75-7403; effective Aug. 28, 2015.)

**129-5-14. Notice of denial or need for additional information; processing additional information; suspension of time periods.**

(a) If a claim is not a clean claim and cannot be either paid or processed and denied within 30 days after the managed care organization's receipt of the claim, the managed care organization shall send a written or electronic notice acknowledging receipt and indicating the status of the claim. The notice shall include the date on which the claim was received by the managed care organization and shall state one of the following:

(1) The managed care organization refuses to pay all or part of the claim, with specification of each reason for denial.

(2) Additional information is necessary to determine whether all or any part of the claim shall be paid, with specification of what information is necessary. This notice shall constitute the managed care organization's request for additional information from the provider.

Each notice shall also identify the code for each reason for denial or for requesting additional information, if any, and shall include any other information necessary to inform the provider of the specific issues related to each claim.

(b)(1) The 90-day period for payment or for processing and denial of claims other than clean claims shall not include the days between the managed care organization's first request for additional information and the managed care organization's receipt of the provider's initial response to the request. The time period for payment of claims shall not be suspended following the submission by the managed care organization of a second or subsequent request for additional information to a provider on any single claim.

(2) After receipt of all requested additional information, the managed care organization shall perform one of the following:

(A) Pay the claim in accordance with the 90-day time period specified in the act; or

(B) issue a notice to the provider stating that the managed care organization refuses to pay all or part of the claim and specifying each reason for denial.

(c) Failure to comply with this regulation shall subject the managed care organization to a direct cause of action by the provider for interest on the unpaid portion of the claim as specified in the act. (Authorized by and implementing K.S.A. 2014 Supp. 39-709f and 75-7403; effective Aug. 28, 2015.)

**129-5-15. Claims subject to bona fide dispute.** An unpaid claim that is subject to a bona fide dispute, including any claim that a managed care organization has reason to believe is fraudulent and any claim undergoing a review for medical necessity, shall not be subject to the interest requirements of the act. (Authorized by and implementing K.S.A. 2014 Supp. 39-709f and 75-7403; effective Aug. 28, 2015.)

**129-5-16. Partially paid claims.** If a managed care organization pays a portion of a claim within the time limits specified in the act, then only the unpaid portion of that claim shall be subject to the interest provisions of the act. (Authorized by and implementing K.S.A. 2014 Supp. 39-709f and 75-7403; effective Aug. 28, 2015.)

**129-5-17. Resubmitted claims.** For each corrected claim resubmitted by a provider due to a provider error on the initial submission of the claim, the applicable 30-day or 90-day time limit for processing and full payment of the allowed amount or for processing and denial shall begin on receipt of the corrected claim by the managed care organization. (Authorized by and implementing K.S.A. 2014 Supp. 39-709f and 75-7403; effective Aug. 28, 2015.)

**129-5-18. Date claim is deemed to be paid.** Each claim shall be deemed paid on one of the following dates:

(a) The date on which the managed care organization issued a check for payment and any corresponding explanation of benefits to the provider; or

(b) the date on which the managed care organization electronically transmitted a notice of payment to the provider. (Authorized by and implementing K.S.A. 2014 Supp. 39-709f and 75-7403; effective Aug. 28, 2015.)

**129-5-19. Interest on unpaid claims.** (a) The principal amount due on which the interest payment shall be calculated shall be the allowed amount due but unpaid at the contracted rate for the service. All interest due under the act shall be applied only to the principal amount due as specified in this subsection and not to any unpaid interest. Interest calculated under the act shall not be compounded.

(b) Each managed care organization shall keep accurate and sufficient records for each interest payment and its corresponding claim documenta-

tion and shall provide a detailed report to the state upon request. (Authorized by and implementing K.S.A. 2014 Supp. 39-709f and 75-7403; effective Aug. 28, 2015.)

**129-5-20. Retroactive rate, program, and policy changes and clarifications.** A claim shall not be deemed to be an unpaid claim if a retroactive rate, program, or policy change creates an unpaid balance on a claim that the managed care organization has previously paid. (Authorized by and implementing K.S.A. 2014 Supp. 39-709f and 75-7403; effective Aug. 28, 2015.)

**129-5-21. Retroactive eligibility.** If a provider submits a request for payment to a managed care organization before the patient is determined by the state to be eligible for medicaid, then the request shall not be deemed a claim under the act until the date on which the managed care organization is notified by the state that the patient was medicaid-eligible on the date of service. (Authorized by and implementing K.S.A. 2014 Supp. 39-709f and 75-7403; effective Aug. 28, 2015.)

**129-5-78. Scope of and reimbursement for home-and community-based services for persons with traumatic brain injury.** (a) The scope of allowable home-and community-based services (HCBS) for persons with traumatic brain injury shall consist of those services authorized by the applicable federally approved waiver to the Kansas medicaid state plan. Recipients of services provided pursuant to this waiver shall be required to show the capacity to make progress in their rehabilitation and independent living skills.

(b) The need for HCBS shall be determined by an individualized assessment of the prospective recipient by a provider enrolled in the program. HCBS shall be provided only in accordance with a plan of care written by a case manager.

(c) HCBS, which shall require prior authorization by the Kansas medicaid HCBS program manager, may include one or more of the following:

(1) Rehabilitation therapies, which may consist of any of the following:

- (A) Occupational therapy;
  - (B) physical therapy;
  - (C) speech-language therapy;
  - (D) cognitive rehabilitation; or
  - (E) behavioral therapy;
- (2) personal services;
- (3) medical equipment, supplies, and home

modification not otherwise covered under the Kansas medicaid state plan;

- (4) sleep-cycle support services;
- (5) a personal emergency response system and its installation; or

(6) provision of or education on transitional living skills.

(d) Case management services up to a maximum of 160 hours each calendar year, which may be exceeded only with prior authorization by the Kansas medicaid HCBS program manager, shall be provided to all HCBS recipients under the traumatic brain injury program.

(e) The fee allowed for home-and community-based services for persons with traumatic brain injury shall be the provider's usual and customary charges, except that no fee shall be paid in excess of the waiver's range maximum. (Authorized by K.S.A. 2008 Supp. 75-7403 and 75-7412; implementing K.S.A. 2008 Supp. 75-7405 and 75-7408; effective July 18, 2008; amended Oct. 16, 2009.)

**129-5-118. Scope of federally qualified health center services.** For purposes of this regulation, a federally qualified health center shall mean a community health center, federally qualified health center (FQHC) look-alike, or an urban Indian organization receiving funds under the Indian health care improvement act that is accepted by the centers for medicare and medicaid to furnish federally qualified health center services for participation under medicare and medicaid. An FQHC look-alike shall mean an organization that meets all of the eligibility requirements of an organization that receives a public health service (PHS) section 330 grant but does not receive grant funding. (a) The services provided by the following health care professionals shall be billable as federally qualified health center services:

(1) Physician and physician assistant pursuant to K.A.R. 129-5-88;

(2) advanced registered nurse practitioner pursuant to K.A.R. 30-5-113;

(3) dentist and dental hygienist pursuant to K.A.R. 30-5-100;

(4) licensed mental health practitioner pursuant to K.A.R. 30-5-104;

(5) clinical social worker pursuant to K.A.R. 30-5-86;

(6) visiting nurse pursuant to K.A.R. 30-5-89; and

(7) for can be healthy nursing assessments only, registered nurse pursuant to K.A.R. 30-5-87.

(b) Covered services of federally qualified health centers shall include the following:

(1) The services and supplies furnished as an incident to the professional services provided by the health care professionals specified in subsection (a); and

(2) other ambulatory services covered under the medicaid state plan, if provided by the federally qualified health center.

(c) (1) Preventive primary services shall be furnished by or under the direct supervision of any of the following:

- (A) Physician;
- (B) nurse practitioner;
- (C) physician assistant;
- (D) nurse midwife;
- (E) licensed mental health practitioner;
- (F) clinical social worker; or
- (G) either a member of the center's health care staff who is an employee of the center or a physician under arrangements with the center.

(2) Preventive primary services shall include only drugs and biologicals that cannot be self-administered, unless §1861(s) of the social security act provides for coverage of the drug regardless of whether the drug is self-administered.

(d) The following preventive primary services may be covered when provided by federally qualified health centers to medicaid beneficiaries:

(1) Medical social services;

- (2) nutritional assessment and referral;
- (3) preventive health education;
- (4) children's eye and ear examinations;
- (5) prenatal and postpartum care;
- (6) prenatal services;
- (7) well child care, including periodic screening;
- (8) providing immunizations, including tetanus-diphtheria booster and influenza vaccine;
- (9) voluntary family planning services;
- (10) taking patient history;
- (11) blood pressure measurement;
- (12) weight measurement;
- (13) physical examination targeted to risk;
- (14) visual acuity screening;
- (15) hearing screening;
- (16) cholesterol screening;
- (17) stool testing for occult blood;
- (18) dipstick urinalysis;
- (19) risk assessment and initial counseling regarding risks; and

(20) the following services, for women only:

- (A) Clinical breast exam;
- (B) referral for mammography; and

(C) thyroid function test.

(3) Preventive primary services shall not include group or mass information programs, health education classes, and group education activities, which may include media productions and publication and services for eyeglasses and hearing aids.

(e) "Visiting nurse" shall include a registered nurse or licensed practical nurse who provides part-time or intermittent nursing care to a patient at the beneficiary's place of residence under a written plan of treatment prepared by a physician. The place of residence shall not include a hospital or long-term care facility. This nursing care shall be covered only if there is no home health agency in the area.

(f) Federally qualified health center services provided at a location other than a federally qualified health center shall meet the following conditions:

(1) No services are provided at an inpatient hospital, outpatient hospital, or hospital emergency room.

(2) The services provided are listed in subsection (b).

(3) The services are provided to a patient of a federally qualified health center.

(4) The health professional providing the services is an employee of a federally qualified health center or under contract with a federally qualified health center and is required to seek compensation for that person's services from the federally qualified health center. (Authorized by K.S.A. 2008 Supp. 75-7403 and 75-7412; implementing K.S.A. 2008 Supp. 75-7405 and 75-7408; effective June 2, 2006; amended March 19, 2010.)

**129-5-118a. Reimbursement for federally qualified health center services.** Reimbursement shall not exceed the reasonable cost of federally qualified health center services and other ambulatory services covered under the Kansas medical assistance program. "Reasonable cost" shall consist of the necessary and proper cost incurred by the provider in furnishing covered services to program beneficiaries, subject to the cost principles and limits specified in K.A.R. 129-5-118a (c)(1) and K.A.R. 129-5-118b. (a) Reimbursement method. An interim per visit rate shall be paid to each federally qualified health center provider, with a retroactive cost settlement for each facility fiscal year.

(1) Interim reimbursement rate. The source and the method of determination of interim rate

shall depend on whether the federally qualified health center is a new enrollee of the Kansas medical assistance program or is a previously enrolled provider. Under special circumstances, the interim rate may be negotiated between the agency and the provider.

(A) Newly enrolled facility. If the facility is an already-established federally qualified health center with an available medicare cost report, an all-inclusive rate derived from the cost report may be used for setting the initial medicaid interim payment rate. If the facility is an already-established federally qualified health center opening a new service location, then the rate from the already established federally qualified health center shall be used for the new service location. If the facility converted from a rural health clinic to a federally qualified health center, then the rate from the rural health clinic shall be used for the new federally qualified health center. For all other circumstances, the initial payment rate shall be based on the average of the current reimbursement rates for previously enrolled federally qualified health center providers.

(B) Previously enrolled facility. After the facility submits a federally qualified health center cost report, the agency shall determine the maximum allowable medicaid rate per visit as specified in subsection (c). If a significant change of scope of services or a significant capital project has been implemented, the federally qualified health center shall submit an interim cost report if the center wants a change to the existing rate. The agency and the federally qualified health center shall use the interim cost report to negotiate a new interim rate.

(2) Visit. A "visit" shall mean face-to-face encounter between a center patient and a center health care professional as defined in K.A.R. 129-5-118. Encounters with more than one health professional or multiple encounters with the same health professional that take place on the same day shall constitute a single visit, except under either of the following circumstances:

(A) The patient suffers an illness or injury requiring additional diagnosis or treatment after the first encounter.

(B) The patient has a different type of visit on the same day, which may consist of a dental, medical, or mental health visit.

(3) Retroactive cost settlement. For each reporting period, the agency shall compare the total maximum allowable medicaid cost with the total payments to determine the program overpayment

or underpayment. Total payments shall include interim payments, third-party liability, and any other payments for covered federally qualified health center services. The cost report and supplemental data submitted by the provider, the medicare cost report, and the medicaid-paid claims data obtained from the program's fiscal agent shall be used for these calculations.

(b) Cost reporting. Each federally qualified health center shall submit a completed cost report. The form used for cost reporting shall be the most current version of the medicare financial and statistical report form for independent rural health clinics and freestanding federally qualified health centers with adjustments made, as necessary, to report the cost and number of visits for medicaid-covered services pursuant to K.A.R. 129-5-118.

(1) Filing requirements. Each provider shall be required to file annual cost reports on a fiscal year basis.

(A) Cost reports shall be received no later than five months after the end of the facility's fiscal year. An extension in due date may be granted by the agency upon request, if necessary due to circumstances beyond the control of the federally qualified health center.

(B) Each provider filing a cost report after the due date without a preapproved extension shall be subject to the following penalties:

(i) If the cost report has not been received by the agency by the close of business on the due date, all further payments to the provider may be withheld and suspended until the complete financial and statistical report has been received.

(ii) Failure to submit the completed financial and statistical report within one year after the end of the cost report period may be cause for termination from the Kansas medical assistance program.

(2) Fiscal and statistical data. The preparation of the cost report shall be based upon the financial and statistical records of the facility and shall use the accrual basis of accounting. The reported data shall be accurate and adequately supported to facilitate verification and analysis for the determination of allowable costs.

(3) Supplemental data. The following additional information shall be submitted to support reported data and to facilitate cost report review, verifications, and other analysis.

(A) A working trial balance. This balance shall contain account numbers, descriptions of the

accounts, the amount of each account, the cost report expense line on which the account was reported, and fiscal year-end adjusting entries to facilitate reconciliation between the working trial balance and the cost report. The facility shall bear the burden of proof that the reported data accurately represents the cost and revenue as recorded in the accounting records. All unexplained differences shall be used to reduce the allowable cost.

(B) Financial statements and management letter. These documents shall be prepared by the facility's independent auditors and shall reconcile with the cost report.

(C) Depreciation schedule. This schedule shall support the depreciation expense reported on the cost report.

(D) Other data. Data deemed necessary by the agency for verification and rate determination shall also be submitted.

(c) Determination of reimbursable medicaid rate per visit.

(1) Allowable facility costs. This term shall mean costs derived from reported expenses after making adjustments resulting from cost report review and application of the cost reimbursement principles specified in K.A.R. 129-5-118b.

(2) Allocation of overhead costs.

(A) Total allowable administrative and facility costs shall be distributed to the following cost centers:

(i) Federally qualified health center costs;  
(ii) non-federally qualified health center costs;  
and  
(iii) nonreimbursable costs, excluding bad debt.

(B) Accumulated direct cost in each cost center shall be used as the basis for the overhead cost allocation.

(3) Average allowable cost per visit. The total allowable facility costs shall be divided by the total number of visits.

(4) Reimbursable medicaid rate. The reimbursable medicaid rate per visit shall not be more than 100 percent of the reasonable and related cost of furnishing federally qualified health center services covered in K.A.R. 129-5-118b.

(d) Fiscal and statistical records and audits.

(1) Recordkeeping. Each provider shall maintain sufficient financial records and statistical data for accurate determination of reasonable costs. Standardized definitions and reporting practices widely accepted among federally qualified health centers and related fields shall be followed, except to the extent that these definitions and practices

may conflict with or be superseded by state or federal medicaid requirements.

(2) Audits and reviews.

(A) Each provider shall furnish any information to the agency that may be necessary to meet the following criteria:

(i) Ensure proper payment by the program pursuant to this regulation and K.A.R. 129-5-118b; and

(ii) substantiate claims for program payments.

(B) Each provider shall permit the agency to examine any records and documents necessary to ascertain information for determination of the accurate amount of program payments. These records shall include the following:

(i) Matters of the facility ownership, organization, and operation;

(ii) fiscal, statistical, medical, and other record-keeping systems;

(iii) federal and state income tax returns and all supporting documents;

(iv) documentation of asset acquisition, lease, sale, or other transaction;

(v) management arrangements;

(vi) matters pertaining to the cost of operation; and

(vii) health center financial statements.

(C) Other records and documents shall be made available to the agency as requested.

(D) All records and documents shall be available in Kansas.

(E) Each provider shall furnish to the agency, upon request, copies of patient service charge schedules and any subsequent changes to these schedules.

(F) The agency shall suspend program payments if it is determined that a provider does not maintain adequate records for the determination of reasonable and adequate rates under the program or if the provider fails to furnish requested records and documents to the agency.

(G) Thirty days before suspending payment to the provider, written notice shall be sent by the agency to the provider of the agency's intent to suspend payment. The notice shall explain the basis for the agency's determination and identify the provider's recordkeeping deficiencies.

(H) All provider records that support reported costs, charges, revenue, and patient statistics shall be subject to audits by the agency, the United States department of health and human services, and the United States general accounting office. These records shall be retained for at least five

years after the date of filing the cost report with the agency. (Authorized by K.S.A. 2008 Supp. 75-7403 and 75-7412; implementing K.S.A. 2008 Supp. 75-7405 and 75-7408; effective March 19, 2010.)

**129-5-118b. Cost reimbursement principles for federally qualified health center services and other ambulatory services.** The medicare cost reimbursement principles contained in subparts A and G in 42 C.F.R. part 413, as revised on October 1, 2009 and hereby adopted by reference, and the cost principles specified in this regulation and in K.A.R. 129-5-118a shall be applicable to the financial and statistical data reported by the federally qualified health center for the determination of reasonable cost of providing covered services. (a) Nonreimbursable costs. Each cost that is not related to patient care and is not necessary for the efficient delivery of covered federally qualified health center services and other ambulatory services shall be excluded from the medicaid rate determination. In addition, the following expenses shall be considered nonreimbursable:

- (1) Salaries and fees paid to nonworking directors and officers;
- (2) uncollectible debts;
- (3) donations and contributions;
- (4) fund-raising expenses;
- (5) taxes including the following:
  - (A) Those from which the provider is entitled to obtain exemption;
  - (B) those on property not used in providing covered services; and
  - (C) those levied against a patient and remitted by the provider;
- (6) life insurance premiums for directors, officers, and owners;
- (7) the imputed value of in-kind services rendered by nonpaid workers and volunteers;
- (8) the cost of social, fraternal, civic, and other organizations associated with activities unrelated to patient care;
- (9) all expenses related to vending machines;
- (10) board of director costs;
- (11) the cost of advertising for promoting the services offered by the facility to attract more patients;
- (12) public relations and public information expenses;
- (13) penalties, fines, and late charges, including interest paid on state and federal payroll taxes;
- (14) the cost of items or services provided only to non-Kansas medical assistance program patients and reimbursed by third-party payers;

(15) all expenses associated with the ownership, lease, or charter of airplanes;

(16) bank overdraft charges and other penalties;

(17) the cost associated with group health education classes, activities, and mass information programs including media productions, brochures, and other publications;

(18) expense items without indication of their nature or purpose including "other" and "miscellaneous," without proper documentation when requested;

(19) non-arm's-length transactions;

(20) legal and other costs associated with litigation between a provider and state or federal agencies, unless litigation is decided in the provider's favor; and

(21) legal expenses not related to patient care.

(b) Costs allowed with limitations and conditions.

(1) Loan acquisition fees and standby fees. These fees shall be amortized over the life of the loan and shall be allowed only if the loan is related to patient care.

(2) Taxes associated with financing the operations. These taxes shall be allowed only as amortized cost.

(3) Special assessments on land for capital improvements. These assessments shall be amortized over the estimated useful life of the improvements and allowed only if related to patient care.

(4) Start-up costs of a new facility.

(A) Start-up costs may include the following:

(i) Staff salaries and consultation fees;

(ii) utilities;

(iii) taxes;

(iv) insurance;

(v) mortgage interest;

(vi) employee training; and

(vii) any other allowable cost incidental to the operation of the facility.

(B) A start-up cost shall be recognized only if it meets the following criteria:

(i) Is incurred before the opening of the facility;

(ii) is related to developing the facility's ability to provide covered services;

(iii) is amortized over a period of 60 months or more; and

(iv) is identified in the cost report as a start-up cost.

(5) Expenses. Each cost that can be identified as an organization expense or capitalized as a construction expense shall be appropriately classified and excluded from start-up costs.

(6) Payments made to related parties for services, facilities, and supplies. These payments

shall be allowed at the lower of the actual cost to the related party and the market price.

(7) Premium payments. If a provider chooses to pay in excess of the market price for supplies or services, the agency shall use the market price to determine the allowable cost in the absence of a clear justification for the premium.

(8) Job-related training. The cost of this training shall be the actual amount minus any reimbursement or discount received by the provider.

(9) Lease payments. These payments shall be allowed only if reported in accordance with the generally accepted accounting principles appropriate to the reporting period.

(c) Interest expense. Only necessary and accurate interest on working capital indebtedness shall be an allowable cost.

(1) The interest expense shall be allowed only if it is established with either of the following:

(A) Any lender or lending organization not related to the borrower, or

(B) the central office and other related parties under the following conditions:

(i) The terms and conditions of payment of the loans are on arm's-length basis with a recognized lending institution;

(ii) the provider demonstrates, to the satisfaction of the agency, a primary business purpose for the loan other than increasing the rate of reimbursement; and

(iii) the transaction is recognized and reported by all parties for federal income tax purposes.

(2) Interest expense shall be reduced by investment income from both restricted and unrestricted idle funds and funded reserve accounts, except when the income is from restricted or unrestricted gifts, grants, and endowments held in separate accounts with no commingling with other funds. Income from the provider's qualified pension fund shall not be used to reduce interest expense.

(3) Interest earned on restricted and unrestricted industrial revenue bond reserve accounts and sinking fund accounts shall be offset against interest expense up to and including the amount of the related interest expense.

(4) The interest expense on that portion of the facility acquisition loan attributable to an excess over historic cost or other cost basis recognized for program purposes shall not be considered a reasonable cost.

(d) Central office cost. This subsection shall be applicable in situations in which the federally qualified health center is one of several programs or

departments administered by a central office or organization and the total administrative cost incurred by the central office is allocated to all components.

(1) Allocation of the central office cost shall use a logical and equitable basis and shall conform to generally accepted accounting procedures.

(2) The central office cost allocated to the federally qualified health center shall be allowed only if the amount is reasonable and if the central office provided a service normally available in similar facilities enrolled in the program.

(3) The provider shall bear the burden of furnishing sufficient evidence to establish the reasonability of the level of allocated cost and the nature of services provided by the central office.

(4) All costs incurred by the central office shall be allocated to all components as a central cost pool, and no portion of the central office cost shall be directed to individual facilities operated by the provider or reported on any line of the cost report other than the appropriate line of the central office cost on any other line of the cost report outside of the central office cost allocation plan.

(5) Only patient-related central office costs shall be recognized, which shall include the following:

(A) Cost of ownership or arm's-length rent or lease expense for office space;

(B) utilities, maintenance, housekeeping, property tax, insurance, and other facility costs;

(C) employee salaries and benefits;

(D) office supplies and printing;

(E) management consultant fees;

(F) telephone and other means of communication;

(G) travel and vehicle expenses;

(H) allowable advertising;

(I) licenses and dues;

(J) legal costs;

(K) accounting and data processing; and

(L) interest expense.

(6) The cost principles and limits specified in this regulation shall also apply to central office costs.

(7) Estimates of central office costs shall not be allowed.

(e) Revenue offsets. Revenue items shall be deducted from the appropriate expense item or cost center in accordance with this subsection.

(1) Revenue with insufficient explanation of its nature or purpose shall be offset against operating costs.

(2) Expense recoveries credited to expense accounts shall not be reclassified as revenue. (Autho-

rized by K.S.A. 2008 Supp. 75-7403 and 75-7412; implementing K.S.A. 2008 Supp. 75-7405 and 75-7408; effective June 2, 2006; amended March 19, 2010.)

**Article 6.—MEDICAL ASSISTANCE  
PROGRAM—CLIENTS' ELIGIBILITY  
FOR PARTICIPATION**

**129-6-30. Implementation of provisions specific to the ACA.** The definitions in K.A.R. 129-6-34 and the provisions of K.A.R. 129-6-41, 129-6-42, 129-6-53, 129-6-54, 129-6-103, 129-6-106(e), 129-6-110(a) and (b), 129-6-111(a) and (b), 129-6-112, and 129-6-113 shall apply to all eligibility determinations completed on and after November 1, 2013. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-34. Definitions; covered groups.**

(a) The terms defined in K.A.R. 129-1-1 shall be applicable to this article. In addition and for purposes of this article, each of the following terms shall have the meaning specified in this regulation, unless the context clearly indicates otherwise:

(1) "Buy-in process" means the process by which the medicaid program pays a recipient's medicare premiums to establish medicare coverage.

(2) "Caretaker" means the person who is assigned the primary responsibility for the care and control of the child and who is any of the following persons:

(A) Guardian, conservator, legal custodian, or person claiming the child as a tax dependent;

(B) parent, including parent of an unborn child;

(C) sibling;

(D) nephew;

(E) niece;

(F) aunt;

(G) uncle;

(H) person of a preceding generation who is denoted by a term that includes any of the following prefixes: "grand," "great-," "great-great-," or "great-great-great-";

(I) stepfather, stepmother, stepbrother, or step-sister;

(J) legally adoptive parent or another relative of an adoptive parent as listed in paragraph (a)(1); and

(K) spouse of any person listed in paragraph (a) (1) or former spouse of any of these persons, if marriage is terminated by death or divorce.

(3) "Child" means a natural or biological child, adopted child, or stepchild.

(4) "Earned income" means income, in cash or in kind, that an applicant or recipient currently earns, through the receipt of wages, salary, or profit, from activities in which the individual engages as an employer or as an employee with responsibilities that necessitate continuing activity on the individual's part.

(5) "Eligible caretaker" means a caretaker who is considered in the assistance plan with the child.

(6) "Family group" means the applicant or recipient and all individuals living together in which there is a relationship of legal responsibility or a caretaker relationship.

(7) "HCBS" means home- and community-based services. Home- and community-based services are medical and nonmedical services provided to a medicaid recipient in the recipient's home that prevent the recipient from being placed in a nursing facility, hospital, or intermediate care facility.

(8) "Household size" means the number of persons counted as members of an individual's tax household in accordance with K.A.R. 129-6-41 and 129-6-53. For each pregnant woman in the household, the household size shall include the woman and the number of children she is expected to deliver.

(9) "Independent living" means any living arrangement in which ongoing medical care or treatment is not routinely provided, including living in one's own home, renting, living with other family members or friends, living in a room-and-board arrangement, and living in certain specialized living arrangements, including homeless shelters, shelters for battered women, and alcohol and drug abuse facilities.

(10) "Legally responsible relative" means the person who has the legal responsibility to provide support for the person in the assistance plan.

(11) "Long-term care" means care that is received in a nursing facility or other institutional arrangement, a home- and community-based services arrangement, or a program of all-inclusive care for the elderly (PACE) arrangement and whose duration is expected to exceed the month the arrangement begins and the following two months.

(12) "Modified adjusted gross income" and "MAGI" mean income as defined in 26 U.S.C. 36B(d).

(13) "PACE" means program of all-inclusive care for the elderly. The program of all-inclusive

care for the elderly provides medical services to frail elderly medicaid recipients in institutional settings and non-institutional settings.

(14) “Parent” means natural or biological parent, adoptive parent, or stepparent.

(15) “Protected income level” means the amount of monthly income that is not considered available for the payment of medical expenses. The protected income level is based on the number of persons in the assistance plan in accordance with K.A.R. 129-6-42 and the number of legally responsible relatives.

(16) “Sibling” means natural or biological sibling, adopted sibling, half sibling or stepsibling.

(17) “Supplemental security income” and “SSI” mean the low-income assistance program administered by the social security administration in accordance with 42 U.S.C. 1381 et seq., which provides monthly benefits to elderly and disabled persons.

(18) “Tax dependent” means a dependent under 26 U.S.C. 152 for whom another individual claims a deduction for a personal exemption under 26 U.S.C. 151 for a taxable year.

(19) “Title IV-E” means the adoption assistance and child welfare act of 1980, which provides federal funding for foster care, adoption assistance, and other permanency and placement programs for children.

(20) “Unearned income” means all income that is not earned income.

(b) The medical assistance program shall include applicants and recipients classified as automatic eligibles and as determined eligibles.

(c) The medical assistance program shall provide coverage to the following groups:

(1) MAGI-based coverage groups whose eligibility is based on the application of MAGI methodologies as specified in K.A.R. 129-6-41 and 129-6-53, including the following:

(A) Caretaker relatives and children under K.A.R. 129-6-70;

(B) newborn children who meet the provisions of K.A.R. 129-6-65(e);

(C) poverty-level pregnant women under K.A.R. 129-6-71;

(D) poverty-level children under K.A.R. 129-6-72;

(E) determined-eligible pregnant women under K.A.R. 129-6-73; and

(F) determined-eligible children under K.A.R. 129-6-74; and

(2) MAGI-excepted coverage groups whose eligibility is not based on the application of MAGI

methodologies in accordance with K.A.R. 129-6-42 and 129-6-54, including the following:

(A) Children receiving title IV-E or non-title IV-E foster care payments under K.A.R. 129-6-65(f) or 129-6-80;

(B) children for whom an adoption support agreement under title IV-E is in effect under K.A.R. 129-6-65(g);

(C) children for whom a non-title IV-E adoption support agreement is in effect under K.A.R. 129-6-65(h);

(D) children receiving title IV-E guardianship care payments under K.A.R. 129-6-65(i);

(E) former foster care children under the age of 26 under K.A.R. 129-6-91;

(F) persons receiving supplemental security income (SSI) benefits in accordance with K.A.R. 129-6-65(a);

(G) persons receiving state supplemental payments in accordance with K.A.R. 129-6-65(b);

(H) persons deemed to be receiving SSI in accordance with K.A.R. 129-6-65(c);

(I) children under the age of 21 in an institutional arrangement in accordance with K.A.R. 129-6-81;

(J) aged, blind, or disabled persons under K.A.R. 129-6-85, including persons 65 years of age or older, persons whose eligibility is based on being blind or disabled under social security administration criteria, and persons whose eligibility is determined on the basis of the need for long-term care including nursing facility or institutional services, home- and community-based services, and PACE services;

(K) poverty-level and low-income medicare beneficiaries under K.A.R. 129-6-86;

(L) poverty-level working disabled individuals under K.A.R. 129-6-87;

(M) disabled individuals with earned income under K.A.R. 129-6-88;

(N) individuals with breast or cervical cancer under K.A.R. 129-6-89;

(O) persons living in nursing facilities for mental health under K.A.R. 129-6-94; and

(P) determined-eligible medicaid beneficiaries under K.A.R. 129-6-95. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-35. Application process.** (a) An application for medical assistance shall be submitted by an applicant, an adult who is in the applicant’s

household or family, or another person authorized to act on the applicant's behalf, except that an application on behalf of a person mandated to receive tuberculosis care or on behalf of a deceased person may be made by any responsible person.

(b)(1) An application for medical assistance shall be made using a department-approved form. The applicant or person authorized to act on behalf of the applicant shall sign the application. Electronic signatures, including telephonically recorded signatures, and handwritten signatures transmitted by any other means of electronic transmission shall be acceptable. If any person signs by mark, the names and addresses of two witnesses shall be required. Each application on behalf of a deceased person shall be made within three months of the month of the person's death.

(2) Whenever assistance is requested for a family member following approval of assistance for other family members, the month of application for that family member shall be the month of the request, if all other eligibility requirements are met.

(3) Each application shall be submitted electronically on the state's application web site or the federally facilitated exchange web site, by telephone, in person, by mail, by electronic mail, or by fax.

(c)(1) For each application submitted online, the date of receipt of the application shall be the date the application is received from the state's application web site or the date the application is transmitted from the federally facilitated exchange web site.

(2) If the department denies an application within 90 days of the department's receipt of a signed application for medical assistance that is dependent upon a finding of disability and the applicant reapplies or provides required information within this 90-day period, the application shall be reactivated. If the department denies any other signed application within 45 days of the department's receipt of the application and the applicant reapplies or provides required information within this 45-day period, the application shall be reactivated. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-36. Redetermination of eligibility process.** (a) Each recipient shall provide the department with information on the recipient's cur-

rent situation and have an opportunity to review the eligibility factors so that the department can redetermine the recipient's continuing eligibility for medical assistance.

(b) Each recipient shall complete the redetermination process by either of the following:

(1) Reviewing and, if necessary, responding to information provided from the department's records, including information obtained through electronic data matching with other state or federal agencies; or

(2) completing and returning information on the individual's current situation requested by the department.

(c) Each recipient's eligibility for medical assistance shall be redetermined as often as a need for review is indicated. Redetermination shall occur at least once each 12 months.

(d) If a recipient fails to respond to a required redetermination request or to provide necessary information, the recipient and the members of the recipient's assistance plan shall be ineligible for assistance in accordance with K.A.R. 129-6-56. If the recipient responds to the request or provides information within 90 days of termination of assistance, the redetermination shall be completed without requiring a new application. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-38.** (Authorized by K.S.A. 2005 Supp. 75-7412; implementing K.S.A. 2005 Supp. 75-7412 and 75-7413, as amended by L. 2006, ch. 4, § 2; effective Aug. 11, 2006; revoked, T-129-10-31-13, Nov. 1, 2013; revoked Feb. 28, 2014.)

**129-6-39. Responsibilities of applicants and recipients.** Each applicant or recipient shall perform the following:

(a) Submit an application for medical assistance on a department-approved form. Any applicant may withdraw the application between the date the application is submitted and the date of the notice of the department's decision;

(b) supply information essential to the establishment of eligibility, to the extent that the applicant or recipient is able to do so;

(c) give written permission for the release of information regarding resources, when needed;

(d) report any change in circumstances within 10 calendar days of the change or as otherwise required by the program. Changes to be reported

shall include changes to income, living arrangement, household size, family group members, residency, alienage status, health insurance coverage, and employment;

(e) meet that individual's own medical needs to the extent that the individual is capable of doing so;

(f) take all necessary actions to obtain income or resources due the person or any other person for whom the individual is applying or who is receiving medical assistance; and

(g) except for persons for whom a determination under presumptive medical assistance as defined in K.A.R. 129-6-151 has been made, request a fair hearing in writing if the individual is dissatisfied with any department decision or lack of action in regard to the application for or the receipt of assistance. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-41. Assistance planning for MAGI-based coverage groups.** (a) The assistance plan for the groups described in K.A.R. 129-6-34(c)(1) shall consist of those persons in the household as determined in subsections (b) through (f).

(b) For each person who is not claimed as a tax dependent by any other taxpayer and is expected to file a tax return, the household shall consist of the person and all of the person's tax dependents, except as noted in subsection (e). If a taxpayer cannot reasonably establish that another individual is a tax dependent of the taxpayer for the tax year in which assistance is determined, the inclusion of the individual in the household of the taxpayer shall be determined in accordance with subsections (d) and (e).

(c) For each person claimed as a tax dependent by another taxpayer, the household shall consist of that taxpayer and the taxpayer's dependents, except as noted in subsection (e).

(d) For each person who neither files a tax return nor is claimed as a tax dependent, the household shall consist of the person and, if living with the person, the following:

- (1) The person's spouse;
- (2) the person's natural children, adopted children, and stepchildren under the age of 21;
- (3) the person's natural parents, adoptive parents, and stepparents, if the person is under the age of 21; and
- (4) the person's natural siblings, adopted sib-

lings, and stepsiblings under the age of 21, if the person is under the age of 21.

(e) For each person who is claimed as a tax dependent by another taxpayer, the household shall be determined in accordance with subsection (d) if the person meets one of the following conditions:

(1) Is not a spouse of the taxpayer and is not a biological child, an adopted child, or stepchild of the taxpayer;

(2) is claimed by one parent as a tax dependent and is living with both parents who do not expect to file a joint tax return; or

(3) is under the age of 21 and expected to be claimed as a tax dependent by a noncustodial parent.

(f) For any married couple living together, each spouse shall be included in the household of the other spouse, whether both spouses expect to file a joint tax return under 26 U.S.C. 6013 or whether one spouse expects to be claimed as a tax dependent by the other spouse. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-42. Assistance planning for MAGI-excepted coverage groups.** (a) In independent living arrangements for the groups described in K.A.R. 129-6-34(c)(2), the following requirements shall apply:

(1) For any child who is not blind or disabled, the assistance plan shall consist of all children in the family group and the legally responsible relatives of the children, if living together.

(2) For any child who is not living with a legally responsible relative, a separate assistance plan shall be applicable and shall include the siblings of the child if in the family group.

(3) For SSI recipients, a separate assistance plan shall be applicable and shall include only the SSI recipient.

(4) For all other persons, the assistance plan shall consist of those members of the family group for whom assistance is requested and eligibility is determined.

(5) For any deceased person for whom an application is made, the assistance plan shall be determined as if the person were living.

(b) In long-term care arrangements for the groups described in K.A.R. 129-6-34(c)(2), each person shall have a separate assistance plan, unless one of the following exceptions applies:

(1) The person's protected income level is being computed as if the person were maintaining an independent living arrangement.

(2) The person's income and resources are considered available to both members of a couple, as specified in K.A.R. 129-6-106(f).

(3) A couple is residing in the same long-term care institutional arrangement, and only one spouse has income. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-50. Determined eligibles; general eligibility factors.** The general eligibility requirements in K.A.R. 129-6-51 through 129-6-60 and in K.A.R. 129-6-63 shall be eligibility factors applicable to determined eligibles, except as specified in those regulations. Certain eligibility requirements may be waived by the secretary and additional eligibility requirements may be adopted by the secretary for all, or designated areas, of the state for the purpose of utilizing special project funds or grants or for the purpose of conducting special demonstration or research projects. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-51. General eligibility requirements.** (a) Eligibility process. The determination of eligibility shall be based upon information provided by the applicant or recipient, or on behalf of the applicant or recipient, as well as electronic data matches with other state and federal databases, including the social security administration, department of homeland security, department of labor, and the department's office of vital statistics. If the information is unclear, incomplete, conflicting, or questionable, a further review, including contact with third parties, may be required.

(b) Eligibility for medical assistance. Each applicant or recipient shall be eligible for medical assistance only if all applicable eligibility requirements have been met. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-52. Act on own behalf.** (a) For purposes of this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) "Emancipated minor" means either of the following:

(A) A person who is aged 16 or 17 and who is or has been married; or

(B) a person who is under the age of 18 and who has been given or has acquired the rights of majority through court action.

(2) "Medical facilitator" means a person authorized to help complete the application or reenrollment process on behalf of an applicant or recipient under written authorization made by the applicant or recipient. The medical facilitator may help with completing and submitting the application or reenrollment form, providing necessary information and verifications, and receiving copies of notices or other official communications from the department to the applicant or recipient. A medical facilitator shall not be authorized to apply for medical assistance on behalf of another person.

(3) "Medical representative" means a person who is authorized to act on behalf of an applicant or recipient under a written authorization made by the applicant or recipient and who is knowledgeable of the applicant's or recipient's financial holdings and circumstances.

(b) Each applicant or recipient shall be legally capable of acting on that individual's behalf and shall also have the right to designate a representative to assist or act on behalf of the applicant or recipient.

(1) A legally incapacitated adult who is not capable of acting in that individual's own behalf shall not be eligible for medical assistance, unless a legal guardian, conservator, medical representative, or representative payee for social security benefits applies for assistance on the adult's behalf.

(2) Each emancipated minor shall be eligible to receive medical assistance on that individual's own behalf.

(3) An unemancipated minor shall not be deemed capable of acting on that individual's own behalf and shall not be eligible to apply for or receive medical assistance on that individual's own behalf, except as specified in this paragraph. An unemancipated minor shall not be eligible unless a caretaker, representative payee for social security benefits, or other nonrelated responsible adult who resides with the child and is approved by the parent or legal guardian applies for assistance on the minor's behalf. However, an unemancipated minor may apply for or receive medical assistance on that individual's own behalf if one of the following conditions exists:

(A) The parents of the minor are institutionalized.

(B) The minor has no parent who is living or whose whereabouts are known, and there is no other caretaker who is willing to assume parental control of the minor.

(C) The health and safety of the minor has been or would be jeopardized by remaining in the household with the minor's parents or other caretakers. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-53. Financial eligibility for MAGI-based coverage groups.** This regulation shall apply to all groups described in K.A.R. 129-6-34(c)(1).

(a) Definitions. For purposes of this regulation, each of the following terms shall have the meaning specified in this regulation.

(1) "Household income" means the sum of the MAGI-based income of every individual included in the individual's household minus an amount equivalent to five percentage points of the federal poverty level for the applicable family size, for purposes of determining the individual's eligibility under the highest income standard for which the individual is eligible.

(2) "MAGI-based income" means income calculated using the same financial methodologies used to determine MAGI as defined in 26 U.S.C. 36B(d), with the following exceptions:

(A) An amount received as a lump sum shall be counted as income only in the month received;

(B) scholarships, awards, or fellowship grants used for education purposes and not for living expenses shall be excluded from income; and

(C) for American Indian and Alaska native funds, the following shall be excluded from income:

(i) Distributions from Alaska native corporations and settlement trusts;

(ii) distributions from any property held in trust, subject to federal restrictions, located within the most recent boundaries of a prior federal reservation or otherwise under the supervision of the secretary of the interior;

(iii) distributions and payments from rents, leases, rights-of-way, royalties, usage rights, or natural resource extraction and harvest from rights of ownership or possession in any lands described in this paragraph or federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources;

(iv) distributions either resulting from real property ownership interests related to natural resources and improvement located on or near a reservation or within the most recent boundaries of a prior federal reservation or resulting from the exercise of federally protected rights relating to these real property ownership interests;

(v) payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom; and

(vi) student financial assistance provided under the bureau of Indian affairs education programs.

(b) Exceptions to household income. Financial eligibility for families and children shall be based on household income, except for the following:

(1) The MAGI-based income of an individual who is included in the household of the individual's natural parent, adoptive parent, or stepparent and is not expected to be required to file a tax return under 26 U.S.C. 6012(a) for the taxable year in which eligibility is being determined shall not be included in household income whether or not the individual files a tax return.

(2) The MAGI-based income of a tax dependent described in K.A.R. 129-6-41(e)(1) who is not expected to be required to file a tax return under 26 U.S.C. 6012(a) for the taxable year in which eligibility is being determined shall not be included in household income whether or not the tax dependent files a tax return.

(c) Income deductions. No other deductions shall be applied in determining household income.

(d) Financial eligibility.

(1) Financial eligibility shall be based on the current monthly income and family size of the household, unless a change in circumstances is expected. In this case, financial eligibility shall be based on the projected monthly income and family size of the household.

(2) For children and pregnant women determined eligible based on K.A.R. 129-6-73 and K.A.R. 129-6-74, the provisions of K.A.R. 129-6-54(a), (b), (c), and (e) regarding base periods and spenddown determinations shall be applicable.

(e) Exclusion of resources. The value of the household's resources shall not be taken into consideration in determining financial eligibility. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-54. Financial eligibility for MAGI-excepted coverage groups.** This regulation shall apply to all groups described in K.A.R. 129-6-34(c)(2), except that subsections (c) and (d) of this regulation shall not apply to any medicare beneficiary who meets the requirements of K.A.R. 129-6-86 or to any working disabled individual who meets the requirements of K.A.R. 129-6-87.

(a) Definitions. For purposes of this regulation, each of the following terms shall have the meaning specified in this regulation:

(1) "Client obligation" means the amount that the individual is required to pay towards the cost of care that the individual receives in a long-term care arrangement. Client obligation shall be based on the amount of applicable income that exceeds the income standard in the eligibility base period.

(2) "Eligibility base period" means the length of time used in the determination of financial eligibility. The length of the eligibility base period varies from one month to six months as specified in subsection (b).

(3) "Spendedown" means the amount of applicable income that exceeds the protected income level in the eligibility base period and that is available to meet medical costs.

(b) Eligibility base period.

(1) The base period shall be determined according to the following:

(A) For prior eligibility, the base period shall be the three months immediately preceding the month of application.

(B) Except for persons determined eligible under K.A.R. 129-6-85, the base period shall be one month for current eligibility.

(C) For persons determined eligible under K.A.R. 129-6-85, the base period shall be one month for persons in long-term care and six months for persons in independent living for current eligibility. A six-month base period shall be shortened in certain instances including when the recipient begins long-term care, becomes eligible for cash assistance, or dies.

(2) The base period shall begin on the first day of the month in which the application was received. Subsequent eligibility base periods for recipients shall begin on the first day of the month following the expiration of the previous base period. Each reapplication received outside of a previously established eligibility base period shall be treated as a new application without regard to any previous eligibility base period. However, if the reapplication includes a request for

prior eligibility, the base period of prior eligibility shall not extend into a previously established eligibility base period.

(c) Financial eligibility for persons in independent living.

(1) The total of all applicable income in the eligibility base period, as determined in accordance with K.A.R. 129-6-111, shall be compared to the income standard, as specified in K.A.R. 129-6-103, for the base period. If the total applicable income is less than the income standard and the individual owns property that has value within the allowable limits, the individual shall be financially eligible for medical assistance. If the total applicable income exceeds the income standard, the individual shall be ineligible for medical assistance except for persons determined eligible under K.A.R. 129-6-73, 129-6-74, and 129-6-85.

(2) For determined eligibles under K.A.R. 129-6-73, 129-6-74, and 129-6-85, if the total applicable income exceeds the income standard and the individual owns property that has value within the allowable limits, the excess applicable income shall be the spenddown.

(A) Each applicant or recipient shall incur allowable medical expenses in an amount at least equal to the spenddown before becoming eligible for assistance. Medical expenses paid either voluntarily or involuntarily by third parties shall not be utilized to meet the spenddown, except for medical expenses paid by a public program of the state other than Medicaid.

(B) A previously unconsidered increase in total applicable income during the current eligibility base period that results in an additional spenddown shall not alter the base period. The individual shall meet the additional spenddown during the eligibility base period before the individual becomes eligible or regains eligibility for medical assistance. A payment made through the program within the current eligibility base period shall not be considered an overpayment if a previously eligible individual fails to meet the additional spenddown within the current eligibility base period.

(d) Financial eligibility for persons in long-term care arrangements.

(1) Total gross income shall not exceed 300 percent of the payment standard for one person in the supplemental security income program as specified in K.A.R. 129-6-103(a)(13).

(2)(A) If the person is eligible in accordance with paragraph (d)(1), the total of all applicable income in the eligibility base period, as deter-

mined in accordance with K.A.R. 129-6-111, shall be compared to the income standard, as specified in K.A.R. 129-6-103(b) for institutional arrangements and K.A.R. 129-6-103(c) for HCBS arrangements, for the base period. If the total applicable income is less than the income standard and the individual owns property that has value within the allowable limits, the individual shall be financially eligible for medical assistance. If the total applicable income exceeds the income standard and the individual owns property that has value within the allowable limits, the excess applicable income shall be the client obligation.

(B) If the person is not eligible in accordance with paragraph (d)(1), financial eligibility shall first be determined in accordance with subsection (c). If allowable medical expenses, including the cost of the long-term arrangement, are in an amount that is at least equal to the spenddown, a final determination of financial eligibility shall then be determined in accordance with paragraph (d)(2)(A), including application of the appropriate institutional or HCBS income standard as specified in K.A.R. 129-6-103(b) or (c). If allowable medical expenses are not in an amount that is at least equal to the spenddown, financial eligibility shall be determined in accordance with subsection (c).

(3) Each applicant or recipient shall incur allowable medical expenses in an amount at least equal to the client obligation before becoming eligible for assistance. Medical expenses paid either voluntarily or involuntarily by third parties shall not be utilized to meet this obligation, except for medical expenses paid by a public program of the state other than medicaid.

(4) Any increase in total applicable income during the current eligibility base period may result in financial ineligibility or in additional obligation, but this increase shall not alter the base period. A payment made through the program within the current eligibility base period shall not be considered an overpayment if a previously eligible individual becomes ineligible because of an increase in total applicable income or fails to meet any additional obligation within the current eligibility base period.

(e) Allowable expenses. The following expenses shall be applied to a spenddown or client obligation if the individual provides evidence that the individual has incurred or reasonably expects to incur the expenses within the appropriate eligibility base period, or has incurred and is still

obligated for expenses outside of the appropriate eligibility base period that have not been previously applied to a spenddown or obligation:

- (1) Co-pay requirements;
- (2) the pro rata portion of medical insurance premiums for the number of months covered in the eligibility base period regardless of the actual date of payment, past or future;
- (3) any medicare premiums that are not covered by the department through the buy-in process. Premiums that are subject to the buy-in process shall not be allowable before completion of the buy-in process, even if the individual pays the premiums or the premiums are withheld;
- (4) if medically necessary and recognized under Kansas law, all expenses for medical services incurred by the individual or a legally responsible family group member. Expenses for social services designated as medical services under the HCBS program shall be allowable under this paragraph for persons in the HCBS program. Expenses for routine supplies, as defined in K.A.R. 129-10-15a, and for institutional care if the individual does not meet nursing facility criteria through the level-of-care evaluation or reevaluation process as defined in K.A.R. 30-10-7, shall not be allowable under this paragraph; and
- (5) the cost of necessary transportation by appropriate mode to obtain medical services specified in paragraph (e)(4). (Authorized by and implementing K.S.A. 2013 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-55. Residence, citizenship, and alienage.** (a) Residence. Each applicant or recipient shall be a resident of Kansas. Temporary absence from a state with subsequent return to the state, or intent to return when the purposes of the absence have been accomplished, shall not be considered to interrupt continuity of residence. Residence shall be considered to be retained until abandoned or established in another state. Residency shall be established as specified in this subsection.

- (1) Individuals aged 21 and over.
  - (A) For each individual not residing in an institution, the individual shall choose the state of residence, based on one of the following:
    - (i) The state in which the individual is living and intends to reside, including without a permanent address;
    - (ii) the state that the individual has entered with a job commitment or for seeking employ-

ment, whether or not the individual is currently employed; or

(iii) the state in which the individual is living, if the individual is not capable of stating intent.

(B) For each individual who is residing in an institution, the state of residence shall be any of the following, whether or not the individual is capable of stating intent:

(i) The state in which the parent or permanent guardian resides, if the individual became incapable of stating intent before the age of 21;

(ii) the state in which the individual is living if the individual became capable of stating intent on or after the age of 21;

(iii) the state that placed the individual in an out-of-state institution; or

(iv) for any other institutionalized individual, the state in which the individual is living and intends to reside.

(2) Individuals under the age of 21.

(A) For each individual who is not residing in an institution and is not eligible for title IV-E foster care or adoption support assistance, the individual shall choose the state of residence, based on one of the following:

(i) The state in which the individual meets the conditions of paragraph (a)(1)(A)(i) or (ii), if the individual is capable of stating intent and either is emancipated from the individual's parents or is married;

(ii) the state in which individual resides, including without a permanent address, if the individual does not meet the conditions of paragraph (a)(2)(A)(i); or

(iii) the state in which the individual's parent or caretaker resides, if the individual lives with the parent or caretaker and does not meet the conditions of paragraph (a)(2)(A)(i).

(B) For each individual residing in an institution, the state of residence shall be the state in which the individual's parent or guardian is residing, whether or not the individual is capable of stating intent, unless the individual has been placed in an out-of-state institution. If the individual has been placed in an out-of-state institution, the state of residence shall be the state making the placement.

(b) Citizenship and alienage. Each applicant or recipient shall be a citizen of the United States or shall be a noncitizen who meets the conditions in paragraph (b)(1) or (2).

(1) The individual entered the United States before August 22, 1996 and meets one of the following conditions:

(A) Is a refugee as specified in 8 U.S.C. 1101, including any person who is a Cuban or Haitian entrant as defined in public law 96-422 or is admitted as an Amerasian immigrant as defined in public law 100-202;

(B) is granted asylum pursuant to 8 U.S.C. 1158;

(C) has deportation withheld under 8 U.S.C. 1253(h) as in effect before April 1, 1997 or under 8 U.S.C. 1231(b)(3);

(D) is a lawful, permanent resident;

(E) is an honorably discharged veteran or is on active duty in the armed forces or is the spouse or unmarried dependent child of the veteran or the person on active duty;

(F) has been paroled into the United States for at least one year under 8 U.S.C. 1182(d)(5);

(G) has been granted conditional entry under 8 U.S.C. 1157;

(H) has been battered or subjected to extreme cruelty by a U.S. citizen or lawful permanent spouse or parent and has a pending or approved violence against women act (VAWA) case or petition before the department of homeland security pursuant to 8 U.S.C. 1641(c); or

(I) is a certified victim of severe forms of trafficking, as defined in 22 U.S.C. 7105.

(2) The individual entered the United States on or after August 22, 1996 and meets one of the following conditions:

(A) Is a refugee, as specified in 8 U.S.C. 1101, including any person who is a Cuban or Haitian entrant as defined in public law 96-422 or is admitted as an Amerasian immigrant as defined in public law 100-202;

(B) is granted asylum pursuant to 8 U.S.C. 1158;

(C) has deportation withheld under 8 U.S.C. 1253(h) as in effect before April 1, 1997 or under 8 U.S.C. 1231(b)(3);

(D) is an honorably discharged veteran or is on active duty in the armed forces or is the spouse or unmarried dependent child of the veteran or the person on active duty;

(E) is an Iraqi or Afghani special immigrant under the 2006 national defense authorization act, public law 109-163;

(F) is a certified victim of severe forms of trafficking, as defined in 22 U.S.C. 7105;

(G) is a lawful, permanent resident who has resided in the United States for at least five years;

(H) has been paroled into the United States under 8 U.S.C. 1182(d)(5) for at least one year and has resided in the United States for at least five years;

(I) has been granted conditional entry under 8 U.S.C. 1157 and has resided in the United States for at least five years; or

(J) has been battered or subjected to extreme cruelty by a U.S. citizen or lawful permanent spouse or parent, has a pending or approved violence against women act (VAWA) case or petition before the department of homeland security pursuant to 8 U.S.C. 1641(c), and has resided in the United States for at least five years.

(3) Each applicant or recipient declaring to be a citizen or national of the United States shall present evidence of citizenship or nationality in accordance with “KDHE-DHCF policy no. 2013-10-01,” as adopted by reference in K.A.R. 129-14-27. This requirement shall not apply to any of the following:

(A) Newborn children who meet the provisions of K.A.R. 129-6-65(e);

(B) individuals receiving SSI benefits;

(C) individuals entitled to or enrolled in any part of medicare;

(D) individuals receiving disability insurance benefits under section 223 of the social security act or monthly benefits under section 202 of the social security act, based on the individual’s disability; or

(E) individuals who are in foster care and who are assisted under title IV-B of the social security act as amended by public law 109-288 and individuals who are recipients of foster care maintenance or adoption assistance payments under title IV-E.

(4) Each individual declaring to be a noncitizen shall present evidence of that individual’s status in accordance with “KDHE-DHCF policy no. 2013-10-01,” as adopted by reference in K.A.R. 129-14-27. Each noncitizen who has provided evidence of qualified noncitizen status that has been verified with the department of homeland security shall be eligible for medical assistance.

(5) Each applicant or recipient shall have 90 days from the date the application is approved to provide the evidence described in paragraph (b)(3) or (4). (Authorized by and implementing K.S.A. 2013 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-56. Cooperation.** (a) Establishment of eligibility. Each applicant or recipient shall cooperate with the department in the establishment of the applicant’s or recipient’s eligibility by providing all information necessary to determine

eligibility as specified in K.A.R. 129-6-39. Failure to provide all information necessary shall render members of the assistance plan, as defined in K.A.R. 129-6-41 or 129-6-42, ineligible for medical assistance.

(b) Potential resources. Each adult applicant or recipient shall cooperate with the department by obtaining any resources, including income, due the adult or any other person for whom assistance is claimed. In applicable situations, this cooperation shall include claiming an inheritance due the applicant or recipient and taking a share of an estate due the applicant or recipient as a surviving spouse. Failure to cooperate without good cause shall render the adult ineligible for medical assistance. Good cause shall include failure to pursue a potential resource when the cost of legal action would be greater than the value of the resource and, for pregnant women, failure to pursue unemployment benefits.

(c) Social security number. Except as noted in this subsection, each applicant or recipient shall cooperate by providing the department with the applicant’s or recipient’s social security number. Failure to provide the number, or failure to apply for a number if the applicant or recipient has not previously been issued a social security number, shall render the applicant or recipient ineligible for medical assistance. The following individuals shall be exempt from this requirement:

(1) Any individual who is not eligible to receive a social security number;

(2) Any individual who does not have a social security number and can be issued a number only for a valid non-work reason; and

(3) any individual who refuses to obtain a social security number because of well-established religious objections.

(d) Paternity and support. Except for pregnant women, each applicant or recipient shall cooperate with the department by establishing the paternity of any child born out of wedlock for whom medical assistance is claimed and in obtaining medical support payments for the applicant or recipient and for any child for whom medical assistance is claimed. Failure to cooperate shall render the applicant or recipient ineligible for medical assistance, unless the individual demonstrates good cause for refusing to cooperate. Cooperation shall include the following actions:

(1) Appearing at the local child support enforcement office, as necessary, to provide information or documentation needed to establish the pater-

nity of a child born out of wedlock, to identify and locate the absent parent, and to obtain support payments;

(2) appearing as a witness at court or at other proceedings as necessary to achieve the child support enforcement objectives;

(3) forwarding to the child support enforcement unit any support payments received from the absent parent that are covered by the support assignment; and

(4) providing information, or attesting to the lack of information, under penalty of perjury.

Good cause shall include pending legal proceedings for adoption of the child and threat of domestic violence as a result of cooperation.

(e) Third-party resources. Each applicant or recipient shall cooperate with the department by identifying and providing information to assist the department in pursuing any third party who could be liable to pay for medical services under the medical assistance program. Failure to cooperate without good cause shall render the applicant or recipient ineligible for medical assistance. Good cause shall include the unknown whereabouts of a liable third party and no legal standing to pursue a third party.

(f) Group health plan enrollment. Each applicant or recipient who is eligible to enroll in a group health plan offered by the applicant's or recipient's employer shall cooperate with the department by enrolling in that group health plan if the department has determined that the plan is cost-effective. To be cost-effective, the amount paid for premiums, coinsurance, deductibles, other cost-sharing obligations under the group health plan, and any additional administrative costs shall be less than the amount paid by the department for an equivalent set of medicaid services. Failure to cooperate without good cause shall render the applicant or recipient ineligible for medical assistance. Good cause shall include lack of reasonable geographic access to care such that the applicant or recipient has to routinely travel more than 50 miles to reach providers participating in the plan. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-57. Transfer of assets.** (a) Definitions. For purposes of this regulation, each of the following terms shall have the meaning specified in this regulation:

(1) "Assets" means all income and resources of the individual and the individual's spouse, including any income or resources that the individual or the individual's spouse is entitled to but does not receive because of action by any of the following:

(A) The individual or the individual's spouse;

(B) a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse; or

(C) any person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

(2) "Compensation" means all money, real or personal property, food, shelter, or service received by the individual or spouse at or after the time of transfer in exchange for the asset in question. A service received shall be considered compensation only if the service is provided under the terms of a legally enforceable agreement to provide the service in exchange for the assets in question and if the terms are established before delivery of the service. Payment or assumption of a legal debt owned by the individual or spouse in exchange for the asset shall be deemed compensation.

(3) "Fair market value" means the market value of an asset at the earlier of the time of the transfer or the contract of sale. Current market value shall be determined in accordance with K.A.R. 129-6-106(b).

(4) "Institutionalized individual" means an applicant or recipient who meets any of the following conditions:

(A) Is residing in a nursing facility;

(B) is residing in a medical institution that is providing the individual with a level of care equivalent to the care provided by a nursing facility;

(C) is residing in an HCBS living arrangement;

or

(D) is participating in PACE.

(5) "Transfer of assets" means any transfer or assignment of any legal or equitable interest in any asset that partially or totally passes the use, control, or ownership of the asset of an applicant or recipient, or the spouse of an applicant or recipient, to another person or corporation, including any of the following:

(A) Giving away an interest in an asset;

(B) placing an interest in an asset in a trust that is not available to the grantor;

(C) removing or eliminating an interest in a jointly owned asset in favor of other owners;

(D) disclaiming an inheritance of any property, interest, or right;

(E) failing to take a share of an estate as a surviving spouse; or

(F) transferring or disclaiming the right to income not yet received.

(6) “Uncompensated value” means the fair market value of an asset less the amount of any compensation received by the individual or spouse in exchange for the asset.

(b) Ineligibility for payment of services. If an individual or spouse has transferred or disposed of assets for less than fair market value on or after the specified look-back date as determined by the date of transfer, the individual shall not be eligible for payment of services for any institutionalized individual as specified in paragraphs (a)(4)(A) through (D).

(c) Exempted transfers. An individual shall not be ineligible for payment of services due to a transfer of assets in any of the following circumstances:

(1) The fair market value of the assets transferred has been received.

(2) A written request to transfer the assets has been submitted by the individual and approved by the secretary before the date of the transfer.

(3) The transfer has been executed pursuant to the division of assets provisions of K.A.R. 129-6-106.

(4) A transfer of an interest in the individual’s home has been made to any of the following, as determined by the interest conveyed:

(A) The spouse of the individual;

(B) a child of the individual who is under the age of 21 or who meets the blindness or disability criteria of K.A.R. 129-6-85;

(C) a sibling of the individual who has an equity interest in the home and who was residing in the home for at least one year immediately before the date the individual entered an institutional or HCBS arrangement; or

(D) a child of the individual, other than the child described in paragraph (c)(4)(B), who was residing in the home for at least two years immediately before the date the individual entered an institutional or HCBS arrangement and who provided care to the individual that permitted the individual to reside at home.

(5) The assets have been transferred to any of the following:

(A) The individual’s spouse or to another individual for the sole benefit of the individual’s spouse;

(B) the institutionalized individual’s child who meets the blindness or disability criteria of K.A.R. 129-6-85 or a trust established solely for the benefit of the child; or

(C) a trust established solely for the benefit of an individual under 65 years of age who meets the blindness or disability criteria of K.A.R. 129-6-85.

(6) A transfer of assets has been made, and a satisfactory showing that the individual intended to dispose of the assets at fair market value, for other valuable consideration, or exclusively for a purpose other than to qualify for medicaid has been established. The following criteria shall be used to establish a satisfactory showing:

(A) A record of the facts, in chronological order, related to each transfer of assets within the applicable look-back period shall be assembled; and

(B) a transfer of assets for less than fair market value shall be presumed to have been for the purpose of establishing or maintaining medicaid eligibility, unless the individual presents clear and convincing evidence that the transfer was exclusively for some other purpose. The burden shall be on the individual to rebut this presumption by furnishing clear and convincing evidence that the asset was transferred exclusively for some other purpose. A signed statement by the individual shall not be, by itself, clear and convincing evidence. Each transfer shall be considered in the light of the circumstances at the time the transfer was made. The total amount of the transfer shall be considered in proportion to the length of the interval between the date of the transfer and the date of the application for medical assistance. In addition, the following factors shall be taken into account:

(i) Whether the transfer was ordered by the court and neither the individual, the spouse, the conservator, the guardian, the beneficiary of the transfer, nor anyone else acting in their legal authority or direction took action to effectuate the transfer; and

(ii) whether the individual could not have anticipated the need for medical assistance at the time of transfer due to an unexpected event occurring after the transfer that resulted in the traumatic onset of disability or blindness, the diagnosis of a previously undetected disability, or the loss of other income or resources, completely outside of the control of the individual or spouse, that would have otherwise precluded medical eligibility.

(7) The transferred asset has been returned to the individual or has been made available for use by the individual or spouse.

(d) Look-back date. The look-back date shall mean the earliest date on which a penalty for transferring assets for less than fair market value can be assessed, as specified in this subsection. A penalty shall be assessed for all transfers by the individual or the individual's spouse that take place on or after the look-back date. A penalty shall not be assessed for any transfers that take place before the look-back date.

(1) For transfers of assets before February 8, 2006, multiple transfers that occur within a single month shall be treated as a single transfer. The look-back date shall be either of the following:

(A) 60 months before the date the individual received or was otherwise eligible to receive institutional care or HCBS and has applied for medical assistance in the case of payment from a trust or portions of a trust that are treated as assets disposed of by the individual as specified in K.A.R. 129-6-109(c)(1) and (2); or

(B) 36 months before the date the individual received or was otherwise eligible to receive institutional care or HCBS and has applied for medical assistance in the case of all other transfers of assets.

(2) For transfers of assets on and after February 8, 2006, multiple transfers that occur within a single month shall be treated as a single transfer. The look-back date shall be the date that is 60 months before the date the individual received or was otherwise eligible to receive institutional care or HCBS and has applied for medical assistance.

(e) Transfer period of ineligibility. If the individual or spouse has transferred assets for less than fair market value, the individual shall not be eligible for the services specified in paragraphs (a)(4)(A) through (D), as follows:

(1) For transfers before February 8, 2006, the penalty period shall be equal to the number of months calculated by taking the total cumulative uncompensated value of the assets transferred by the individual or spouse on or after the look-back date, divided by \$4,000.

(2) For transfers on and after February 8, 2006, the penalty period shall be equal to the number of days calculated by taking the total cumulative uncompensated value of the assets transferred by the individual or spouse on or after the look-back date, divided by the average daily private-pay cost of nursing facilities in the state in effect on the date the penalty begins. The average daily private-pay cost shall be determined at least annually based on the rates reported by the nursing fac-

ilities and compiled by department for aging and disability services.

(f) Penalty start date.

(1) The date on which the penalty period begins shall be determined by the date of the transfer, as follows:

(A) For transfers before February 8, 2006, the penalty start date shall be the first day of the month in which the transfer occurred for applicants and no later than the second month following the month of transfer for recipients giving timely and adequate notice as defined in K.A.R. 129-7-65.

(B) For transfers on and after February 8, 2006, the penalty start date shall be the later of the following:

(i) For applicants, the later of the following: the first day of the month in which the transfer occurred or the first day on which the individual is eligible for medical assistance based on an application for medical assistance and is receiving institutional care or would be receiving HCBS but for the application of the penalty period; and

(ii) for recipients giving timely and adequate notice as defined in K.A.R. 129-7-65, no later than the second month following the month of transfer.

(2) Separately established penalty periods shall be served consecutively. Once the penalty period is imposed, the period shall not be interrupted or suspended even if the individual no longer receives institutional care or HCBS.

(3) If the spouse of the individual transfers an asset that results in a penalty period and that spouse is subsequently institutionalized and is determined otherwise eligible for medical assistance, the remaining penalty period shall be divided between the spouses.

(g) Hardship waiver.

(1) A penalty period shall be initially waived or suspended if the imposition of the penalty period would cause an undue hardship on the individual. To cause an "undue hardship" on the individual shall mean to deprive the individual of either of the following:

(A) Medical care to the extent that the individual's health or life would be endangered; or

(B) food, clothing, shelter, or other necessities of life to the extent that the individual would be at risk of serious harm.

(2) Undue hardship shall not exist if the application of a penalty period merely causes an individual or any individual's family members inconvenience or restricts their lifestyle. Undue hardship shall not exist if the individual transferred the assets to

the spouse and the spouse refuses to cooperate in making the resources available to the individual.

(3)(A) Any individual claiming undue hardship may submit a written request to the department at any time during the penalty period. The request shall include a description of the undue hardship along with evidence to support the claim.

(B) The facility in which the individual resides shall obtain written consent from the individual or the individual's personal representative in order to assert a claim of undue hardship on behalf of the individual and provide supporting information on behalf of the individual. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-60. Public institutions.** (a) Definitions. For purposes of this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) "Institution" means an establishment that furnishes food, shelter, and some form of treatment or services to four or more persons who are unrelated to the proprietor.

(2) "Public institution" means any institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

(b) Living arrangement. Each applicant or recipient who lives in a public institution shall be ineligible for medical assistance, unless the applicant or recipient meets one of the following conditions:

(1) Lives in a state institution and is under the age of 21 or at least aged 65;

(2) is blind or disabled, as defined by the social security administration, and is living in a state institution that has been approved as a medicaid intermediate care facility;

(3) is under the age of 21, under the age of 22 if receiving inpatient psychiatric care on the person's 21st birthday, or at least aged 65 and is receiving inpatient care in either of the following:

(A) A state institution that has been approved as a medicaid-accredited psychiatric hospital; or

(B) A nursing facility for mental health that has been approved for medicaid coverage of inpatient services;

(4) is receiving inpatient care in a psychiatric residential treatment facility, as defined in K.A.R. 28-4-1200, and is under the age of 21 or, if receiving inpatient treatment on the person's 21st birthday, under the age of 22; or

(5) meets the provisions of subsection (c) regarding persons who are residing in a jail or prison or under the care, custody, and control of the criminal justice system.

(c) Residing in a correctional facility.

(1) For purposes of this subsection, an inmate shall mean a person serving time for a criminal offense or confined involuntarily in a state correctional facility. Inmates in other correctional facilities, including county or city correctional facilities, shall not be eligible under this paragraph. The following requirements shall apply:

(A) The inmate shall otherwise qualify for medicaid and meet all general and financial eligibility criteria for the appropriate medical program. No inmate shall be eligible for medical assistance under K.A.R. 129-6-86.

(B) Each inmate shall be covered for inpatient services received outside of the correctional facility. No coverage shall be provided for outpatient care outside of the correctional facility or for medical services provided on the premises of the facility.

(C) For budgeting purposes, each inmate shall be treated as a household of one, except for pregnant women. Each pregnant woman shall be treated as a household of two or more, based on the number of children the woman is expected to deliver. Neither the income nor resources of the parent or the spouse of the inmate shall be included in the eligibility determination.

(2) The following provisions shall apply to each individual in a correctional facility:

(A) Except as noted in paragraph (c)(2)(B), there shall be no eligibility for medicaid for each person who meets any of the following conditions:

(i) Is physically residing in a correctional facility;

(ii) is an accused person or convicted criminal under the custody of the juvenile or adult criminal justice system. A person may receive medical assistance if there is no indication of custody or if the person has been pardoned or released on the person's own recognizance, is on probation, parole, bail, or bond, or is participating in a prison diversion program operated by a privately supported facility; or

(iii) is placed in a detention facility.

(B) Any inmate of a correctional facility administered by the department of corrections may be eligible for medical assistance to cover inpatient hospital services. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-63. Assignment of rights to support or other third-party payments.** Each applicant or recipient shall assign to the secretary any accrued, present, or future rights to the following:

(a) Medical support payments received for any individual for whom medical assistance is claimed; and

(b) third-party payments for medical care that the individual could receive on the individual's own behalf or on behalf of any other family member who is or would be in the individual's assistance plan. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-65. Automatic eligibles.** Each of the following individuals shall be automatically eligible for medical assistance without meeting any additional requirements, except that the individual shall meet the general eligibility requirements of K.A.R. 129-6-50 and 129-6-109(c)(2):

(a) A person who is legally entitled to and receiving supplemental security income (SSI) benefits and who is in compliance with the residence requirements of K.A.R. 129-6-55;

(b) a person who is legally entitled to and receiving state supplemental payments from Kansas related to SSI;

(c) a person who is determined by the social security administration to retain recipient status, although the person is not currently receiving an SSI benefit;

(d) a person who is mandated to receive inpatient treatment for tuberculosis;

(e) a child born to a mother who is eligible for and receiving medicaid at the time of birth, including receiving medical assistance under K.A.R. 129-6-97, for up to one year, if the mother remains eligible for medicaid or would be eligible for medicaid if still pregnant. Eligibility for the child shall continue, unless the child dies or is no longer a resident of the state or action is taken to voluntarily terminate coverage;

(f) a child receiving foster care payments in an out-of-home placement, regardless of the state making the payments;

(g) a child for whom an adoption assistance agreement under title IV-E is in effect, even if adoption assistance payments are not being made or the adoption assistance agreement was entered into with another state. Eligibility shall begin when the child is placed for adoption, even if an interlocutory decree of adoption or a judicial de-

creed of adoption has not been issued;

(h) a child for whom a non-title IV-E adoption assistance agreement is in effect between the state and the adoptive parents and who cannot be placed without medical assistance because the child has special needs for medical or rehabilitative care; and

(i) a child receiving title IV-E guardianship care payments. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-70. Medicaid determined eligibles; eligibility factors specific to qualifying families.** (a) Each applicant or recipient shall meet the general eligibility requirements of K.A.R. 129-6-50 and the specific eligibility requirements in this regulation.

(b) Each family shall include a caretaker and the children of the caretaker who are under 19 years of age. Any family may also include a pregnant woman and her unborn child or children.

(c) Household income as determined under K.A.R. 129-6-53 shall not exceed the income standard specified in K.A.R. 129-6-103(a)(3).

(d) Eligibility for medical assistance under this regulation shall continue for each person who receives medical assistance under this regulation for at least three of the six months immediately before the month in which the person became ineligible for medical assistance under this regulation as a result, in whole or in part, of collection or increased collection of spousal support. Eligibility for medical assistance shall continue for the four months immediately after the last month in which the person was eligible and legally entitled to receive medical assistance under this regulation if the person remains ineligible for medical assistance under this regulation due to collection or increased collection of spousal support.

(e) Eligibility for medical assistance under this regulation shall continue for each person who is included in the assistance plan of a family that has received medical assistance under this regulation in three of the six months immediately before the first month in which the family has lost eligibility for medical assistance under this regulation due solely to increased earned income or hours of employment of the caretaker, including an increase in the amount paid for hours of work.

Assistance shall be provided for a period not to exceed 12 months. Eligibility shall end for any in-

dividual who leaves the family and for any child who no longer meets the age requirements of subsection (b). (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-71. Medicaid determined eligibles; poverty-level pregnant women.** (a) Each applicant or recipient shall meet the general eligibility requirements of K.A.R. 129-6-50 and the specific eligibility requirements in this regulation.

(b) Each eligible woman shall be pregnant. Assistance under this regulation shall continue for two calendar months following the month in which the pregnancy terminates. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-72. Medicaid determined eligibles; poverty-level children.** (a) Each applicant or recipient shall meet the general eligibility requirements of K.A.R. 129-6-50 and the specific eligibility requirements in this regulation.

(b) For infants, each eligible infant shall be under one year of age. Medical assistance under this regulation shall continue according to either of the following:

(1) Through the month in which the child reaches the age of one; or

(2) if receiving inpatient services in the month in which the child reaches the age of one, according to the earlier of the following:

(A) Through the calendar month in which the inpatient care ends; or

(B) through the calendar month following the month in which the inpatient care begins. If the inpatient care will exceed this time period, eligibility for the child under this regulation shall end on the last day of the calendar month in which the child reaches the age of one.

(c) For young children, each eligible child shall be at least one year of age, but no older than five years of age. Medical assistance under this regulation shall continue according to either of the following:

(1) Through the month in which the child reaches the age of six; or

(2) if receiving inpatient services in the month in which the child reaches the age of six, according to the earlier of the following:

(A) Through the calendar month in which the inpatient care ends; or

(B) through the calendar month following the month in which the inpatient care begins. If the inpatient care will exceed this time period, eligibility for the child under this regulation shall end on the last day of the calendar month in which the child reaches the age of six.

(d) For older children, each eligible child shall be at least six years of age but under the age of 19. A child who meets the poverty income guidelines of K.A.R. 129-6-103(a)(6) shall not currently be covered under a “group health plan” or under “health insurance coverage” as defined in 42 U.S.C. 300gg-91. The child shall not be considered covered if the child does not have reasonable geographic access to care under that plan or coverage. Reasonable geographic access to care shall mean that the child routinely does not have to travel more than 50 miles to reach providers participating in the plan or coverage. Medical assistance under this regulation shall continue according to any of the following:

(1) Through the month in which the child reaches the age of 19; or

(2) if receiving inpatient services in the month in which the child reaches the age of 19, according to the earlier of the following:

(A) Through the calendar month in which the inpatient care ends; or

(B) through the calendar month following the month in which the inpatient care begins. If the inpatient care will exceed this time period, eligibility for the child under this regulation shall end on the last day of the calendar month in which the child reaches the age of 19; or

(3) through the calendar month the child who meets the poverty-level income guidelines of K.A.R. 129-6-103(a)(6) becomes covered under a group health plan or under health insurance coverage in accordance with this subsection.

(e) A percentage of the federal poverty-level income guidelines as established in K.A.R. 129-6-103(a)(4) for infants, K.A.R. 129-6-103(a)(5) for young children, and K.A.R. 129-6-103(a)(6) for older children shall be used as the income standard for the number of persons in the assistance plan in accordance with K.A.R. 129-6-41. The total applicable income to be considered in the eligibility base period shall be compared against the poverty level for the base period. To be eligible under this regulation, the total applicable income shall not exceed the poverty level established for the base period. (Authorized by and implementing K.S.A. 2012 Supp. 64-1,254 and 75-7403; ef-

fective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-73. Medicaid determined eligibles; eligibility factors specific to pregnant women.** (a) Each pregnant applicant or recipient shall meet the general eligibility requirements of K.A.R. 129-6-50. In addition, the applicant or recipient shall not be eligible for medical assistance under K.A.R. 129-6-71.

(b) Financial eligibility under this regulation shall be determined for each month as if the unborn child were already born and living with the applicant or recipient and shall be based on the number of children that the applicant or recipient is expected to deliver.

(c) Assistance under this regulation shall continue for the two calendar months following the month in which the pregnancy terminates. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-74. Medicaid determined eligibles; eligibility factors specific to children.** Each child shall meet the applicable general eligibility requirements of K.A.R. 129-6-50 and the following requirements:

(a) The child shall be under 19 years of age.

(b) The child shall not be eligible for medical assistance under K.A.R. 129-6-72. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-77.** (Authorized by and implementing K.S.A. 2005 Supp. 75-7412; effective June 30, 2006; revoked, T-129-10-31-13, Nov. 1, 2013; revoked Feb. 28, 2014.)

**129-6-80. Medicaid determined eligibles; eligibility factors specific to children in foster care.** To be eligible for participation in the medical assistance program related to foster care, each child shall meet the following requirements:

(a) Meet the general eligibility requirements of K.A.R. 129-6-50;

(b) be under the age of 18 or be a full-time elementary or secondary school student who is qualified to receive foster care maintenance payments under title IV-E of the social security act, 42 U.S.C. 670 et seq.;

(c) be placed in a living arrangement approved by the secretary, including a foster family home,

a private nonprofit child care facility, a medicaid-approved medical facility, a medicaid-accredited psychiatric hospital, or an intermediate care facility; and

(d) have a written order issued by a court giving care, custody, and control of the child to one of the following:

(1) The secretary of the department for children and families;

(2) in the case of an Indian child as defined by the federal Indian child welfare act, the four tribes social services child-placing agency; or

(3) the secretary of the department of corrections. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-81. Medicaid determined eligibles; eligibility factors specific to children living in medicaid-accredited psychiatric hospitals, intermediate care facilities, or residential treatment facilities.** To be eligible for participation in the medical assistance program under this regulation, each child shall meet the following requirements:

(a) Meet the general eligibility requirements of K.A.R. 129-6-50; and

(b) be under the age of 21 or, if receiving inpatient psychiatric care on the person's 21st birthday and currently receiving inpatient care in either of the following, be under the age of 22:

(1) A state institution that has been approved as a medicaid-accredited psychiatric hospital or intermediate care facility; or

(2) a psychiatric residential treatment facility as defined in K.A.R. 28-4-1200. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-82. Medicaid determined eligibles; eligibility factors specific to HCBS.** (a) To be eligible for participation in the medical assistance program under this regulation, each person shall meet the following requirements:

(1) Meet the general eligibility requirements of K.A.R. 129-6-50;

(2) be assessed as in need of long-term care services in an institutional setting pursuant to K.S.A. 39-968, and amendments thereto, and choose to receive HCBS if these services are available; and

(3) be in an approved waiver under 42 U.S.C. 1315 or 1396n, or both.

(b) Each person transitioning from a nursing facility or an intermediate care facility for people with intellectual disability to the community shall be provided HCBS if the person meets the following requirements:

(1)(A) Is 65 years of age or older in accordance with K.A.R. 129-6-85(a);

(B) is physically disabled in accordance with K.A.R. 129-6-85(c) and is 16 through 64 years of age;

(C) is five years of age or older, has an intellectual disability, and meets the level of care for an intermediate care facility for people with intellectual disability; or

(D) is between the ages of 16 and 65 and has a traumatically acquired head injury requiring care in a rehabilitation facility as determined by screening; and

(2) has been in the facility for at least 90 days and received medicaid for at least 30 days. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-83. Medicaid determined eligibles; eligibility factors specific to PACE.** (a) To be eligible for participation in the medical assistance program under this regulation, each person shall meet the following requirements:

(1) Meet the general eligibility requirements of K.A.R. 129-6-50;

(2) be assessed as in need of long-term care services in an institutional setting;

(3) be 55 years of age or older and residing in a PACE service area as authorized by the secretary; and

(4) meet the disability criteria of K.A.R. 129-6-85(b) or (c) if aged 55 through 64.

(b) Financial eligibility shall be determined based on the living arrangement of the individual. If services are provided in a noninstitutional living arrangement, eligibility shall be determined in accordance with the regulations applicable to the home- and community-based services program. If services are provided in an institutional living arrangement, eligibility shall be determined in accordance with the regulations applicable to persons receiving long-term care in an institutional arrangement. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-84. Medicaid determined eligibles; eligibility factors specific to work opportunities reward Kansans (WORK).** (a) To be eligible for participation in the medical assistance program under this regulation, each person shall meet the following requirements:

(1) Meet the general eligibility requirements of K.A.R. 129-6-50;

(2) be eligible for and receiving assistance under K.A.R. 129-6-88;

(3) be employed in a competitive, integrated work setting in which work is performed in the competitive labor market on a full-time or part-time basis for which individuals are compensated at or above minimum wage, but not less than the customary wage and level of benefits paid to a nondisabled individual for the same or similar work. The work shall be performed in a setting typically found in the community in which individuals with the most severe disabilities interact with nondisabled individuals according to the duties and responsibilities of the position; and

(4) be determined by an assessor authorized by the secretary to need WORK services in order to live and work in the community.

(b) The financial eligibility and premium requirements of K.A.R. 129-6-88 shall be applicable.

(c) Each individual's participation in WORK shall be based on the individual's voluntary acceptance of and agreement with the regulatory and policy requirements of the program in accordance with a participation agreement. An individual's refusal or failure to comply with the regulatory and policy requirements of the program shall be the basis for termination of the individual's participation in the program. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-85. Medicaid determined eligibles; eligibility factors specific to the aged, blind, or disabled (ABD).** Each applicant or recipient shall meet general eligibility requirements of K.A.R. 129-6-50 and one of the following specific eligibility requirements to be eligible for participation in the medical assistance program related to ABD:

(a) Age. Each individual shall have attained the age of 65 before or within the month for which eligibility is being determined.

(b) Blindness. Each individual shall be blind, based on social security administration criteria.

(c) Disability. Each individual shall be determined disabled, based on social security administration criteria. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-86. Poverty-level, low-income, and expanded low-income medicare beneficiaries; determined eligibles.** (a) Each applicant or recipient shall meet the general eligibility requirements of K.A.R. 129-6-50 and the following specific eligibility requirements:

(1) Medicare part A beneficiary. Each individual shall be entitled to medicare part A benefits.

(2) Financial eligibility. A percentage of the official federal poverty-level income guidelines as established in K.A.R. 129-6-103 shall be used as the income standard for the number of persons in the assistance plan and any other persons whose income is considered. The total applicable income to be considered in the eligibility base period shall be compared against the poverty level for the base period. However, the amount of an annual social security cost-of-living adjustment shall be disregarded in determining eligibility during the first quarter of the year for which the adjustment is provided.

For an individual to be eligible, the total applicable income shall not exceed the poverty level established for the base period. The individual also shall not own nonexempt real or personal property with a resource value in excess of the allowable amounts specified in K.A.R. 129-6-107(b)(1) for the number of persons whose nonexempt resources are considered available to the individual.

(b) Medical assistance provided. Medical assistance under this regulation for each poverty-level medicare beneficiary meeting the poverty-level income guidelines of K.A.R. 129-6-103(a)(7) shall be limited to the payment of allowable medicare premiums, deductibles, and coinsurance. Medical assistance for each low-income medicare beneficiary meeting the poverty-level income guidelines of K.A.R. 129-6-103(a)(9) shall be limited to the payment of medicare part B premiums only. Medical assistance for each expanded low-income medicare beneficiary meeting the poverty-level income guidelines of K.A.R. 129-6-103(a)(10) shall be limited to the payment of medicare part B premiums only, and the person shall not seek coverage under any other type of medical assistance. (Authorized by

and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-87. Poverty-level working disabled individuals; determined eligibles.** (a) Each applicant or recipient shall meet the general eligibility requirements of K.A.R. 129-6-50 and the following specific eligibility requirements:

(1) Medicare part A beneficiary. Each individual shall be entitled to medicare part A benefits under 42 U.S.C. 1395i-2a.

(2) Financial eligibility. A percentage of the official federal poverty income guidelines as specified in K.A.R. 129-6-103(a)(8) shall be used as the income standard for the number of persons in the assistance plan and any other persons whose income is considered. The total applicable income to be considered in the eligibility base period shall be compared against the poverty level for the base period. To be eligible under this regulation, the total applicable income shall not exceed the poverty level established for the base period. The individual shall also not own nonexempt real or personal property with a resource value in excess of twice the allowable amount specified in K.A.R. 129-6-107 for the number of persons whose nonexempt resources are considered available to the individual.

(b) Assistance provided. Assistance under this regulation shall be limited to the payment of medicare part A premiums. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-88. Disabled individuals with earned income; determined eligibles.** (a) Each applicant and each recipient shall meet the general eligibility requirements of K.A.R. 129-6-50 and the following specific eligibility requirements:

(1) Each individual shall be at least 16 years old but less than 65 years old.

(2) Each individual shall meet the blindness or disability requirements of K.A.R. 129-6-85.

(3) Each individual shall have earned income that is subject to federal insurance contributions act (FICA) taxes.

(b) Financial eligibility shall be based on a percentage of the official poverty-level income guidelines as established in K.A.R. 129-6-103(a)(11), which shall be used as the income standard for the number of persons in the assistance plan and

any other persons whose income is considered. Monthly applicable income to be considered in the eligibility base period shall be compared against the poverty level for the base period. For an individual to be eligible under this regulation, the monthly applicable income shall not exceed the poverty level established for the base period. If the individual also owns nonexempt real or personal property with a resource value in excess of \$15,000, which shall include any nonexempt resources of all family group members, that individual shall not be eligible under this regulation.

(c) For each individual whose monthly applicable income is at least 100 percent of the federal poverty-level income guidelines, a premium shall be required. This premium shall not exceed 7.5 percent of the monthly applicable income. Failure to pay the premium shall result in ineligibility.

(d) Each individual who is temporarily unemployed but intends to return to work shall continue to be eligible for coverage for not more than four months if all other eligibility factors are met. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-89. Individuals with breast or cervical cancer; determined eligibles.** (a) Each applicant or recipient shall meet the general eligibility requirements of K.A.R. 129-6-55 and the following specific eligibility requirements:

(1) Each individual shall be screened for breast or cervical cancer under the breast and cervical cancer early detection program established under title XV of the public health service act, 42 U.S.C. 300k et seq., by the centers for disease control and prevention and shall be found to need treatment for either breast or cervical cancer.

(2) Each individual shall be uninsured and not be otherwise eligible for medical assistance under this article.

(3) Each individual shall be under the age of 65.

(b) Eligibility for coverage under this regulation shall end when the course of treatment is completed or if the individual no longer meets the eligibility requirements. There shall be no financial eligibility requirements. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-91. Youth formerly in foster care; determined eligibles.** Each applicant or recipi-

ent shall meet the general eligibility requirements of K.A.R. 129-6-50 and the following conditions:

(a) In the month of the individual's 18th birthday, be in the custody of the department for children and families or the department of corrections and be in an out-of-home placement; and

(b) be at least 18 years old but under the age of 26. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-94. Non-medicaid determined eligibles; eligibility factors specific to persons living in nursing facilities for mental health.**

(a) To be eligible for participation in the medical assistance program under this regulation, each individual shall meet the following conditions:

(1) Meet the general eligibility requirements of K.A.R. 129-6-50;

(2) be aged 21 or older and under the age of 65;

(3) have a "severe and persistent mental illness," as defined in K.A.R. 30-10-1a;

(4) be otherwise eligible for medicaid; and

(5) not meet the requirements of K.A.R. 129-6-60(b) or 129-6-81(b).

(b) Eligibility shall be determined based on the financial eligibility standards and methodologies applicable to persons in institutional arrangements as specified in K.A.R. 129-6-42(c), 129-6-54(d), and 129-6-103(b).

(c) Whether an individual has a severe and persistent mental illness shall be determined by a qualified mental health professional employed by a participating mental health center, as defined in K.S.A. 59-2946 and amendments thereto. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-95. Non-medicaid determined eligibles; eligibility factors specific to the medikan program.** (a) To be eligible for participation in the medical assistance program under this regulation, each individual shall meet the following conditions:

(1) Not be otherwise eligible for medicaid and not be rendered ineligible for medicaid by either deliberate or voluntary actions on the part of the individual;

(2) meet the general eligibility requirements of K.A.R. 129-6-50;

(3) be aged 18 or older and under the age of 65; and

(4) have a severe impairment that significantly limits physical or mental ability to do basic work activity and is expected to last at least 12 months or result in death.

(b) Each individual shall apply for social security disability benefits and cooperate in that process, to remain eligible. Each person who qualifies for social security disability benefits shall no longer be eligible for assistance under the medikan program.

(c) If the individual is married, the individual and the individual's spouse shall both qualify for medikan to be eligible for assistance.

(d) Assistance under this regulation shall be limited to 12 months in a lifetime.

(e) Temporary coverage under this regulation shall be provided to any person discharged from a medicaid-approved psychiatric hospital, from the Larned correctional mental health facility central unit, or from the Larned state security program. Medical assistance shall be provided at the time of discharge and may continue for not more than two additional months to facilitate the person's discharge plan. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-96. Continuous eligibility for children and certain adult eligibles.** (a) Children. Except for children determined eligible for presumptive medical assistance as specified in K.A.R. 129-6-151, each child under the age of 19 who becomes eligible for medicaid under any category of medical assistance shall continue to be eligible for medical assistance for 12 months beginning with the month in which eligibility is determined or re-determined regardless of any changes in circumstances, except for any of the following:

(1) The child reaches the age of 19.

(2) Medical assistance for the child is voluntarily terminated.

(3) The child no longer resides in Kansas.

(4) The secretary determines that eligibility was granted erroneously because of fraud or department error.

(5) The child dies.

(b) Adults. Each nonpregnant adult who becomes eligible for medicaid under K.A.R. 129-6-70 shall continue to be eligible for medical assistance for 12 months beginning with the month eligibility is determined or redetermined regardless of any change in income, except for any of the following:

(1) Medical assistance for the adult is voluntarily terminated.

(2) The adult no longer resides in the state.

(3) The secretary determines that eligibility was granted erroneously because of fraud or department error.

(4) The adult dies.

(5) The adult enters a correctional or detention facility.

(6) The adult becomes eligible for coverage of nursing facility care or HCBS.

(7) The adult becomes eligible for supplemental security income. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-97. Emergency medical services for certain noncitizens.** (a) Each noncitizen who does not meet the requirements of K.A.R. 129-6-55(b) but who is otherwise eligible for medicaid shall receive coverage as specified in subsection (b) of this regulation. The general requirements of K.A.R. 129-6-50, except for K.A.R. 129-6-55(b) and 129-6-56(c), shall be applicable.

(b)(1) Eligibility shall be limited to coverage of an emergency medical condition, as approved by the secretary, that requires emergency medical treatment after the sudden onset of a condition, including labor and delivery, manifesting itself by acute symptoms of sufficient severity, including severe pain, so that the absence of immediate medical attention could reasonably be expected to result in any of the following:

(A) Serious jeopardy to the patient's health;

(B) serious impairment of bodily functions; or

(C) serious dysfunction of any bodily organ or part.

(2) Coverage shall be limited only to treatment of the emergency condition. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-103. Determined eligibles; income standards.** (a) Independent living arrangements.

(1) The income standard for each person in an independent living arrangement shall be based on the total number of persons in the assistance plan as defined in K.A.R. 129-6-41 or 129-6-42.

(2) The income standards for independent living may also be used if an applicant or recipient meets either of the following conditions:

(A) Enters a medicaid-approved facility, except that this paragraph shall not apply if only one spouse in a married couple enters an institutional living arrangement; or

(B) is absent from the home for medical care for a period not to exceed the month in which the person left the home and the two months following to allow for maintaining the applicant's or recipient's independent living arrangements.

(3) Except as specified in paragraphs (a)(4) through (13), the following table shall be used to determine the income standard for persons in an independent living arrangement.

Persons in Independent Living (per month)		
1	2	3
\$475	\$475	\$480

The income standard for additional persons shall be the sum of the basic standard for a similar public assistance family and the maximum state shelter standard in accordance with K.A.R. 30-4-101.

(4) In determining eligibility for pregnant women under K.A.R. 129-6-71 and for infants under K.A.R. 129-6-72(b), the income standard shall be 166 percent of the official federal poverty-level income guidelines.

(5) In determining eligibility for young children under K.A.R. 129-6-72(c), the income standard shall be 149 percent of the official federal poverty-level income guidelines.

(6) In determining eligibility for older children under K.A.R. 129-6-72(d), the income standard shall be 133 percent of the official federal poverty-level income guidelines.

(7) In determining eligibility for poverty-level medicare beneficiaries under K.A.R. 129-6-86, the income standard shall be 100 percent of the official federal poverty-level income guidelines.

(8) In determining eligibility for working disabled individuals under K.A.R. 129-6-87, the income standard shall be 200 percent of the official federal poverty-level income guidelines.

(9) In determining eligibility for low-income medicare beneficiaries under K.A.R. 129-6-86, the income standard shall be 120 percent of the official federal poverty-level income guidelines.

(10) In determining eligibility for expanded low-income medicare beneficiaries under K.A.R. 129-6-86, the income standard shall be 120 to 135 percent of the official federal poverty-level income guidelines, subject to available federal funding.

(11) In determining eligibility for disabled individuals with earned income under K.A.R. 129-6-88, the income standard shall be 300 percent of the official federal poverty-level income guidelines.

(12) In determining eligibility for persons in the medikan program under K.A.R. 129-6-95, the income standard shall be \$250 for a single individual and \$325 for a married couple.

(13) In determining eligibility for persons in long-term care arrangements in accordance with K.A.R. 129-6-54(d)(1), the income standard shall be 300 percent of the payment standard for one person in the SSI program. For calendar year 2013, the income standard shall be \$2,130, and this amount shall be increased at the beginning of each calendar year by any cost-of-living adjustment made to the SSI payment standard.

(b) Institutional living arrangements. For each person residing in an institutional setting, the monthly income standard for purposes of determining the client obligation shall be \$62, except as specified in paragraph (a)(2).

(c) Home- and community-based services arrangements. For each person in the HCBS program, including any person in the PACE program who is in a noninstitutional living arrangement in accordance with K.A.R. 129-6-83(b), the monthly income standard for purposes of determining the client obligation shall be \$1,177. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014; amended Jan. 1, 2021.)

**129-6-106. General requirements for consideration of resources, including real property, personal property, and income.** (a)

For purposes of determining eligibility for medical assistance, legal title shall determine ownership. In the absence of legal title, possession shall determine ownership.

(b) Each resource shall be of a nature that the value can be defined and measured, according to the following:

(1) Real property. The value of real property shall be initially determined by the latest uniform statewide appraisal value of the property, which shall be adjusted to reflect current market value. If the property has not been appraised or if the market value determined is not satisfactory to the applicant, recipient, or department, an estimate or appraisal of the value of the property shall be obtained from an impartial real estate broker. The

cost of obtaining an estimate or appraisal shall be paid by the department.

(2) Personal property. The market value of personal property shall be initially determined using a reputable trade publication. If such a publication is not available or if there is a difference of opinion between the department and the individual regarding the value of the property, an estimate from a reputable dealer shall be used. The cost of obtaining an estimate or appraisal shall be paid by the department.

(c)(1) Resources shall be considered available if the resources are actually available and the applicant or recipient has the legal ability to make the resources available. A resource shall be considered unavailable if there is a legal impediment that precludes the disposal of the resource. The applicant or recipient shall pursue reasonable steps to overcome the legal impediment, unless it is determined that the cost of pursuing legal action would exceed the resource value of the property or it is unlikely the applicant or recipient would succeed in the legal action. This paragraph shall also apply to the spouse of the applicant or recipient.

(2) Real property shall be considered unavailable if the property cannot be sold for one of the following reasons:

(A) The property is jointly owned, and its sale would cause undue hardship because of the loss of housing for the other owner or owners.

(B) The owner's reasonable efforts to sell the property have been unsuccessful.

(d) The resource value of property shall be the value of the applicant's or recipient's equity in the property. Unless otherwise established, the proportionate share of jointly owned real property and the full value of jointly owned personal property shall be considered available to the applicant or recipient. Resources held jointly with a nonlegally responsible person may be excluded from consideration if the applicant or recipient demonstrates that all of the following conditions exist:

(1) The applicant or recipient has no ownership interest in the resource.

(2) The applicant or recipient has not contributed to the resource.

(3) Any access to the resource by the applicant or recipient is limited to those duties performed while the applicant or recipient is acting as an agent for the other person.

(e) Except for persons described in K.A.R. 129-6-34(c)(1) and 129-6-34(c)(2)(A) through (I), the nonexempt resources of all persons in the assis-

tance plan shall be considered in determining eligibility. Exempted resources as defined in K.A.R. 129-6-108(d) and 129-6-109(e) that are put in a trust that meets the requirements of K.A.R. 129-6-109(c)(1) or (c)(2)(A) shall be regarded as non-exempt, unless paragraphs (k)(4) and (6) of this regulation are applicable.

(f)(1) The combined resources of husband and wife, if they are living together, shall be considered in determining the eligibility of either individual or both individuals for the medical assistance program, except as noted in subsection (e) or unless otherwise prohibited by law.

(2) A husband and wife shall be considered to be living together if they are regularly residing in the same household. Temporary absences of either the husband or the wife for education, training, working, securing medical treatment, or visiting shall not interrupt the period of time during which the couple is considered to be living together.

(3) A husband and wife shall not be considered to be living together if they are physically separated and not maintaining a common life or if one or both enter into an institutional living arrangement, including either a medicaid-approved or non-medicaid-approved medical facility or an HCBS care arrangement.

(A) If only one spouse enters an institutional living arrangement, subsection (k) shall apply.

(B) If both spouses enter an institutional living arrangement, the combined resources of the husband and wife shall be considered available to both individuals for the month in which the institutional arrangement begins.

(g) Except as noted in subsection (e), the resources of an ineligible parent shall be considered in determining the eligibility of a minor child for the medical assistance program if the parent and child are living together. However, these resources shall not be considered for any child in an institutional arrangement or an HCBS arrangement beginning with the month following the month in which the arrangement begins.

(h) Despite subsections (e), (f), and (g), the resources of an SSI beneficiary shall not be considered in the determination of eligibility for medical assistance of any other person.

(i) The conversion of real property and personal property from one form of resource to another shall not be considered to be income to the applicant or recipient, except for the proceeds from a contract for the sale of property.

(j) Income shall not be considered to be both income and property in the same month.

(k) If one spouse enters an institutional living arrangement, the other spouse remains in the community, and an application for medical assistance is made on behalf of the institutionalized spouse, an income determination according to the following requirements shall be applied first in determining eligibility:

(1) The separate income of each spouse shall not be considered to be available to the other spouse beginning in the month in which the institutional arrangement begins. One-half of the income that is paid in the names of both spouses shall be considered available to each spouse, unless it is otherwise established that less or more than this amount is available. Income that is paid in the name of either spouse, or in the name of both spouses and the name of another person or persons, shall be considered available to each spouse in proportion to the spouse's interest, unless it is otherwise established that less or more than this amount is available.

(2)(A) A monthly income allowance for the community spouse shall be deducted from the income of the institutionalized spouse in determining the amount of patient liability for each person in an institutional living arrangement or in a spenddown status for each person in an HCBS arrangement.

(B) The income allowance for the community spouse, when added to the income already available to that spouse, shall not exceed 150 percent of the official federal poverty-level income guideline for two persons plus the amount of any excess shelter allowance. "Excess shelter allowance" shall mean the amount by which the community spouse's expenses for rent or mortgage payments, taxes and insurance for the community spouse's principal residence, and the supplemental nutrition assistance program (SNAP) standard utility allowance, 7 U.S.C. 2014(e), exceed 30 percent of 150 percent of the federal poverty-level income guideline amount specified in this paragraph.

(C) The maximum monthly income allowance that may be provided under paragraph (k)(2) shall be \$1,500. The \$1,500 limitation shall be increased at the beginning of each calendar year by the same percentage as the percentage increase in the consumer price index for all urban consumers between September 1988 and the September before the applicable calendar year.

(D) If a greater income allowance is provided under a court order of support or through the Kansas administrative hearing process, that amount shall be used in place of the limits specified in paragraph (k)(2)(C).

(3) A monthly income allowance for each dependent family member shall be deducted from the income of the institutionalized spouse in determining the 300 percent income limit as specified in K.A.R. 129-6-54(d)(1) and the amount of client obligation for each person in an institutional living arrangement or in an HCBS arrangement.

(A) "Dependent family member" shall mean a person who is a minor or dependent child, dependent parent, or dependent sibling of either spouse and who lives with the community spouse.

(B) The allowance for each member shall be equal to one-third of 150 percent of the official federal poverty-level income guideline for two persons.

(C) An allowance for a dependent family member shall not be provided if the family member's gross income exceeds 150 percent of the federal poverty-level income guideline for two persons.

(4) If the spouse is institutionalized on or after September 30, 1989, the nonexempt real property and personal property of both spouses shall be considered in determining the eligibility of the institutionalized spouse, based on the amount of property in excess of the community spouse property allowance specified in paragraph (k)(6), whether or not this allowance will be made.

(A) If the excess property is within the allowable resource standards of K.A.R. 129-6-107, the institutionalized spouse shall be eligible.

(B) In the month following the first month of eligibility for the institutionalized spouse, only the property of the institutionalized spouse shall be considered available in determining continuing eligibility, except for property to be transferred in accordance with paragraph (k)(6).

(5) If the spouse was institutionalized before September 30, 1989, the real property and personal property of each spouse shall be considered available to the other spouse in the month in which the institutional arrangement began. Thereafter, the property of each spouse shall not be considered available to the other spouse.

(6) The institutionalized spouse may make available to the community spouse a property allowance that, when added to the property already available to the community spouse, would be

equal to one-half of the total value of the property owned by both spouses at the beginning of the first period of continuous institutionalization beginning on or after September 30, 1989.

(A) This property allowance shall not exceed \$60,000 and shall be at least \$12,000. Both the \$12,000 and the \$60,000 limits shall be increased at the beginning of each calendar year by the same percentage as the percentage increase in the consumer price index for all urban consumers between September 1988 and the September before the applicable calendar year.

(B) If a greater property allowance is provided under a court order of support or through the Kansas administrative hearing process, that amount shall be used in place of the limits specified in paragraph (k)(6)(A). If a greater property allowance is required to increase the community spouse's income to the amount allowed under paragraphs (k)(2)(B) and (C), a fair hearing officer shall take into account the income-generating value of the current property allowance as well as the additional property allowance requested. The property provided shall be invested so that income is maximized, including through a single-premium annuity, and based on the salable or market value of the property.

(7) The amount of property received by the community spouse as a result of the property allowance determined in paragraph (k)(6) shall not be considered in determining the eligibility of the institutionalized spouse, except as provided in paragraph (k)(4). If the institutionalized spouse will be eligible based upon transferring sufficient property to the community spouse to equal the amount of the property allowance, the institutionalized spouse shall be given not more than 90 days from the date of application to transfer the property. Additional time may be allowed for good cause. Pending disposition of the property, the institutionalized spouse shall be eligible during this period if all other eligibility factors are met.

(l) The resources of a noncitizen's sponsor and the sponsor's spouse shall be considered in determining eligibility for the sponsored noncitizen. (Authorized by and implementing K.S.A. 2013 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-107. Property exemption.** (a) Ownership of otherwise nonexempt real property or personal property shall not affect eligibility if the aggregate resource value is not in excess of \$2,000

for one person or \$3,000 for two or more persons, including the number of persons whose nonexempt resources are considered available to a person in the assistance plan.

(b) Ownership of property with a resource value in excess of the amounts specified in subsection (a) shall render the applicant or recipient and the members of the applicant's or recipient's assistance plan ineligible for medical assistance, except for the following:

(1) For medicare beneficiaries who meet the requirements of K.A.R. 129-6-86, the resource value shall be in excess of the following standards before the applicant or recipient and the members of the applicant's or recipient's family group shall be rendered ineligible:

(A) For calendar year 2006, \$6,000 for one person or \$9,000 for a couple; and

(B) for subsequent years, the amounts established in paragraph (b)(1)(A) increased by the annual percentage increase in the consumer price index for all items based on the United States city average as established in September of the previous year.

(2) For working disabled individuals who meet the requirements of K.A.R. 129-6-87, the resource value shall be over twice the amounts specified in subsection (a) before the applicant or recipient and the members of the applicant's or recipient's assistance plan shall be rendered ineligible.

(3) For disabled individuals with earned income who meet the requirements of K.A.R. 129-6-88, the resource value shall be over \$15,000 before the applicant or recipient and the members of the applicant's or recipient's assistance plan shall be rendered ineligible. If the applicant or recipient is making a bona fide and documented effort to dispose of the excess property at a reasonable market value, medical assistance for not more than nine months shall be provided. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-108. Real property.** (a) Definitions.

(1) "Home" shall mean the house or shelter in which the applicant or recipient is living, as well as the tract of land and contiguous tracts of land upon which the house and other improvements essential to the use or enjoyment of the home are located. Tracts of land shall be considered to be contiguous if lying side by side, except for streets, alleys, and other easements. Pieces of property

that touch only at the corners shall not be considered to be contiguous.

(2) "Other real property" shall mean real property other than a home, including land and buildings.

(b) Treatment of real property. The equity value of nonexempt real property shall be deemed a resource. If a specific and discrete property interest of less than 100 percent is designated for real property, the full value shall be considered in the determination of eligibility, regardless of the exemptions specified in subsection (d).

(c) Substantial home equity. Each person who applies for long-term care on or after January 1, 2006 and has an equity interest in a home in excess of \$500,000 shall be ineligible for payment of care for a nursing facility or other institutional arrangement, HCBS arrangement, or PACE arrangement, unless one of the following persons continues to reside in the home:

- (1) The person's spouse;
- (2) the person's child, if the child meets the criteria of K.A.R. 129-6-85(b) or (c); or
- (3) the person's child, if the child is under the age of 21.

The \$500,000 limit shall be increased beginning in calendar year 2011 from year to year based on the percentage increase in the consumer price index for all urban consumers based on all items and the United States city average, rounded to the nearest \$1,000.

(d) Exempted real property. The equity value of the following classifications of real property shall be exempt, except as noted in subsections (b) and (c):

- (1) The home, except either of the following:
  - (A) A home from which an applicant or recipient has been absent and does not intend to return; or
  - (B) a home from which a person who enters an institutional living situation has been absent for at least three months, unless the absence is determined to be temporary or a spouse, dependent child, or another dependent relative remains in the home;
- (2) other real property that is essential for employment or self-employment;
- (3) income-producing other real property that is used in an individual's trade or business or that produces income consistent with its fair market value;
- (4) restricted or allotted land held by an enrolled member of an Indian tribe that cannot be sold or transferred without permission of other members of the tribe or a federal agency; and

(5) real property that is directly related to the maintenance or use of a vehicle that is used primarily for producing income or is necessary to transport a physically disabled household member. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-109. Personal property.** (a) Definitions. For purposes of this regulation, each of the following terms shall have the meaning specified in this regulation:

- (1) "Cash assets" means the following resources:
    - (A) Cash surrender or loan values of life insurance policies;
    - (B) investments;
    - (C) money;
    - (D) similar items from which a determinate amount of money can be realized; and
    - (E) trust funds.
  - (2) "Other personal property" means the following:
    - (A) Contracts from the sale of property;
    - (B) equipment;
    - (C) home produce;
    - (D) household equipment and furnishings;
    - (E) inventory;
    - (F) livestock;
    - (G) personal effects;
    - (H) similar items from which a determinate amount of money can be realized; and
    - (I) vehicles.
  - (3) "Personal property" means all property, excluding real property.
- (b) Treatment of personal property. Personal property, unless exempted, shall be considered a resource. Each trust fund shall be subject to subsection (c).

(c) Treatment of trust funds. For purposes of determining an individual's eligibility for assistance or the amount of assistance, the requirements in this subsection shall apply to trust funds. The term "trust" shall include any legal instrument or device that is similar to a trust, including an annuity. The term "assets" shall be defined as specified in K.A.R. 129-6-57(a).

(1) For a revocable trust, the value of the trust shall be considered a resource available to the individual. Payments from the trust to or for the benefit of the individual shall be considered to be income. All other payments made from the trust shall be considered under the property transfer provisions of K.A.R. 129-6-57.

(2) For an irrevocable trust established after August 10, 1993, the following requirements shall apply:

(A) If there are any circumstances under which payment from an irrevocable trust could be made to the individual or for the benefit of the individual, the portion of the trust from which payment could be made shall be considered as a resource available to the individual. Each payment made from the trust to the individual or for the benefit of the individual shall be considered income. All other payments made from the trust shall be considered under the property transfer provisions of K.A.R. 129-6-57.

(B) Each portion of the trust from which no payment could be made to the individual under any circumstances shall be considered under the transfer of assets provisions of K.A.R. 129-6-57 from the date of establishment of the trust or, if later, the date on which payment to the individual was restricted or foreclosed.

(C) An individual shall be considered to have established a trust if any assets of the individual were used to form all or part of the trust and if any of the following individuals established the trust, other than by will:

- (i) The individual or the individual's spouse;
- (ii) any person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse; or
- (iii) any person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

(D) If the principal of the trust includes assets of any other person or persons, this subsection shall apply to the portion of the trust attributable to the assets of the individual.

(E) This subsection shall apply without regard to the purposes for which the trust was established, whether or not the trustees have or exercise any discretion under the trust, any restrictions on when or whether distributions can be made from the trust, or any restrictions on the use of distributions from the trust.

(F) This subsection shall not apply to a trust that contains the assets of an individual under the age of 65 who meets the blindness or disability criteria of K.A.R. 129-6-85 and that is established for the benefit of the individual by a parent, grandparent, or legal guardian of the individual, or a court. The state shall receive all amounts remaining in the trust upon the death of the individual, up to an

amount equal to the total medical assistance paid on behalf of the individual;

(G) This subsection shall not apply to a trust that contains the assets of an individual who meets the blindness or disability criteria of K.A.R. 129-6-85 if the trust meets all the following conditions:

(i) The trust is established by a nonprofit association.

(ii) A separate account is maintained for each beneficiary of the trust.

(iii) Accounts in the trust are established solely for the benefit of individuals who meet the blindness or disability criteria of K.A.R. 129-6-85.

(iv) Each account in the trust is established by that individual; the parent, grandparent, or legal guardian of the individual; or a court. The state shall receive all amounts remaining in the individual's account upon the death of the individual, up to an amount equal to the total medical assistance paid on behalf of the individual.

Establishment of a trust under paragraph (c) (2)(G) for an individual who is at least 65 shall be subject to the transfer of assets provisions of K.A.R. 129-6-57.

(H) The requirements of K.A.R. 129-6-109(c) (2) shall be waived if the secretary determines that a waiver is necessary to avoid undue hardship on the individual. A finding of undue hardship may be granted if the individual verifies that all of the following conditions have been met:

(i) The individual has exhausted all legal remedies for gaining access to the principal or income of the trust.

(ii) All otherwise available assets have been expended to meet living and medical expenses.

(iii) The individual's health or life would be endangered if the individual were deprived of medical care.

(3) For an irrevocable trust established with the individual's own assets on or before August 10, 1993, the following provisions shall apply:

(A) The trust shall be considered available up to the maximum value of the funds that can be made available under the terms of the trust on behalf of the individual if both of the following conditions are met:

(i) The individual is a beneficiary.

(ii) The trustees are permitted to exercise any discretion with respect to distribution to the individual.

(B) The trust may be established by the individual, the individual's spouse or parent, a legal guardian, or a legal representative who is acting on behalf of the individual.

(C) The amount from the trust that shall be considered as an available resource is the amount that could have been distributed but was not distributed within an eligibility base period. Each amount actually distributed shall be regarded as income. Each portion of the trust that is unavailable to the individual or is not used for the benefit of the individual shall be considered a transfer of property for less than fair market value in accordance with K.A.R. 129-6-57.

(D) K.A.R. 129-6-109(c)(3) shall not be applicable to any trust established before April 7, 1986 if the individual is a developmentally disabled individual who is residing in an intermediate care facility for people with intellectual disability and the trust is solely for the benefit of the individual.

(4) For any other trust, including a trust established with assets of someone other than the individual, the trust shall be considered available to the individual only if the individual has the ability to revoke or terminate the trust or to direct the use of the trust assets for the individual's own support and maintenance. Mandatory periodic payments received from a trust by the individual shall be considered an available resource equal to the present value of the anticipated payments, unless there is a valid spendthrift clause or other language in the trust that specifically prohibits anticipation of payments. If a valid spendthrift clause or other restrictive language exists, the periodic payments shall be considered countable unearned income.

(d) Treatment of annuities. The term "annuity" shall include any contract or device that conveys a right to receive a fixed, periodic source of income for a specified period of time. For purposes of determining an individual's eligibility for assistance or the amount of assistance, the following requirements shall apply:

(1) Each individual requesting medical assistance shall disclose any interest in an annuity. Failure to meet this requirement shall result in ineligibility for medical assistance due to noncooperation in accordance with K.A.R. 129-6-56.

(2) Retirement annuities, including civil service and railroad retirement annuities, shall be exempt as a resource, but the income received shall be countable unearned income.

(3) All other revocable and irrevocable annuities, including those reported to be nonassignable, shall be presumed to be an available resource. The right to either the principal or the income stream from an annuity shall be considered a countable

resource. If the annuity can be sold, assigned, encumbered, or structured so that the benefit of the annuity can be received by someone other than the designated beneficiary, the annuity shall be considered available and shall be assigned a value.

(4) The fair market value of a revocable annuity shall be the cash value of the annuity. The fair market value of an irrevocable annuity shall be the amount yet to be paid out under the terms of the contract.

(5) If the individual can furnish evidence from a reliable source that the annuity or the income stream from the annuity is not able to be received by someone other than the designated beneficiary, the annuity shall be reevaluated. Reliable sources concerning the availability of the annuity or income stream shall include banks and other financial institutions, insurance companies, and brokers.

(e) Exempted personal property. The resource value of the following types of personal property shall be exempt:

(1) Personal effects;

(2) household equipment and furnishings in use or only temporarily not in use;

(3) tools in use and necessary for the maintenance of a house or a garden;

(4) the stock and inventory of any self-employed person that are reasonable and necessary in the production of goods and services;

(5) items for home consumption, which shall consist of the following:

(A) Produce from a garden consumed from day to day and any excess that can be canned or stored; and

(B) a small flock of fowl or herd of livestock that is used to meet the food requirements of the family;

(6) cash assets that are traceable to income exempted as income and as a cash asset;

(7) any contract for the sale of property, if the proceeds from the contract are considered as income and the income is consistent with the repayment terms and conditions specified in the written contract;

(8) one vehicle for each family group receiving medical assistance if the primary purpose of the vehicle is to serve the needs of that family group. If someone who is not a member of that family group has the primary use, enjoyment, and possession of the vehicle, the vehicle shall not be exempted under this paragraph. Additional vehicles may be exempt if used over 50 percent of the time for employment or self-employment, if used

as the family's home, if needed for medical treatment of a specific medical problem, or if specially equipped for use by a handicapped person;

(9) any individual development account (IDA) that meets the following requirements:

(A) The account shall be established by or on behalf of a temporary assistance for needy families (TANF) recipient or by or on behalf of an individual participating in the assets for independence demonstration program (AFIA) and shall be used for a qualified purpose. A qualified purpose shall mean one or more of the following: postsecondary education expenses for college or vocational-technical school, excluding learning quest and other 529 accounts; first home purchase, if the person has not owned a home within three years of acquisition; or business capitalization, if the business plan has been approved by a financial institution or nonprofit loan fund. All funds withdrawn from an IDA and used for any purpose other than one of those listed in this paragraph shall count as unearned income in the month withdrawn; and

(B) the IDA shall be a trust funded through periodic contributions by the establishing individual and may be matched by or through a qualified entity for a qualified purpose. A qualified entity to match IDA funds for a TANF recipient shall be either a not-for-profit organization described in 8 U.S.C. 501(c)(3) and exempt from taxation under 8 U.S.C. 501(a) or a state or local government agency acting in cooperation with a 501(c)(3) organization. For AFIA participants, matching contributions shall be made by the federal government through a grantee;

(10) low-income family postsecondary savings accounts incentive program established pursuant to K.S.A. 2012 Supp. 75-650, and amendments thereto;

(11) life insurance that is owned by an applicant or recipient if one of the following conditions is met:

(A) The policy has no potential cash surrender value;

(B) the policy does not exceed \$1,500 face value. The face value shall not include and shall not be increased by accumulated dividends, but shall be decreased by any outstanding policy loan. If the total face value of insurance policies owned by any one individual exceeds \$1,500, the total cash surrender value of those policies shall be a nonexempt resource; or

(C) the policy is in excess of \$1,500 face value and has been irrevocably collaterally assigned to

the state. The assignment shall be for an amount not to exceed the amount of benefits paid under the medical assistance program for the individual;

(12) any personal property of a blind or disabled person that is covered by an approved plan of self-support;

(13) burial spaces in accordance with the following:

(A) "Burial spaces" shall mean conventional grave sites, crypts, mausoleums, caskets, urns, and other repositories that are traditionally used for the remains of deceased persons. This term shall include vaults, headstones, and grave markers, as well as monies set aside for opening and closing the grave; and

(B) burial spaces purchased through a revocable or irrevocable prepaid contract shall be exempt under this paragraph, including the account in which the funds are deposited under the contract and the interest that accrues on the funds;

(14) burial funds of up to \$1,500 each, plus any interest that has accumulated in that fund beginning with the month of application but no earlier than November 1, 1984, for members of the assistance plan that are separately identifiable and clearly designated as set aside for each member's burial expenses. "Burial funds" shall mean revocable burial contracts and trusts as well as other revocable burial arrangements:

(A) The fund shall be considered separately identifiable if it is set up in a separate account and not commingled with any other funds, except funds for burial purposes including a prepaid contract fund for burial merchandise in accordance with paragraph (e)(13);

(B) the fund shall be considered as clearly designated if the account is noted "for burial purposes only" or if the client provides a signed, written statement attesting to the fact that the funds have been set aside and are intended for burial purposes only;

(C) if the fund is exempted and the client withdraws all or a portion of the funds, the amount withdrawn shall be considered as a nonexempt resource and, if transferred, shall be subject to the transfer provisions of K.A.R. 129-6-57;

(D) the \$1,500 amount that can be exempted under paragraph (e)(14) shall be reduced by the amount of any irrevocable burial agreements established under K.S.A. 16-303 and amendments thereto, except to the extent that the irrevocable burial agreement represents excludable burial spaces under paragraph (e)(13), as well as the

face value of all life insurance policies that do not exceed the \$1,500 face value limitation in accordance with paragraph (e)(11). The face value of life insurance policies that exceed this \$1,500 limit shall not reduce the amount that can be exempted for burial purposes;

(15) proceeds from the sale of a home if the proceeds are conserved for the purchase of a new home and the funds so conserved are expended or committed to be expended within three months of the sale;

(16) a retroactive social security payment received by the applicant or recipient or an ineligible legally responsible person for the nine months following the month of receipt;

(17) the cash value of pension plans or funds under any of the following conditions:

(A) The person is employed and would have to terminate employment in order to obtain any payment. Each pension plan or fund that can be converted to periodic payments shall be exempt if the plan or fund is converted to periodic payments by the month following the month in which the plan or fund is eligible for conversion;

(B) the person is not retired or claiming permanent disability; or

(C) the applicant's or recipient's spouse or parent has funds in a work-related pension plan or fund, including Keogh plans, and IRAs and is not applying for or receiving medical assistance;

(18) retirement accounts and pensions of any employed individual who meets the requirements of K.A.R. 129-6-88;

(19) income-producing personal property, other than cash assets, that is essential for employment or self-employment or producing income consistent with its fair market value. Income-producing property may include any of the following items:

(A) Tools;

(B) equipment;

(C) machinery; or

(D) livestock;

(20) escrow accounts established for families participating in the family self-sufficiency program through the U.S. department of housing and urban development. Interest earned on the accounts shall also be exempted as income; and

(21) monies paid as part of a contract or agreement to receive medical or assistive services from an unlicensed individual or entity if all of the following conditions are met:

(A) A written contract is executed before providing or paying for any service. The contract shall

specify services to be provided and the rates for these services;

(B) the contracted amount paid for services is consistent with the market rate for the services. If there is no established rate, the federal minimum wage shall be used;

(C) the provider of the service is reporting all monies as income to the appropriate state and federal governmental revenue agencies as required by law;

(D) any amounts due under the contract are paid after the services are rendered;

(E) the agreement is revocable; and

(F) upon the death of the individual, the contract ceases. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-110. Income.** (a) Treatment of income for MAGI-based coverage groups. For purposes of this regulation, "prospective monthly amount" shall mean an amount that is projected for purposes of determining an applicant's or recipient's monthly income. For those groups specified in K.A.R. 129-6-34(c)(1), all earned income and unearned income expected to be received in the month of application shall be used to determine a prospective monthly amount. This amount shall be used in the determination of both eligibility in the prior three months and current eligibility. For changes in earned income and unearned income, an estimate of those changes shall be used to determine a prospective monthly amount. For self-employment income, a prospective monthly amount shall be based on annual federal tax information from the most recent tax year. In the absence of federal tax information from the most recent tax year, an estimate shall be used to determine a prospective monthly amount.

(b) Treatment of income for MAGI-excepted coverage groups. For those groups specified in K.A.R. 129-6-34(c)(2), income shall be classified as income in the eligibility base period in which the income is received and as a cash asset following this eligibility base period.

(1) Prior eligibility. For individuals in independent living, current income as defined in paragraph (b)(2) shall be considered in the determination of eligibility for the prior three months. For individuals in long-term care arrangements, income received in the prior three months shall be considered in the determination of eligibil-

ity for the prior three months, except that self-employment income shall be averaged.

(2) Current eligibility. Income shall be considered prospectively to determine eligibility, beginning with the month of application. All income received or reasonably expected to be received shall be considered in determining the applicable income for the eligibility base period. Income from self-employment and intermittent income shall be considered and averaged. Intermittent income shall be divided by the applicable number of months to establish the monthly amount. Intermittent income shall be considered as income beginning with the eligibility base period in which this income is received. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-111. Applicable income.** “Applicable income” shall mean the amount of earned and unearned income that is compared with the appropriate income standard to establish financial eligibility.

(a) MAGI-based coverage groups. For those groups specified in K.A.R. 129-6-34(c)(1), all earned income and unearned income shall be considered applicable, unless exempted in accordance with K.A.R. 129-6-53(a)(2), and shall be determined as follows:

(1) Applicable income shall be based on the methodologies used to determine modified adjusted gross income, as specified in K.A.R. 129-6-53(a), for persons in the household, as specified in K.A.R. 129-6-53(b).

(2) An amount equivalent to five percentage points of the federal poverty level for the applicable family size shall be deducted from the combined household income in accordance with K.A.R. 129-6-53(a) when determining eligibility for the MAGI-based coverage groups under K.A.R. 129-6-34(c)(1) with the highest income standard for which the individual's eligibility is being determined.

(b) MAGI-excepted coverage groups. For those groups specified in K.A.R. 129-6-34(c)(2), all earned income and unearned income shall be considered applicable income, unless exempted in accordance with K.A.R. 129-6-112 and 129-6-113. For all aged, blind, and disabled groups, applicable income shall be determined as follows:

(1) Wages. All earned income shall be considered applicable income, except that K.A.R. 129-6-112

and 129-6-113 shall apply to persons in an independent living arrangement or in the HCBS program. The applicable earned income shall be gross income less income deductions, if applicable.

(2) Self-employment. The applicable earned income for a self-employed person shall equal the modified adjusted gross earned income less the income deductions of paragraph (b)(4), if applicable. Paragraph (b)(1) regarding modified adjusted gross earned income shall apply to calculations made pursuant to this paragraph. Annual tax information from the most recent tax year shall be converted to a monthly prospective amount. This amount shall be used in the determination of both eligibility in the prior three months and current eligibility. In the absence of tax information from the most recent tax year, the most current income shall be used to determine a monthly amount.

(3) Unearned income. All net unearned income shall be considered to be applicable income, except that K.A.R. 129-6-112 and 129-6-113 shall apply to persons in an independent living arrangement or in the HCBS program. K.A.R. 129-6-113 (a), (m), (n), (w), (bb), (cc), (ff), (kk), (nn), and (oo) shall apply to persons in long-term care arrangements. Net unearned income shall equal gross unearned income less the costs of the production of the income. Income-producing costs shall include only those expenses directly related to the actual production of income.

(4) Income deductions.

(A) For persons in an independent living arrangement or in the HCBS program, the following deductions shall apply:

(i) The first \$20 of any nonexempt unearned income; and

(ii) an applicable earned income deduction calculated as follows: gross earned income minus any portion of the unearned income deduction that exceeds monthly earned income, plus \$65 of monthly earned income, plus one-half of the remainder of the monthly earned income.

(B) For persons in long-term institutional arrangements who are employed, an applicable earned income deduction shall be calculated as follows: gross earned income minus \$65 of monthly earned income, plus one-half of the remainder of the monthly earned income. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-112. Income exempt from consideration as income and as a cash asset for MAGI-excepted groups.** For those groups specified in K.A.R. 129-6-34(c)(2), exempted income shall be the following: (a) Grants, scholarships, and loans provided for educational purposes;

(b) the value of benefits provided under the federal supplemental nutrition assistance program;

(c) the value of any food donated by the United States department of agriculture;

(d) benefits received under title V, community services employment program, or title VII, nutrition program for the elderly, of the older Americans act of 1965, as amended by public law 109-365;

(e) Indian funds distributed or held in trust by the secretary of the interior, including interest and investment income accrued on these funds while held in trust and initial purchases made with these funds;

(f) distributions to natives under the Alaska native claims settlement act;

(g) payments provided to individual volunteers serving as foster grandparents, senior health aides, and senior companions under title II of the domestic volunteer service act of 1973 as amended by public law 106-170;

(h) any payments provided through americorps, except that volunteers in service to America (VISTA) payments shall be exempt only as income;

(i) relocation payments received under public law 91-646;

(j) death benefits from social security administration (SSA), veterans administration (VA), railroad retirement, or other burial insurance policy if the benefits are used toward the cost of burial. This shall include payments occasioned by the death of another person to the extent that the payments have been expended or committed to be expended for purposes of the deceased person's last illness and burial;

(k) money held in trust by the VA for a child that the VA determines shall not be used for subsistence needs;

(l) retroactive corrective assistance payments in the month received or in the following month;

(m) maintenance income directly provided by rehabilitation services of the Kansas department for children and families;

(n) mandatory deductions from military pay for educational purposes while the individual is enlisted in the armed services;

(o) reimbursements for out-of-pocket expenses in the month received and the following month;

(p) proceeds from any bona fide loan requiring repayment;

(q) payments granted to certain United States citizens of Japanese ancestry and resident Japanese aliens under title I of public law 100-383;

(r) payments granted to certain eligible Aleuts under title II of public law 100-383;

(s) agent orange settlement payments;

(t) federal major disaster and emergency assistance and comparable disaster assistance provided by state or local government agencies or by disaster-assistance organizations in conjunction with a presidentially declared disaster;

(u) payments granted to the Aroostook band of Micmac Indians under public law 102-171;

(v) payments from the radiation exposure compensation trust fund made by the department of justice;

(w) special federal allowances paid monthly to children of Vietnam veterans who are born with spina bifida, under public law 104-204, or other certain birth defects, under public law 106-419;

(x) payments made from any fund established pursuant to a class settlement in the case of Susan Walker v. Bayer corporation, except for interest or other investment income earned on the payments;

(y) except for aged, blind, and disabled persons, a one-time payment or a portion of a one-time payment from a cash settlement for the repair or replacement of property or for legal services, medical costs, or other required obligations to a third party, if the payment is expended or committed to be expended for the intended purpose within six months of its receipt;

(z) cash donations that are based on need, do not exceed \$300 in any calendar quarter, and are received from one or more private, nonprofit, charitable organizations;

(aa) foster care and adoption support payments;

(bb) the amount of any earned income tax credit received. This credit shall not be regarded as a cash asset in the month of receipt and in the following 12 months;

(cc) for aged, blind and disabled persons, a one-time payment or a portion of a one-time payment from a cash settlement for the repair or replacement of property or for legal services, medical costs, or other required obligations to a third party, if the payment is expended or committed to be expended for the intended purpose within nine

months of its receipt. This time period may be extended for good cause;

(dd) for blind and disabled persons, income necessary for fulfillment of a plan to achieve self-support established for a blind or disabled person, as approved by the social security administration;

(ee) any interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement that are left to accumulate and become a part of that burial fund, according to K.A.R. 129-6-109;

(ff) housing assistance from federal housing programs operated by state and local subdivisions;

(gg) family subsidy payments provided through the mental health and developmental disabilities commission or family support payments provided through the prevention and protection services commission;

(hh) relocation assistance provided by a state or local government that is comparable to assistance provided under title II of the uniform relocation assistance and real property acquisitions act of 1970, public law 91-646;

(ii) interest on an allowable individual development account (IDA) that meets the requirements of K.A.R. 129-6-109(e)(9), including authorized matching contributions and accrued interest. Earnings deposited in an individual development account shall also be exempted for a person who meets the requirements of K.A.R. 129-6-88;

(jj) the portion withheld to repay a prior overpayment received from a program not based on financial need, including certain programs administered by the SSA, VA, and the division of workers compensation or the division of employment security in the Kansas department of labor; and

(kk) payments made pursuant to the Ricky Ray hemophilia relief fund act, public law 105-369. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-113. Income exempt as applicable income for MAGI-excepted groups.** For those groups specified in K.A.R. 129-6-34(c)(2), the following types of income shall be exempt as applicable income in the determination of eligibility:

(a) Income-in-kind;

(b) shelter cost participation payments. In shared living arrangements in which two families contribute toward the shelter obligations, cash paid toward the shared shelter obligation by one family to the second family in the shared arrange-

ment shall not be considered as income to the second family. This exemption shall not be applicable in a bona fide, commercial landlord-tenant arrangement;

(c) hostile-fire pay received while in active military service;

(d) payments made pursuant to the crime victims fund, public law 103-322, as amended, and by the Kansas crime victims compensation board pursuant to K.S.A. 74-7301 et seq., and amendments thereto;

(e) payments received through the senior community service employment program;

(f) payments or allowances made under federal laws for the purpose of providing energy assistance. Home energy assistance furnished on the basis of need by a federally regulated or state-regulated entity whose revenues are primarily derived on a rate-of-return basis, by a private non-profit organization, by a supplier of home heating oil or gas, or by a municipal utility company that provides home energy shall also be exempted;

(g) income received from the workforce investment act of 1998, public law 105-220. However, earnings received by individuals who are participating in on-the-job training programs shall be countable unless the individual is under the age of 19;

(h) the values of any services or monies received for support or transitional services paid directly to the customer through work programs as defined in article 4 of the regulations of the department for children and families;

(i) income of an SSI recipient, including a deemed recipient, and retroactive SSI benefits. This subsection shall not be applicable to any person residing in a long-term institutional arrangement in accordance with K.A.R. 129-6-111(b)(3);

(j) incentive payments received by renal dialysis patients;

(k) irregular, occasional, or unpredictable monetary gifts that do not exceed \$50 per month per family group;

(l) tax refunds and rebates, except for earned income tax credits in accordance with K.A.R. 129-6-112 (bb);

(m) VA aid and attendance and housebound allowances;

(n) VA payments resulting from unusual medical expenses;

(o) up to \$2,000 per year of income received by an individual Indian that is derived from leases or other uses of an individually owned trust or restricted lands;

- (p) lump sum income;
- (q) earned income of a child who is under the age of 19 if the child is a student in elementary or secondary school or is working towards attainment of a G.E.D.;
- (r) interest and dividend income that does not exceed \$50 per month per family group;
- (s) child care payments made to persons other than a child care provider;
- (t) child support pass-through payments;
- (u) payments from any bona fide loan;
- (v) the amount of any child support arrearage payment paid for a child under the age of 18;
- (w) reparation payments made to holocaust survivors;
- (x) vendor payments that are not payable directly to a household but are paid to a third party for a household expense, as follows:
  - (1) Each payment made in money on behalf of a household shall be considered a vendor payment whenever a person or organization outside of the household uses its own funds to make a direct payment to either the household's creditors or a person or organization providing a service to the household;
  - (2) each assistance payment financed by state or local funds that is not made directly to the household but is paid to a third party on behalf of the household to pay a household expense shall be considered a vendor payment if the payment is for medical care, child care, or temporary housing assistance;
  - (3) each assistance vendor payment financed by state or local funds that is made on behalf of migrants in the labor stream pursuant to 7 C.F.R. 273.9(c)(1) shall be exempt and not counted as income, regardless of the purpose of the vendor payment;
  - (4) each payment in money that is not made to a third party, but is made directly to the household, shall be counted as income and shall not be excludable as a vendor payment; and
  - (5) each payment or other assistance financed by state or local funds that is provided over and above the normal grant or other assistance payment and would not normally be provided in a money payment to the household shall be considered emergency or special assistance and exempted as income if provided directly to a third party for a household expense;
- (y) payments provided through youth service corps;
- (z) allocation payments made to individuals under a WORK plan according to K.A.R. 129-6-84;

(aa) for aged, blind, and disabled persons, one-third of the child support payments received by an eligible child from an absent parent;

(bb) for blind and disabled persons, work expenses of a blind recipient. The first \$300 of earned income or verified actual average expenses, if in excess of this amount, shall be exempted under this subsection;

(cc) for blind and disabled persons, impairment-related work expenses of a disabled recipient. The first \$100 of earned income or verified actual average expenses, if in excess of this amount, shall be exempted under this subsection;

(dd) for aged, blind, or disabled persons, the difference between the social security benefit entitlement in August 1972 and the entitlement in September 1972 for persons who were receiving cash assistance through the programs of aid to the aged, blind, or disabled (AABD) or aid to dependent children (ADC) in September 1972 and who were entitled to a social security benefit in September 1972. This exemption shall apply only if the exemption establishes eligibility without a spenddown;

(ee) for aged, blind, or disabled persons, the amount of all social security cost-of-living adjustments for a person who was concurrently receiving SSI and social security after April 1977 and who would be eligible for SSI if the cost-of-living adjustments received since that person was last eligible for SSI were not considered as income;

(ff) for aged, blind, or disabled persons, income allocated and expended by an adult in an institutional living arrangement for the support of the adult's minor children if the adult does not have a spouse who continues to live in the community. The income allocation shall not exceed the amount necessary to bring the children's income up to the appropriate income standard described in K.A.R. 129-6-103(a)(3);

(gg) for aged, blind, and disabled persons, SSI payments that the person is not legally entitled to receive and that are subject to SSI recovery;

(hh) for aged, blind, and disabled persons, the amount of the December 1983 increase in social security disabled widow or widower benefits resulting from the changes in the actuarial reduction formula, and all subsequent cost-of-living adjustments, for a person who was concurrently receiving SSI and social security disabled widow and widower benefits under section 202(e) or 202(f) of the social security act, if the person meets all of the following conditions:

(1) The person became ineligible for SSI due solely to the 1983 actuarial increase;

(2) the person has continually received social security disabled widow or widower benefits since the 1983 actuarial increase was first received;

(3) the person would be currently eligible for SSI if it were not for the 1983 actuarial increase and all subsequent cost-of-living adjustments; and

(4) the person applied for medical assistance before July 1, 1988;

(ii) for aged, blind, and disabled persons, the amount of the social security adult disabled child benefit for an otherwise eligible SSI person aged 18 or older who meets both of the following conditions:

(1) The person was receiving SSI benefits that began before the age of 22; and

(2) the person lost SSI eligibility due solely to the person's becoming eligible for the adult disabled child benefits or to an increase in the adult disabled child benefits;

(jj) for aged, blind, and disabled persons, the amount of social security early or disabled widow or widower benefits under section 202(e) or (f) of the social security act, if the person meets all of the following conditions:

(1) The person became ineligible for SSI because of the receipt of the benefits;

(2) the person would be currently eligible for SSI in the absence of the benefits; and

(3) the person is not entitled to hospital insurance benefits under part A of title XVIII of the social security act;

(kk) for aged, blind, and disabled persons, the income of an SSI recipient that exceeds the income standard for institutionalized persons for three months following the month of admission, if the social security administration determines that the stay in the institution is temporary and the person needs to continue to maintain and provide for the expenses of the home or another living arrangement to which the person could return;

(ll) for aged, blind, and disabled persons, the income of an applicant's or recipient's spouse or parent that was counted or excluded in determining the amount of a public assistance payment, if the spouse or parent is not an applicant for or recipient of medical assistance for aged, blind, and disabled persons;

(mm) for aged, blind, and disabled persons, the income of an applicant's or recipient's spouse or parent that is used to make support payments under a court order or title IV-D support order, if

the spouse or parent is not an applicant for or recipient of medical assistance for aged, blind, and disabled persons;

(nn) for aged, blind, and disabled persons, the amount of VA pension received by a single veteran with no dependents or by a surviving spouse with no children, if the pension has been reduced to \$90 or less because the veteran or spouse resides in a medicaid-approved nursing facility; and

(oo) for aged, blind, and disabled persons, Austrian social insurance payments based, in whole or in part, on wage credits granted under the Austrian general social insurance act. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-120. Eligibility before the month of application.** The eligibility of an applicant for the medical assistance program shall be determined for the three months immediately before the month of application if the applicant requests this determination.

(a) Automatic eligibles. The applicant shall be eligible for medical assistance in any of the three months in which the applicant would have been automatically eligible for medical assistance if the applicant would have applied for medical assistance during the month.

(b) Determined eligibles. The prior eligibility base period shall begin on the first day of the first month in which all eligibility factors other than financial are met without regard to current eligibility. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-140. Correction and discontinuance of medical assistance.** (a) Overpayments. Each recipient who receives an overpayment, whether caused by the department or the individual, shall repay the amount of the overpayment, either by voluntary action or through administrative processes including recoupment and legal action.

(b) Welfare fraud penalty. Each person convicted of medical assistance program fraud, pursuant to 42 U.S.C. 1320a-7b, shall be ineligible to participate in the medical assistance program for one year from the date of the conviction.

(c) Discontinuance of medical assistance. A recipient's participation in the medical assistance program shall be discontinued if the recipient no longer meets one or more of the applicable eli-

gibility requirements. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-150. Estate recovery.** (a) Pursuant to K.S.A. 39-709 and amendments thereto and this regulation, each recipient's real and personal property or estate shall be subject to the recovery of the cost of all medical assistance provided on the recipient's behalf. By applying for and receiving medical assistance, the recipient shall agree to the department's use of liens against the recipient's property, claims against the recipient's estate, agreements with heirs, and any other collection method allowed by Kansas statutes.

(b) The amount of any medical assistance paid on behalf of a recipient after June 30, 1992 shall be a claim against the property or estate of a deceased recipient, subject to whether the medical assistance was correctly paid on behalf of an eligible recipient.

(1) If the medical assistance was correctly paid on behalf of an eligible recipient, the department's claim against the recipient's estate shall be restricted to medical assistance paid when the recipient met either of the following conditions:

(A) Was 55 years of age or older; or

(B) was admitted as an inpatient in a long-term care facility, including a PACE institutional arrangement.

(2) If the medical assistance was incorrectly paid on behalf of an ineligible recipient, the department's claim shall be the total amount of assistance paid on behalf of the ineligible recipient.

(c) The recipient's estate shall not be subject to the department's claim for correctly paid medical assistance benefits if one of the following individuals survives for at least six months after the recipient's death:

(1) A spouse; or

(2) a child who is under 21 years of age or who meets the disability criteria of K.A.R. 129-6-85(b) or (c).

(d) If a deceased recipient is survived by a spouse, all claims for correctly paid medical assistance benefits that have been paid on behalf of the deceased recipient shall be filed against the estate of the surviving spouse.

(e) The recipient may be subject to the imposition of a lien by the department on the recipient's real property before the recipient's death pursuant to K.S.A. 39-709, and amendments thereto.

(f) For a deceased recipient, the real property of the recipient may be subject to the imposition of a lien by the department for up to one year after the death of the recipient, pursuant to K.S.A. 39-709 and amendments thereto.

(g) Pursuant to K.S.A. 39-709 and amendments thereto, a deceased recipient's real and personal property may be subject to recovery of the recipient's medical assistance costs if the deceased recipient's interest in the property ended or was transferred due to the recipient's death. The department's recovery shall be limited to the recipient's interest in the property as that interest existed immediately before the death of the recipient. (Authorized by K.S.A. 2013 Supp. 39-709, 65-1,254, and 75-7403; implementing K.S.A. 2013 Supp. 39-709, K.S.A. 59-3504, K.S.A. 2013 Supp. 65-1,254, and K.S.A. 2013 Supp. 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-6-151. Presumptive eligibility.** A presumptive period of eligibility shall be provided if a qualified entity, designated by the department in accordance with K.A.R. 129-6-152, determines that the individual meets the presumptive eligibility requirements as follows. (a) Pregnant women.

(1) Each woman shall be at least 18 years of age.

(2) Each woman shall meet the general eligibility requirements of K.A.R. 129-6-52 and 129-6-55 and the determined eligible requirements of K.A.R. 129-6-71.

(3) Financial eligibility shall be based on the requirements of K.A.R. 129-6-53.

(b) Children.

(1) Each child shall be under the age of 19.

(2) Each child shall meet the general eligibility requirements of K.A.R. 129-6-52 and 129-6-55 and the determined eligible requirements of K.A.R. 129-6-72.

(3) Financial eligibility shall be based on the requirements of K.A.R. 129-6-53.

(4) The child shall not be living in a public institution, as specified in K.A.R. 129-6-60.

(c) The presumptive period.

(1) The presumptive period shall begin on the date on which the qualified entity makes an eligibility determination. The presumptive period shall end on the last day of the month following the month in which the determination is made, unless an application for medical assistance is received. If an application is filed in accordance with K.A.R. 129-6-35 before this date, the presumptive

period shall end on the last day of the month in which a full determination is made according to this regulation.

(2) Each individual shall be eligible for only one period of presumptive eligibility within a 12-month period under this regulation or under K.A.R. 129-14-51. The 12-month period shall begin on the first day of presumptive eligibility under either of these regulations. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective June 30, 2006; amended, T-129-10-31-13, Nov. 1, 2013; amended Feb. 28, 2014.)

**129-6-152. Presumptive eligibility when determined by qualified entities other than qualified hospitals.** (a) Except for qualified hospitals pursuant to K.A.R. 129-6-153, each qualified entity shall be designated by the department to make determinations of presumptive eligibility as specified in K.A.R. 129-6-151.

(b) Each qualified entity shall meet the requirements of 42 C.F.R. 435.1101 and 435.1103.

(c) For each determination of presumptive eligibility under this regulation, a qualified entity shall perform the following:

(1) Make a finding of presumptive eligibility pursuant to K.A.R. 129-14-51(b) or 129-6-151;

(2) notify the pregnant woman or the child's parent or caretaker, by written or electronic means, of the results of the determination at the time of the determination;

(3) provide the pregnant woman or the parent or caretaker of the child with an application for ongoing medical assistance. For an individual determined to be presumptively eligible, the qualified entity shall provide notification that this application shall be required to be submitted before the last day of the month following the month of the presumptive determination or eligibility shall end on that date;

(4) assist the pregnant woman or the child's parent or caretaker in completing and filing an application for ongoing medical assistance; and

(5) notify the department of the presumptive determination within five working days after the determination. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective June 30, 2006; amended, T-129-10-31-13, Nov. 1, 2013; amended Feb. 28, 2014.)

**129-6-153. Presumptive eligibility when determined by qualified hospitals.** (a) Each hospital that meets the following requirements

shall be approved to make determinations of presumptive eligibility as specified in K.A.R. 129-6-151:

(1) Participates as a medicaid provider in Kansas;

(2) indicates interest in writing to the department to make determinations of presumptive eligibility;

(3) enters into a formal written agreement with the secretary to make determinations of presumptive eligibility in accordance with department regulations and policies;

(4) uses forms and other tools approved by the secretary for determining eligibility;

(5) satisfactorily completes state-provided training; and

(6) meets the performance standards established by the secretary, which shall include the following:

(A) Processing applications for presumptive eligibility within prescribed time limits; and

(B) achieving an accuracy rate of at least 90 percent in eligibility determinations made by the hospital.

(b) Presumptive eligibility determinations shall be made for pregnant women and children as specified in K.A.R. 129-6-151 and for qualifying families as specified in K.A.R. 129-6-70.

(c) For each determination of presumptive eligibility, the qualified hospital shall perform the following:

(1) Make a finding of presumptive eligibility pursuant to K.A.R. 129-6-151;

(2) notify the family, the pregnant woman, or the child's parent or caretaker of the results of the determination at the time of the determination;

(3) provide the family, the pregnant woman, or the parent or caretaker of the child with an application for ongoing medical assistance. For an individual determined to be presumptively eligible, the qualified hospital shall provide notification that this application shall be required to be submitted before the last day of the month following the month of the presumptive determination or eligibility shall end on that date;

(4) assist the family, the pregnant woman, or the child's parent or caretaker in completing and filing an application for ongoing medical assistance; and

(5) notify the department of the presumptive determination within five working days after making the determination.

(d) Each qualified hospital shall be required to be recertified by the department each year to determine if the qualified hospital continues to

meet the requirements in this regulation. The qualified hospital's certification shall be terminated by the department under either of the following circumstances:

(1) The qualified hospital is not making, or is incapable of making, presumptive eligibility determinations in accordance with the agreement established in accordance with subsection (a).

(2) The qualified hospital is failing to meet the performance standards specified in this regulation. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**Article 9.—MANAGED CARE PROVIDER GRIEVANCES, RECONSIDERATIONS, APPEALS, EXTERNAL INDEPENDENT THIRD-PARTY REVIEW, AND STATE FAIR HEARINGS; FEE-FOR-SERVICE PROVIDER GRIEVANCES AND STATE FAIR HEARINGS**

**129-9-9. External independent third-party review for providers.** (a) Effective with each denial issued by a managed care organization (MCO) on or after January 1, 2020, each provider who has been denied an authorization for a new healthcare service to an enrollee or a claim for reimbursement to the provider for a healthcare service rendered to an enrollee shall be entitled to an external independent third-party review pursuant to K.S.A. 39-709i, and amendments thereto. Each MCO denial reviewed by the external independent third-party reviewer shall have been issued pursuant to a contract between the MCO and the Kansas medical assistance program (KMAP). The contract shall have been effective January 1, 2020 or later.

(b) The request for an external independent third-party review shall apply only to denials for which the provider has completed the internal written appeals process of an MCO on or after January 1, 2020. Each provider shall have the right to submit a request for an external independent third-party review following receipt of the MCO's adequate notice of appeal resolution or remittance advice.

(c) The MCO shall send an adequate notice of appeal resolution to the provider when the MCO reviews the request for an appeal of an action or adverse benefit determination. Each adequate notice of appeal resolution shall meet the re-

quirements of the secretary and shall include the following:

(1) The date of the adequate notice of appeal resolution;

(2) the action or adverse benefit determination that is the subject of the appeal;

(3) the results of the resolution process and the date of the appeal resolution;

(4) the reasons for the appeal resolution, including an explanation of the medical basis for the resolution, application of policy, or accepted standard of medical practice to the enrollee's medical circumstances, if the MCO based its resolution upon a determination that the service is not medically necessary;

(5) the statute, regulation, policy, or procedure supporting the appeal resolution;

(6) a statement that the provider has completed the appeal process with the MCO;

(7) a statement of the provider's right to request an external independent third-party review following receipt of the adequate notice of appeal resolution;

(8) a statement of the required procedures by which a provider may request an external independent third-party review with the MCO issuing the decision to be reviewed within 60 days of the date of the adequate notice of appeal resolution. Pursuant to K.S.A. 77-531 and amendments thereto, three days shall be added to the 60-day response period if the notice is served by U.S. mail or by electronic means. The statement shall include the address and contact information for submission of the request;

(9) a statement that if the provider does not request an external independent third-party review, the provider has a right, pursuant to K.S.A. 39-709h(e)(4) and amendments thereto, to request a state fair hearing within 120 days of the date of the adequate notice of appeal resolution. Pursuant to K.S.A. 77-531 and amendments thereto, three days shall be added to the 120-day response period if the notice is served by U.S. mail or by electronic means;

(10) the procedures by which the provider may request a state fair hearing and the address and contact information for submission of the request or, for an action based on a change in law, the circumstances under which a state fair hearing will be granted;

(11) a statement of the provider's right to have self-representation or use legal counsel, a relative, a friend, or a spokesperson; and

(12) any other information required by Kansas statute or regulation that involves the MCO's adequate notice of appeal resolution.

(d) Each provider receiving an adequate notice of appeal resolution from an MCO that does not include the information specified in paragraphs (c)(6) through (c)(8) shall be entitled to a penalty fee of \$333.00, \$666.00, or \$1,000.00 pursuant to paragraphs (d)(1)(A) through (C). The provider shall notify the secretary of the deficient notice.

(1) The penalty fee for each deficient notice of appeal resolution shall be calculated by the secretary according to the following fee structure:

(A) A notice failing to include one of the three requirements specified in paragraphs (c)(6) through (c)(8) shall incur a penalty fee of \$333.00.

(B) A notice failing to include two of the three requirements specified in paragraphs (c)(6) through (c)(8) shall incur a penalty fee of \$666.00.

(C) A notice failing to include three of the three requirements specified in paragraphs (c)(6) through (c)(8) shall incur a penalty fee of \$1,000.00.

(2) The MCO issuing the deficient notice shall pay the penalty fee to the provider receiving the deficient notice within 10 business days of the secretary's notification to the MCO of the deficient notice.

(3) The provider shall notify the secretary of any dispute that arises regarding the penalty fee. This dispute shall be resolved by the secretary and shall not include the right to request a reconsideration, an appeal, or a state fair hearing.

(e) Any provider may submit a written request for an external independent third-party review to the MCO issuing the decision to be reviewed. The provider's request for this review shall include the following:

(1) Identification of each specific issue and dispute directly related to the adverse appeal decision issued by the MCO;

(2) a statement of the basis upon which the provider believes the MCO's decision to be erroneous; and

(3) the provider's designated contact information, including name, postal mailing address, telephone number, fax number, and electronic-mail address.

(f)(1) Within five business days of receiving a provider's request for external independent third-party review, the MCO shall perform the following:

(A) Send to the provider's designated contact a written acknowledgement letter specifying that the MCO has received the request for review;

(B) notify the secretary of the provider's request for review; and

(C) send a copy of the written acknowledgement letter to the enrollee, if related to the denial of an authorization for a new healthcare service.

(2) If the secretary determines that the MCO failed to meet the requirements of paragraphs (f)(1)(A) through (C), then the provider who submitted the request for review shall automatically prevail in the review. Within five business days of receipt of the secretary's notification that the provider automatically prevails, the MCO shall issue an approval letter regarding the reversal of the MCO's appeal decision to the prevailing provider and the secretary. The MCO shall also issue an approval letter to the affected enrollee if the request for review is related to the denial of an authorization for a new healthcare service. The MCO shall not be required to reverse its decision for a request that does not include the information specified in paragraphs (e)(1) through (e)(3), is submitted by a provider who fails to complete the MCO's appeal process, is untimely, or does not involve a denied authorization for a new healthcare service or a claim for reimbursement.

(g)(1) Within 15 business days of receiving a provider's request for external independent third-party review, the MCO shall perform the following:

(A) Submit to the secretary all documentation submitted by the provider for the MCO's internal appeal process; and

(B) provide the MCO's designated contact information, including name, postal mailing address, telephone number, fax number, and electronic-mail address.

(2) If the secretary determines that the MCO failed to meet the requirements of paragraphs (g)(1)(A) and (B), then the provider who submitted the request for review shall automatically prevail in the review. Within five business days of receipt of the secretary's notification that the provider automatically prevails, the MCO shall issue an approval letter regarding the reversal of the MCO's appeal decision to the prevailing provider and the secretary. The MCO shall also issue an approval letter to the affected enrollee if the request for review is related to the denial of an authorization for a new healthcare service. The MCO shall not be required to reverse its decision for a request

that does not include the information specified in paragraphs (e)(1) through (e)(3), is submitted by a provider who fails to complete the MCO's appeal process, is untimely, or does not involve a denied authorization for a new healthcare service or a claim for reimbursement.

(h) Each request for an external independent third-party review shall be approved or denied by the secretary. A request for an external independent third-party review that does not include the information specified in paragraphs (e)(1) through (e)(3), is submitted by a provider who fails to complete the MCO's appeal process, is untimely, or does not involve a denied authorization for a new healthcare service or a claim for reimbursement shall be denied by the secretary. A letter regarding the denial of the request for an external independent third-party review shall be issued by the secretary to the requesting provider and the MCO. A denial letter shall also be issued to the affected enrollee if the request for review is related to the denial of an authorization for a new healthcare service.

(i) The decision by the external independent third-party reviewer shall be based solely upon the documentation submitted by the provider during the MCO's appeal process.

(j) The parties to each external independent third-party review shall be the following:

(1) A provider or the provider's authorized representative; and

(2) the MCO that made the decision involved in the review.

(k) Upon the request of a party, the external independent third-party reviewer may determine in one action multiple requests made to the reviewer regarding the same enrollee, a common question of fact, a common interpretation of applicable regulations, or a common reimbursement requirement. The provider shall complete the MCO's appeal process and submit a request for external review for each denial of an authorization for a new healthcare service or denial of a claim for reimbursement that the reviewer determines in one action.

(l) Any provider that initiated a request for an external independent third-party review, or one or more other providers, may add other initial denials of claims to the review before the reviewer's decision if the claims involve a common question of fact, a common interpretation of applicable regulations, or a common reimbursement requirement. The provider shall complete the MCO's appeal process for each denial of a claim

for reimbursement reviewed by the reviewer. The provider shall submit a request for external independent third-party review to the MCO that denied the claim, for each additional claim.

(m) The external independent third-party reviewer shall conduct an external independent third-party review of any denial of authorization for a new healthcare service or denial of a claim for reimbursement submitted to the reviewer.

(n) The external independent third-party reviewer shall issue the reviewer's final decision in a letter to the provider's designated contact, the MCO's designated contact, and the department within 30 days from the date of receipt of the appeal documentation forwarded by the secretary. The reviewer may extend the time to issue a final decision by 14 days upon agreement of both parties to the review. The reviewer's letter shall include the following:

(1) The date of the reviewer's decision letter;

(2) the date of receipt of the provider's appeal documentation from the secretary;

(3) the date of the reviewer's decision and, if an extension was requested by the reviewer, the date of the extension request;

(4) the name and address of the requesting provider. If the reviewer determines in one action multiple provider requests or requests involving multiple claims, the reviewer shall issue a separate decision letter for each MCO, enrollee, and provider as required to protect health information;

(5) a summary statement of the reason the provider requested the external independent third-party review;

(6) the specialty or professional certification of each individual reviewing the provider appeal documentation;

(7) a summary statement of the reviewer's rationale for affirming or reversing the MCO's appeal decision. The statement shall include citation to the applicable policies, research articles, medical necessity criteria, or any other documentation relied upon by the reviewer in reaching its decision;

(8) the name of the medical director who reviewed and approved the reviewer's decision;

(9) a statement directing the losing party of the review to pay an amount equal to the costs of the review to the reviewer and the due date for payment. The statement shall include the following:

(A) A statement that if the decision of the external independent third-party reviewer is reviewed in a state fair hearing, the payment due to the reviewer under this subsection shall be delayed un-

til the decision of the state fair hearing has been issued in the initial order;

(B) a statement that the losing party of the state fair hearing's initial order shall pay the costs of the review to the reviewer within 45 days of service of the initial order;

(C) a statement that if the decision in the initial order is reviewed by the state appeals committee, the payment due to the reviewer under this subsection shall be delayed until the decision by the state appeals committee has been issued in the final order; and

(D) a statement that the losing party of the state appeal committee's final order shall pay the costs of the review to the reviewer within 45 days of service of the final order;

(10) the unique number assigned by the MCO to each provider appeal;

(11) the unique number assigned by the reviewer to each request for external independent third-party review; and

(12) a statement that the provider will receive an additional notice from one or more MCOs that includes the right to request a state fair hearing regarding the reviewer's decision.

(o) Within 10 business days of the MCO's receipt of the external independent third-party reviewer's decision letter, the MCO shall issue a notice of the reviewer's decision to the provider and the department. The MCO shall also issue a notice of the reviewer's decision to the affected enrollee if the request for review is related to the denial of an authorization for a new healthcare service. The notice shall include the state fair hearing rights for the enrollee and the provider.

(p) Each request for an external independent third-party review shall automatically extend the deadline to request a state fair hearing pending the outcome of the review. Any party, including the affected enrollee, may request a state fair hearing within 30 days of the date of the MCO's notice of the reviewer's decision. Pursuant to K.S.A. 77-531 and amendments thereto, three days shall be added to the 30-day response period if the notice is served by U.S. mail or by electronic means.

(q) The decision of the external independent third-party reviewer shall be reviewed by the secretary or the secretary's designee. If the MCO is the losing party of the review, a determination regarding a review by OAH of the reviewer's decision shall be made by the secretary.

(r) The scheduling of any state fair hearing that involves a denial of an authorization for a new

healthcare service or a claim for reimbursement for which the provider has requested an external independent third-party review shall be delayed until after the reviewer's decision has been issued. The reviewer's decision letter, the documents relevant to the reviewer's decision, and the MCO's notice of the reviewer's decision shall be included in the state fair hearing case file for consideration by the presiding officer, together with any other facts of the case.

(s) Any provider requesting an external independent third-party review may withdraw the request for review and request a state fair hearing within 123 days of the date of the MCO's adequate notice of appeal resolution. (Authorized by and implementing K.S.A. 2019 Supp. 39-709i, K.S.A. 65-1,254, and K.S.A. 75-7403; effective, T-129-5-4-20, May 4, 2020; effective Aug. 21, 2020.)

#### Article 10.—ADULT CARE HOME PROGRAM

**129-10-18. Per diem rates of reimbursement.** (a) Per diem rates for existing nursing facilities.

(1) The determination of per diem rates shall be made, at least annually, using base-year cost information submitted by the provider and retained for cost auditing and analysis.

(A) The base year utilized for cost information shall be reestablished at least once every seven years.

(B) A factor for inflation may be applied to the base-year cost information.

(C) For each provider currently in new enrollment, reenrollment, or change of ownership status, the base year shall be determined in accordance with subsections (c), (d), and (e), respectively.

(2) Per diem rates shall be limited by cost centers, except where there are special level-of-care facilities approved by the United States department of health and human services. The upper payment limits shall be determined by the median in each cost center plus a percentage of the median, using base-year cost information. The percentage factor applied to the median shall be determined by the agency.

(A) The cost centers shall be as follows:

- (i) Operating;
- (ii) indirect health care; and
- (iii) direct health care.

(B) The property component shall consist of the real and personal property fee as specified in K.A.R. 129-10-25.

(C) The upper payment limit for the direct health care cost center shall be a statewide base limit calculated on each facility's base-year costs adjusted for case mix.

(i) A facility-specific, direct health care cost center upper payment limit shall be calculated by adjusting the statewide base limit by that facility's average case mix index.

(ii) Resident assessments used to determine additional reimbursement for ventilator-dependent residents shall be excluded from the calculation of the facility's average case mix index.

(3) Each provider shall receive an annual per diem rate to become effective July 1 and, if there are any changes in the facility's average medicaid case mix index, an adjusted per diem rate to become effective January 1.

(4) Resident assessments that cannot be classified shall be assigned to the lowest case mix index.

(5) To establish a per diem rate for each provider, a factor for incentive may be added to the allowable per diem cost.

(6)(A) Resident days shall be determined from census information corresponding to the base-year cost information submitted by the provider.

(B) The total number of resident days shall be used to calculate the per diem costs used to determine the upper payment limit and rates in the direct health care cost center. The total number of resident days shall be used to calculate the per diem costs used to determine the upper payment limit and rates for food and utilities in the indirect health care cost center.

(C) For homes with more than 60 beds, the number of resident days used to calculate the upper payment limits and rates in the operating cost center and indirect health care cost center, less food and utilities, shall be subject to an 85 percent minimum occupancy requirement based on the following:

(i) Each provider that has been in operation for 12 months or longer and has an occupancy rate of less than 85 percent for the cost report period, as specified in K.A.R. 129-10-17, shall have the number of resident days calculated at the minimum occupancy of 85 percent.

(ii) The 85 percent minimum occupancy requirement shall be applied to the number of resident days and costs reported for the 13th month of operation and after. The 85 percent minimum occupancy requirement shall be applied to the interim rate of a new provider, unless the provider is allowed to file a projected cost report.

(iii) The minimum occupancy rate shall be determined by multiplying the total number of licensed beds by 85 percent. In order to participate in the Kansas medical assistance program, each nursing facility provider shall obtain proper certification for all licensed beds.

(iv) Each provider with an occupancy rate of 85 percent or greater shall have actual resident days for the cost report period, as specified in K.A.R. 129-10-17, used in the rate computation.

(7) Each provider shall be given a detailed listing of the computation of the rate determined for the provider's facility.

(8) The effective date of the rate for existing providers shall be in accordance with K.A.R. 129-10-19.

(b) Per diem rate limitations based on comparable service private-pay charges.

(1) Rates of reimbursement shall not be limited by private-pay charges.

(2) The agency shall maintain a registry of private-pay per diem rates submitted by providers.

(A) Each provider shall notify the agency of any change in the private-pay rate and the effective date of that change so that the registry can be updated.

(i) Private-pay rate information submitted with the cost reports shall not constitute notification and shall not be acceptable.

(ii) Providers may send private-pay rate notices by certified mail so that there is documentation of receipt by the agency.

(B) The private-pay rate registry shall be updated based on the notification from the providers.

(C) The effective date of the private-pay rate in the registry shall be the later of the effective date of the private-pay rate or the first day of the following month in which complete documentation of the private-pay rate is received by the agency.

(i) If the effective date of the private-pay rate is other than the first day of the month, the effective date in the registry shall be the first day of the closest month. If the effective date is after the 15th, the effective date in the register shall be the first day of the following month.

(ii) For new facilities or new providers coming into the medicaid program, the effective date of the private-pay rate shall be the date on which certification is issued.

(3) The average private-pay rate for comparable services shall be included in the registry. The average private-pay rate may consist of the following variables:

(A) Room rate differentials. The weighted average private-pay rate for room differentials shall be determined as follows:

(i) Multiply the number of private-pay residents in private rooms, semiprivate rooms, wards, and all other room types by the rate charged for each type of room. Sum the resulting products of each type of room. Divide the sum of the products by the total number of private-pay residents in all rooms. The result, or quotient, is the weighted average private-pay rate for room differentials.

(ii) Each provider shall submit documentation to show the calculation of the weighted average private-pay rate if there are room rate differentials.

(iii) Failure to submit the documentation shall limit the private-pay rate in the registry to the semiprivate room rate.

(B) Level-of-care rate differentials. The weighted average private-pay rate for level-of-care differentials shall be determined as follows:

(i) Multiply the number of private-pay residents in each level of care by the rate they are charged to determine the product for each level of care. Sum the products for all of the levels of care. Divide the sum of the products by the total number of private-pay residents in all levels of care. The result, or quotient, is the weighted average private-pay rate for the level-of-care differentials.

(ii) Each provider shall submit documentation to show the calculation of the weighted average rate when there are level-of-care rate differentials.

(iii) Failure to submit the documentation may delay the effective date of the average private-pay rate in the registry until the complete documentation is received.

(C) Extra charges to private-pay residents for items and services may be included in the weighted average private-pay rate if the same items and services are allowable in the Kansas medical assistance program rate.

(i) Each provider shall submit documentation to show the calculation of the weighted average extra charges.

(ii) Failure to submit the documentation may delay the effective date of the weighted average private-pay rate in the registry until the complete documentation is received.

(4) The weighted average private-pay rate shall be based on what the provider receives from the resident. If the private-pay charges are consistently higher than what the provider receives from the residents for services, then the average private-pay rate for comparable services shall be

based on what is actually received from the residents.

The weighted average private-pay rate shall be reduced by the amount of any discount received by the residents.

(5) The private-pay rate for medicare skilled beds shall not be included in the computation of the average private-pay rate for nursing facility services.

(6) When providers are notified of the effective date of the Kansas medical assistance program rate, the following procedures shall be followed:

(A) If the private-pay rate indicated on the agency register is lower, then the Kansas medical assistance program rate, beginning with its effective date, shall be calculated as follows:

(i) If the average medicaid case mix index is greater than the average private-pay case mix index, the Kansas medical assistance program rate shall be the lower of the private-pay rate adjusted to reflect the medicaid case mix or the calculated Kansas medical assistance rate.

(ii) If the average medicaid case mix index is less than or equal to the average private-pay case mix index, the Kansas medical assistance program rate shall be the average private-pay rate.

(B) Providers who are held to a lower private pay rate and subsequently notify the agency in writing of a different private-pay rate shall have the Kansas medical assistance program rate adjusted on the later of the first day of the month following the date upon which complete private-pay rate documentation is received or the effective date of a new private-pay rate.

(c) Per diem rate for new construction or a new facility to the program.

(1) The per diem rate for any newly constructed nursing facility or a new facility to the Kansas medical assistance program shall be based on a projected cost report submitted in accordance with K.A.R. 129-10-17.

(2) The cost information from the projected cost report and the first historic cost report covering the projected cost report period shall be adjusted to the base-year period.

(3) The provider shall remain in new enrollment status until the base year is reestablished. During this time, the adjusted cost data shall be used to determine all rates for the provider.

(4) Each factor for inflation that is applied to cost data for established providers shall be applied to the adjusted cost data for each provider in new enrollment status.

(5) No rate shall be paid until a nursing facility financial and statistical report is received and processed to determine a rate.

(d) Change of provider.

(1) The payment rate for the first 24 months of operation shall be based on the base-year historical cost data of the previous owner or provider. If base-year data is not available, data for the most recent calendar year available preceding the base-year period shall be adjusted to the base-year period and used to determine the rate. If the 85 percent minimum occupancy requirement was applied to the previous provider's rate, the 85 percent minimum occupancy requirement shall also be applied to the new provider's rate.

(2) Beginning with the first day of the 25th month of operation, the payment rate shall be based on the historical cost data for the first calendar year submitted by the new provider. The data shall be adjusted to the base-year period.

(3) The provider shall remain in change-of-provider status until the base year is reestablished. During this time, the adjusted cost data shall be used to determine all rates for the provider.

(4) Each factor for inflation that is applied to cost data for established providers shall be applied to the adjusted cost data for each provider in change-of-provider status.

(e) Determination of the per diem rate for nursing facility providers reentering the medicare program.

(1) The per diem rate for each provider reentering the medicare program shall be determined from either of the following:

(A) A projected cost report if the provider has not actively participated in the program by the submission of any current resident service billings to the program for 24 months or more; or

(B) the base-year cost report filed with the agency or the most recent cost report filed preceding the base year, if the provider has actively participated in the program during the most recent 24 months.

(2) If the per diem rate for a provider reentering the program is determined in accordance with paragraph (e)(1)(A), the cost data shall be adjusted to the base-year period.

(3) The provider shall remain under reenrollment status until the base year is reestablished. During this time, the cost data used to determine the initial rates shall be used to determine all subsequent rates for the provider.

(4) Each factor for inflation that is applied to

cost data for established providers shall be applied to the cost data for providers in reenrollment status.

(5) If the per diem rate for a provider reentering the program is determined in accordance with paragraph (e)(1)(A), a settlement shall be made in accordance with subsection (f).

(f) Per diem rate errors.

(1) If the per diem rate, whether based upon projected or historical cost data, is audited by the agency and found to contain an error, a direct cash settlement shall be required between the agency and the provider for the amount of money overpaid or underpaid. If a provider with an identified overpayment is no longer enrolled in the medicare program, the settlement shall be recouped from a facility owned or operated by the same provider or that provider's corporation, unless other arrangements have been made to reimburse the agency. A net settlement may occur if a provider has more than one facility involved in settlements. In all cases, settlements shall be recouped within 12 months of the implementation of the corrected rates, or interest may be assessed.

(2) The per diem rate for a provider may be increased or decreased as a result of a desk review or audit of the provider's cost reports. Written notice of this per diem rate change and of the audit findings shall be sent to the provider. Retroactive adjustment of the rate paid from a projected cost report shall apply to the same period of time covered by the projected rate.

(3) Each provider shall have 30 days from the date of the audit report cover letter to request an administrative review of an audit adjustment that results in an overpayment or underpayment. The request shall specify the finding or findings that the provider wishes to have reviewed.

(4) An interim settlement, based on a desk review of the historical cost report covering the projected cost report period, may be determined after the provider is notified of the new rate determined from the cost report. The final settlement shall be based on the rate after an audit of the historical cost report.

(5) A new provider that is not allowed to submit a projected cost report, as specified in K.A.R. 129-10-17, for an interim rate shall not be entitled to a retroactive settlement for the first year of operation.

(g) Out-of-state providers.

(1) The per diem rate for out-of-state providers certified to participate in the Kansas medical

assistance program shall be the rate approved by the agency.

(2) Each out-of-state provider shall obtain prior authorization by the agency.

(h) Reserve days. Reserve days as specified in K.A.R. 30-10-21 shall be paid at 67 percent of the Kansas medical assistance program per diem rate.

(i) Determination of rate for ventilator-dependent resident.

(1) The request for additional reimbursement for a ventilator-dependent resident shall be submitted to the agency in writing for prior approval. Each request shall include the following:

(A) Sections A, I, and O in the nursing home comprehensive "minimum data set" ("MDS") of the centers for medicare and medicaid services (CMS);

(B) a current client assessment, referral, and evaluation (CARE) plan for the resident;

(C) a physician's order for ventilator use, including the frequency of ventilator use and a diagnosis that requires use of a ventilator; and

(D) a treatment administration record or respiratory therapy note showing the number of minutes used for the ventilator per shift.

(2) All of the following conditions shall be met in order for a resident to be considered ventilator-dependent:

(A) The resident is not able to breathe without mechanical ventilation.

(B) The resident uses a ventilator for life support 24 hours a day, seven days a week.

(C) The resident has a tracheostomy or endotracheal tube.

(3) The provider shall be reimbursed at the Kansas medical assistance program daily rate determined for the nursing facility plus an additional amount approved by the agency for the ventilator-dependent resident.

(4) No additional amount above that figured at the Kansas medical assistance program daily rate shall be allowed until the service has been authorized by the agency.

(5) The criteria shall be reviewed quarterly to determine if the resident is ventilator-dependent. If a resident is no longer ventilator-dependent, the provider shall not receive additional reimbursement beyond the Kansas medical assistance program daily rate determined for the facility.

(6) The additional reimbursement for the ventilator-dependent resident shall be offset to the cost center of benefit on the nursing facility financial and statistical report.

(j) Rate modification; secretary's discretion.

(1) Any of the requirements of this regulation may be waived by the secretary and a nursing facility's or nursing facility for mental health's per diem rate of reimbursement may be modified by the secretary if the secretary determines that both of the following conditions are met:

(A) Exceptional circumstances place residents of nursing facilities and nursing facilities for mental health in jeopardy of losing the availability of, or access to, "routine services and supplies," "ancillary services and other medically necessary services," "specialized mental health rehabilitation services," or "specialized services," as defined in K.A.R. 30-10-1a.

(B) The jeopardy can likely be avoided or reduced by modifying the per diem rate of reimbursement for a nursing facility or nursing facility for mental health.

(2) If the secretary exercises discretion pursuant to this subsection, the increase in the per diem rate of reimbursement shall not exceed the state average rate for reimbursement. (Authorized by K.S.A. 2015 Supp. 65-1,254 and 75-7403; implementing K.S.A. 2015 Supp. 75-7405 and 75-7408; effective Sept. 19, 2008; amended Feb. 5, 2016.)

**129-10-19. Per diem rates; effective dates.** (a) Effective date of per diem rates for on-going providers filing calendar year cost reports. The effective date of a new per diem rate that is based on information and data in the nursing facility cost report for the calendar year shall be July 1.

(b) Effective date of the per diem rate for a new provider operating on the rate from cost data of the previous provider.

(1) The effective date of the per diem rate for a new provider shall be the date of certification by the state licensing agency.

(2) The effective date of the per diem rate based on the first historical cost report filed in accordance with K.A.R. 129-10-17 shall be the first day of the 25th month of operation. Each rate paid after the effective date of the rate based on the first historical cost report shall be adjusted to the new rate from the historical cost report.

(c) Effective date of the per diem rate from a projected cost report.

(1) The effective date of the per diem rate based on a projected cost report for a new provider, as specified in K.A.R. 129-10-18 (c) and (e), shall be the date of certification by the state licensing agency.

(2) The interim rate determined from the projected cost report filed by the provider shall be established by the agency and given to the fiscal agent on or by the first day of the third month after the receipt of a complete and workable cost report.

(3) The effective date of the final rate, which shall be determined after an audit of the historical cost report filed for the projected cost report period, shall be the date of certification by the state licensing agency.

(4) The second effective date for a provider filing an historic cost report covering a projected cost report period shall be the first day of the month following the last day of the period covered by the report, which is the date that the inflation factor is applied in determining prospective rates.

(d) Each provider shall receive an annual per diem rate to become effective July 1 and, if there are any changes in the facility's medicaid case mix index as specified in K.A.R. 129-10-18, an adjusted per diem rate to become effective January 1. (Authorized by K.S.A. 2015 Supp. 65-1,254 and 75-7403; implementing K.S.A. 2015 Supp. 75-7405 and 75-7408; effective Feb. 5, 2016.)

**129-10-31. Responsibilities of, assessment of, and disbursements for the nursing facility quality care assessment program.** (a) In addition to the terms defined in K.S.A. 75-7435 and amendments thereto, each of the following terms shall have the meaning specified in this subsection, unless the context requires otherwise:

(1) "High medicaid volume skilled nursing care facility" means any facility that provided more than 25,000 days of nursing facility care to medicaid recipients during the most recent calendar year cost-reporting period.

(2) "Kansas homes and services for the aging" as used in K.S.A. 75-7435 and amendments thereto, means leadingage Kansas.

(3) "Nursing facility quality care assessment program" means the determination, imposition, assessment, collection, and management of an annual assessment imposed on each licensed bed in a skilled nursing care facility required by K.S.A. 75-7435, and amendments thereto.

(4) "Skilled nursing care facility that is part of a continuing care retirement facility" means a provider who is certified as such by the Kansas insurance department before the start of the state's fiscal year in which the assessment process is occurring.

(5) "Small skilled nursing care facility" means

any facility with fewer than 46 licensed nursing facility beds.

(b) The assessment shall be based on a state fiscal year. Each skilled nursing facility shall pay the annual assessment as follows:

(1) The assessment amount shall be \$818 annually per licensed bed for the following:

(A) Each skilled nursing care facility that is part of a continuing care retirement facility; (B) each small skilled nursing care facility; and (C) each high medicaid volume skilled nursing care facility.

(2) The assessment amount for each skilled nursing care facility other than those identified in paragraphs (c)(1)(A) through (C) shall be \$4,908 annually per licensed bed.

(3) The assessment amount shall be paid according to the method of payment designated by the secretary of the Kansas department of health and environment. Any skilled nursing care facility may be allowed by the secretary of the Kansas department of health and environment to have an extension to complete the payment of the assessment, but no such extension shall exceed 90 days. (Authorized by and implementing K.S.A. 75-7435; effective Feb. 18, 2011; amended Dec. 27, 2013; amended June 26, 2020.)

#### Article 14.—CHILDREN'S HEALTH INSURANCE PROGRAM

**129-14-2. Definitions.** The terms defined in K.A.R. 129-1-1 shall be applicable to this article. In addition and for purposes of this article, each of the following terms shall have the meaning specified in this regulation, unless the context clearly indicates otherwise:

(a) "Capitated managed care" means health care services provided by a contracted provider for which payment is made on an approved contracted rate for each enrolled person assigned to the provider, regardless of the number or nature of the services provided.

(b) "Caretaker" means the person who is assigned the primary responsibility for the care and control of the child and who is any of the following persons:

- (1) Parent, including parent of an unborn child;
- (2) guardian, conservator, legal custodian, or person claiming the child as a tax dependent;
- (3) sibling;
- (4) nephew;
- (5) niece;

- (6) aunt;
- (7) uncle;
- (8) person of a preceding generation who is denoted by a term that includes any of the following prefixes: "grand," "great-," "great-great-," or "great-great-great-";
- (9) stepfather, stepmother, stepbrother, or step-sister;
- (10) legally adoptive parent or another relative of adoptive parents as listed in this subsection; or
- (11) spouse of any person listed in this subsection or former spouse of any of those persons, if marriage is terminated by death or divorce.
- (c) "Child" means natural or biological child, adopted child, or stepchild, if the child is under the age of 19.
- (d) "Earned income" means all income, in cash or in kind, that an applicant or recipient currently earns through the receipt of wages, salary, or profit from activities in which the individual engages as an employer or as an employee.
- (e) "Family group" means the applicant or recipient and all individuals living together in which there is a relationship of legal responsibility or a caretaker relationship.
- (f) "Household size" means the number of persons counted as members of an individual's tax household in accordance with K.A.R. 129-14-33. For each pregnant woman in the household, the household size shall include the woman and the number of children she is expected to deliver.
- (g) "Legally responsible relative" means the person who has the legal responsibility to provide support for the person in the assistance plan.
- (h) "Modified adjusted gross income" and "MAGI" mean income as defined in 26 U.S.C. 36B(d).
- (i) "Parent" means natural or biological parent, adoptive parent, or stepparent.
- (j) "Sibling" means natural or biological sibling, adopted sibling, half sibling, or stepsibling.
- (k) "Tax dependent" means a dependent under 26 U.S.C. 152 for whom another individual claims a deduction for a personal exemption under 26 U.S.C. 151 for a taxable year.
- (l) "Unearned income" means all income that is not earned income. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-14-3. Providers.** (a) Subject to provider availability, any recipient may be required to

be enrolled in a managed care option in order to access covered program services.

(b) Managed care contractors shall be selected by the secretary from willing providers, as determined by the secretary or designees.

(c) Before signing a contract to provide services, each provider of capitated managed care shall demonstrate the ability to meet contract requirements, including providing or maintaining the following:

- (1) Financial solvency;
- (2) a panel of service providers, who shall meet the following requirements:
  - (A) Have professional credentials required by the state in which the services are provided;
  - (B) be in active practice;
  - (C) be available to provide services to program enrollees; and
  - (D) be able to provide services sensitive to the needs of a diverse population, including individuals of any race, ethnicity, or disability;
- (3) a quality management process under 42 C.F.R. Part 438; and
- (4) any other relevant requirements as determined by the secretary.

(d) Penalties for failure to abide by the contract provisions shall be imposed by the secretary, or other appropriate actions, as specified in the contract, may be taken.

(e) Each capitated managed care contractor shall be reimbursed at a rate agreed to by the secretary. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-14-20. Application process.** (a) An application for kancare-CHIP shall be made by an applicant or by another person authorized to act on the applicant's behalf.

(b) An application for kancare-CHIP shall be made using a department-approved form. The applicant or person authorized to act on behalf of the applicant shall sign the application. Electronic signatures, including telephonically recorded signatures, and handwritten signatures transmitted by any other electronic transmission shall be acceptable. If any person signs by mark, the names and addresses of two witnesses shall be required.

Each application shall be submitted on the state application web site or the federally facilitated exchange web site, by telephone, in person, by mail, by electronic mail, or by fax.

(c) If the department denies an application within 45 days of receipt of the application and the applicant reapplies or provides required information within this 45-day period, the application shall be reactivated. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-14-21. Reenrollment process.** (a) Each recipient shall reenroll for the program by providing the department with information on the recipient's current situation and having an opportunity to review the eligibility factors so that the department can redetermine the recipient's eligibility for coverage under the program.

(b) Each recipient shall complete the reenrollment process by either of the following:

(1) Reviewing and, if necessary, responding to information provided from the department's records, including information obtained through electronic data matching with other state or federal agencies; or

(2) completing and returning information on the recipient's current situation requested by the department.

(c) Each recipient shall reenroll for coverage at least once each 12 months or as often as a need for review is indicated. Coverage under the program shall not be provided for more than 12 months, unless the recipient completes the required reenrollment process. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-14-22.** (Authorized by K.S.A. 2005 Supp. 75-7412; implementing K.S.A. 2005 Supp. 75-7412 and 75-7413, as amended by L. 2006, ch. 4, § 2; effective Aug. 11, 2006; revoked, T-129-10-31-13, Nov. 1, 2013; revoked Feb. 28, 2014.)

**129-14-23. Responsibilities of applicants and recipients.** Each applicant or recipient shall meet the following requirements:

(a) Submit an application for medical assistance on a department-approved form. Any applicant may withdraw the application between the date the application is submitted and the date of the notice of the department's decision;

(b) supply information essential to the determination of initial and continuing eligibility, insofar as the applicant or recipient is able to do so;

(c) give written permission for release of information, when needed;

(d) report each change in circumstances that could affect eligibility within 10 calendar days of the change or as otherwise required by the program. Changes to be reported shall include changes to income, living arrangement, household size, family group members, residency, alienage status, health insurance coverage, and employment;

(e) take all necessary action to obtain any income due the person; and

(f) except for children for whom a determination under presumptive medical assistance as defined in K.A.R. 129-14-51 has been made, request a fair hearing in writing if the individual is dissatisfied with any department decision or lack of action in regard to the application for or the receipt of assistance. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-14-25. Act on own behalf.** (a) For purposes of this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) "Emancipated minor" means either of the following:

(A) A person who is aged 16 or 17 and who is or has been married; or

(B) a person who is under the age of 18 and who has been given or has acquired the rights of majority through court action.

(2) "Medical facilitator" means a person authorized to help complete the application or reenrollment process on behalf of an applicant or recipient under written authorization made by the applicant or recipient. The medical facilitator may help with completing and submitting the application or reenrollment form, providing necessary information and verifications, and receiving copies of notices or other official communications from the department to the applicant or recipient. A medical facilitator shall not be authorized to apply for medical assistance on behalf of another person.

(3) "Medical representative" means a person who is authorized to act on behalf of an applicant or recipient under a written authorization made by the applicant or recipient and who is knowledgeable of the applicant's or recipient's financial holdings and circumstances.

(b) Each applicant or recipient shall be legally capable of acting on that individual's own behalf.

(1) An incapacitated person aged 18 for whom a court has named a guardian or conservator

shall not be eligible for kancare-CHIP, unless the named legal guardian or conservator applies for assistance on the person's behalf.

(2) An incapacitated person aged 18 for whom a court has not named a guardian or conservator shall not be eligible for kancare-CHIP, unless a representative payee for the person's social security benefits, a person with durable power of attorney for financial decisions for the individual, or a medical representative applies for assistance on the person's behalf.

(3) Each emancipated minor shall be eligible to apply for and receive assistance under kancare-CHIP on that individual's own behalf.

(4) An unemancipated minor shall not be deemed capable of acting on that individual's own behalf and shall not be eligible to apply for or receive assistance under kancare-CHIP on that individual's own behalf, except as specified in this paragraph. An unemancipated minor shall not be eligible unless a caretaker, representative payee for social security benefits, or other nonrelated responsible adult who is approved by the parent or legal guardian and who resides with the child applies for assistance on the minor's behalf. However, an unemancipated minor may apply for or receive assistance on that individual's own behalf if one of the following conditions exists:

(A) The parents of the minor are institutionalized.

(B) The minor has no parent who is living or whose whereabouts are known, and there is no other caretaker who is willing to assume parental control of the minor.

(C) The health and safety of the minor has been or would be jeopardized by remaining in the household with the minor's parents or other caretakers. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-14-26. Residence.** Each applicant or recipient shall be a resident of Kansas. Temporary absence from a state with subsequent return to the state, or intent to return when the purposes of the absence have been accomplished, shall not be considered to interrupt continuity of residence. Residence shall be considered to be retained until abandoned or established in another state. Residency shall be established as follows:

(a) For each individual who is not residing in an institution, capable of stating intent, and either

is emancipated from the individual's parents or is married, the individual shall choose the state of residence based on either of the following:

(1) The state in which the individual is living and intends to reside, including without a permanent address; or

(2) the state that the individual has entered with a job commitment or for seeking employment, whether or not the individual is currently employed.

(b) For each individual who is not residing in an institution and who does not meet the conditions of subsection (a), the state of residence shall be either of the following:

(1) The state in which the individual is residing, including without a permanent address; or

(2) the state in which the individual's parent or caretaker resides, if the individual is living with the parent or caretaker.

(c) For each individual residing in an institution, the state of residence shall be one of the following, whether or not the individual is capable of stating intent:

(1) The state in which the individual's parent or guardian resides, if the individual became incapable of stating intent before the age of 21;

(2) the state that placed the individual in an out-of-state institution; or

(3) for any other institutionalized individual, the state in which the individual is living and intends to reside. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-14-27. Citizenship and alienage.** (a) Each applicant or recipient shall be a citizen of the United States or shall be a noncitizen who meets either of the following conditions:

(1) The individual entered the United States before August 22, 1996 and meets one of the following conditions:

(A) Is a refugee, as specified in 8 U.S.C. 1101, including any person who is a Cuban or Haitian entrant as defined in public law 96-422 or is admitted as an Amerasian immigrant as defined in public law 100-202;

(B) is granted asylum, pursuant to 8 U.S.C. 1158;

(C) has deportation withheld under 8 U.S.C. 1253(h) as in effect before April 1, 1997 or under 8 U.S.C. 1231(b)(3);

(D) is a lawful, permanent resident;

(E) is an honorably discharged veteran or is on active duty in the armed forces or is the spouse or unmarried dependent child of the veteran or the person on active duty;

(F) has been paroled into the United States for at least one year under 8 U.S.C. 1182(d)(5);

(G) has been granted conditional entry under 8 U.S.C. 1157;

(H) has been battered or subjected to extreme cruelty by a United States citizen or lawful permanent spouse or parent and has a pending or approved violence against women act (VAWA) case or petition before the department of homeland security pursuant to 8 U.S.C. 1641(c); or

(I) is a certified victim of severe forms of trafficking, as defined in 22 U.S.C. 7105; or

(2) the individual entered the United States on or after August 22, 1996 and meets one of the following conditions:

(A) Is a refugee, as specified in 8 U.S.C. 1101, including any person who is a Cuban or Haitian entrant as defined in public law 96-422 or is admitted as an Amerasian immigrant as defined in public law 100-202;

(B) is granted asylum, pursuant to 8 U.S.C. 1158;

(C) has deportation withheld under 8 U.S.C. 1253(h) as in effect before April 1, 1997 or under 8 U.S.C. 1231(b)(3);

(D) is an honorably discharged veteran or is on active duty in the armed forces or is the spouse or unmarried dependent child of the veteran or the person on active duty;

(E) is an Iraqi or Afghani special immigrant under the 2006 national defense authorization act, public law 109-163;

(F) is a certified victim of severe forms of trafficking, as defined in 22 U.S.C. 7105;

(G) is a lawful, permanent resident who has resided in the United States for at least five years;

(H) has been paroled into the United States under 8 U.S.C. 1182(d)(5) for at least one year and has resided in the United States for at least five years;

(I) has been granted conditional entry under 8 U.S.C. 1157 and has resided in the United States for at least five years; or

(J) has been battered or subjected to extreme cruelty by a United States citizen or lawful permanent spouse or parent, has a pending or approved violence against women act (VAWA) case or petition before the department of homeland security pursuant to 8 U.S.C. 1641(c), and has resided in the United States for at least five years.

(b) Each applicant or recipient declaring to be a citizen or national of the United States shall present evidence of citizenship or nationality in accordance with the department's policy memo titled "KDHE-DHCF policy no. 2013-10-01," dated October 4, 2013 and hereby adopted by reference. This requirement shall not apply to any of the following:

(1) Newborn children who meet the provisions of K.A.R. 129-6-65(e);

(2) individuals receiving SSI benefits;

(3) individuals entitled to or enrolled in any part of medicare;

(4) individuals receiving disability insurance benefits under 42 U.S.C. 423 or monthly benefits under 42 U.S.C. 402, based on the individual's disability; or

(5) individuals who are in foster care and who are assisted under title IV-B of the social security act as amended by public law 109-288 and individuals who are recipients of foster care maintenance or adoption assistance payments under title IV-E.

(c) Each individual declaring to be a noncitizen shall present evidence of that individual's status in accordance with "KDHE-DHCF policy no. 2013-10-01," which is adopted by reference in subsection (b). Each noncitizen who has provided evidence of qualified noncitizen status that has been verified with the department of homeland security shall be eligible for medical assistance.

(d) Each applicant or recipient shall have 90 days from the date the application is approved to supply the evidence described in subsections (b) and (c). (Authorized by and implementing K.S.A. 2013 Supp. 65-1,254 and 75-7403; effective June 30, 2006; amended, T-129-10-31-13, Nov. 1, 2013; amended Feb. 28, 2014.)

**129-14-28. Cooperation.** (a) Establishment of eligibility. Each applicant or recipient shall cooperate with the department in the establishment of the applicant's or recipient's eligibility by providing all information necessary to determine eligibility as provided in K.A.R. 129-14-23. Failure to provide all information necessary shall render the members of the assistance plan, as defined in K.A.R. 129-14-33, ineligible for medical assistance.

(b) Social security number. Except as noted in this subsection, each applicant or recipient shall cooperate by providing the department with the applicant's or recipient's social security number. Failure to provide the number, or failure to apply

for a number if the applicant or recipient has not previously been issued a social security number, shall render the applicant or recipient ineligible for medical assistance. The following individuals shall be exempt from this requirement:

(1) Any individual who is not eligible to receive a social security number;

(2) any individual who does not have a social security number and can be issued a number only for a valid non-work reason; and

(3) any individual who refuses to obtain a social security number because of well-established religious objections. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-14-30. Public institution.** (a) Definitions. For purposes of this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) "Institution" means an establishment that furnishes food, shelter, and some form of treatment or services to four or more persons who are unrelated to the proprietor.

(2) "Public institution" means any institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

(b) Living arrangement. Each applicant or recipient meeting one of the following conditions shall be ineligible for assistance:

(1) Lives in a public institution, unless one of the following conditions is met:

(A) The individual is in a public educational or vocational training institution for purposes of completing education or vocational training; or

(B) the individual is in the public institution for a temporary period not to exceed the month of entrance and the following two months;

(2) resides in a state intermediate care facility for diagnosis, treatment, or rehabilitation of persons with intellectual disabilities or related conditions that has been approved for medicaid coverage of inpatient services;

(3) receives inpatient care in either of the following:

(A) A state psychiatric hospital that has been approved for medicaid coverage of inpatient services; or

(B) a nursing facility for mental health that has been approved for medicaid coverage of inpatient services;

(4) receives inpatient care in a psychiatric residential treatment facility as defined in K.A.R. 28-4-1200;

(5) resides in a correctional facility; or

(6) is in the custody of the department of corrections as an accused or convicted criminal and does not meet any of the following conditions:

(A) Is on probation, parole, bail, or bond;

(B) has been released on the individual's own recognizance; or

(C) is participating in a prison diversion program operated by a privately supported facility. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-14-31. Insurance coverage.** (a) An applicant or recipient shall not currently be covered under a "group health plan" or under "health insurance coverage" as defined in 42 U.S.C. 300gg-91. The applicant or recipient shall not be considered covered if the applicant or recipient does not have reasonable geographic access to care under that plan or coverage. Reasonable geographic access to care shall mean that the applicant or recipient routinely does not have to travel more than 50 miles to reach providers participating in the group health plan or health insurance coverage.

(b) For family groups with income over 200 percent of the official federal poverty-level income guidelines, the applicant or recipient shall not have had health insurance coverage in the three-month period before the effective date of coverage and terminated this coverage without good cause.

(c) For family groups with income less than or equal to 200 percent of the official federal poverty-level income guidelines, the applicant or recipient shall not have had health insurance coverage in the prior three months and terminated this coverage without good cause.

(d) An applicant or recipient shall not be eligible for enrollment in the Kansas state employee health plan.

(e) The standards for good cause shall include the loss of health insurance due to the involuntary loss of employment, the death of the policy holder, and the elimination of coverage by the applicant's or recipient's employer. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-14-32. Premium payment requirement.** (a) If the total monthly applicable income in a family group exceeds 166 percent of the official federal poverty-level income guidelines, the family shall pay a monthly premium for coverage in kancare-CHIP.

(b) Each family who fails to pay the monthly premium for two consecutive months shall be considered delinquent, which shall result in the ineligibility of that family. The period of ineligibility shall not exceed 90 days. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-14-33. Assistance plan.** (a) The assistance plan shall consist of those persons in the household as determined in subsections (b) through (f).

(b) For each person who is not claimed as a tax dependent by any other taxpayer and is expected to file a tax return, the household shall consist of the person and all of the person's tax dependents, except as noted in subsection (e). If a taxpayer cannot reasonably establish that another individual is a tax dependent of the taxpayer for the tax year in which assistance is determined, the inclusion of the individual in the household of the taxpayer shall be determined in accordance with subsections (d) and (e).

(c) For each person claimed as a tax dependent by another taxpayer, the household shall consist of that taxpayer and the taxpayer's dependents, except as noted in subsection (e).

(d) For each person who neither files a tax return nor is claimed as a tax dependent, the household shall consist of the person and, if living with the person, the following:

- (1) The person's spouse;
- (2) the person's natural children, adopted children, and stepchildren under the age of 21;
- (3) the person's natural parents, adopted parents, and stepparents, if the person is under the age of 21; and
- (4) the person's natural siblings, adopted siblings, and stepsiblings under the age of 21, if the person is under the age of 21.

(e) For each person who is claimed as a tax dependent by another taxpayer, the household shall be determined in accordance with subsection (d) if the person meets the following conditions:

(1) Is not a spouse of the taxpayer and is not a biological child, an adopted child, or a stepchild of the taxpayer;

(2) is claimed by one parent as a tax dependent and is living with both parents who do not expect to file a joint tax return; or

(3) is under the age of 21 and expected to be claimed as a tax dependent by a noncustodial parent.

(f) For any married couple living together, each spouse shall be included in the household of the other spouse, whether both spouses expect to file a joint tax return under 26 U.S.C. 6013 or whether one spouse expects to be claimed as a tax dependent by the other spouse. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-14-34. Financial eligibility.** (a) Definitions. For purposes of this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) "Household income" means the sum of the MAGI-based income of every individual included in the individual's household minus an amount equivalent to five percentage points of the federal poverty level for the applicable family size, for purposes of determining the individual's eligibility under the highest income standard for which the individual is eligible.

(2) "MAGI-based income" means income calculated using the same financial methodologies used to determine MAGI as defined in 26 U.S.C. 36B(d)(2), with the following exceptions:

(A) Each amount received as a lump sum shall be counted as income only in the month received;

(B) scholarships, awards, and fellowship grants used for education purposes and not for living expenses shall be excluded from income; and

(C) for American Indian or Alaska native funds, the following shall be excluded from income:

(i) Distributions from Alaska native corporations and settlement trusts;

(ii) distributions from any property held in trust, subject to federal restrictions, located within the most recent boundaries of a prior federal reservation or otherwise under the supervision of the secretary of the interior;

(iii) distributions and payments from rents, leases, rights-of-way, royalties, usage rights, or natural resource extraction and harvest from rights of ownership or possession in any lands described in this paragraph or federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources;

(iv) distributions either resulting from real property ownership interests related to natural resources and improvements located on or near a reservation or within the most recent boundaries of a prior federal reservation or resulting from the exercise of federally protected rights relating to these real property ownership interests;

(v) payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom; and

(vi) student financial assistance provided under the bureau of Indian affairs education programs.

(b) Determination of financial eligibility. Financial eligibility for families and children shall be based on household income, except for the following:

(1) The MAGI-based income of an individual who is included in the household of the individual's natural parent, adoptive parent, or stepparent and is not expected to be required to file a tax return under 26 U.S.C. 6012(a)(1) for the taxable year in which eligibility is being determined shall not be included in household income whether or not the individual files a tax return.

(2) The MAGI-based income of a tax dependent described in K.A.R. 129-14-33(e)(1) who is not expected to be required to file a tax return under 26 U.S.C. 6012(a)(1) for the taxable year in which eligibility is being determined shall not be included in household income whether or not the tax dependent files a tax return.

(c) Income deductions. No other deductions shall be applied in determining household income.

(d) Budget periods. Each household's financial eligibility shall be based on the current monthly income and family size of the household, unless a change in circumstances is expected. In these instances, financial eligibility shall be based on the projected monthly income and family size of the household.

(e) Exclusion of resources. The value of the household's resources shall not be taken into consideration in determining financial eligibility.

(f) Poverty-level determination. The total monthly income limits for the poverty-level determination shall be established by the secretary and converted to MAGI-equivalent numbers in accordance with 42 C.F.R. 457.300 et seq. If the department determines that the program funds

appropriated are insufficient to fund up to this income level, a lower income level shall be implemented by the department, and the notice of the lower income level shall be published by the department in the Kansas register.

(g) Continuous eligibility. Except for children determined eligible for presumptive medical assistance as specified in K.A.R. 129-14-51, each child under the age of 19 who becomes eligible for kancare-CHIP shall continue to be eligible for assistance for 12 months beginning with the month of enrollment or reenrollment regardless of any changes in circumstances, unless one of the following conditions is met:

(1) The child reaches the age of 19.

(2) Assistance is voluntarily terminated for the child.

(3) The child no longer resides in the state.

(4) The state determines that eligibility was granted erroneously because of fraud or agency error.

(5) The child dies. (Authorized by and implementing K.S.A. 2013 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-14-35. Treatment of income.** (a) For purposes of this regulation, "prospective monthly amount" shall mean an amount that is projected for purposes of determining an applicant's or recipient's monthly income. All earned income and unearned income received or expected to be received in the month of application shall be used to determine a prospective monthly amount.

(b) For changes in earned income and unearned income, an estimate of those changes shall be used to determine a prospective monthly amount.

(c) For self-employment income, a prospective monthly amount shall be determined based on annual federal tax information from the most recent tax year. In the absence of federal tax information from the most recent tax year, an estimate shall be used to determine a prospective monthly amount. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-14-36. Applicable income.** For purposes of this regulation, "applicable income" shall mean the amount of earned income and unearned income that is compared with the appropriate income standard to establish financial eligibility. All earned income and unearned income shall be

considered applicable income, unless exempted in accordance with K.A.R. 129-14-34(a)(2), and shall be determined as follows:

(a) Applicable income shall be based on the methodologies used to determine modified adjusted gross income, as specified in K.A.R. 129-14-34(a)(2), for persons in the household, as specified in K.A.R. 129-14-34(b).

(b) An amount equivalent to five percentage points of the federal poverty level for the applicable family size shall be deducted from the combined household income, for purposes of determining the individual's eligibility under the highest income standard for which the individual is eligible, in accordance with K.A.R. 129-14-34(a)(1). (Authorized by and implementing K.S.A. 2013 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-14-37. Overpayments.** Each recipient who receives an overpayment, whether caused by the department or the individual, shall repay the amount of the overpayment, either by voluntary action or through administrative processes including recoupment and legal action. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-14-40. Discontinuance of assistance.** A recipient's participation in kancare-CHIP shall be discontinued if the recipient no longer meets one or more of the applicable eligibility requirements. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-14-50. Scope of services.** The services provided to children enrolled in kancare-CHIP shall be Kansas medicaid services as specified in K.A.R. 30-5-58 through 30-5-310 and K.A.R. 129-5-1 through 129-5-118b. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

**129-14-51. Presumptive eligibility.** (a) Each child, as defined in K.A.R. 129-14-2, shall be eligible for a presumptive period if a qualified entity, as specified in K.A.R. 129-14-52, designated by the department determines that the child meets the presumptive eligibility requirements.

(b) Each child shall meet the following requirements:

(1) The child shall be under the age of 19.

(2) The child shall meet the general eligibility requirements of K.A.R. 129-14-25, 129-14-26, 129-14-27, and 129-14-28.

(3) The child shall be financially eligible according to K.A.R. 129-14-34.

(4) The child shall be uninsured as specified in K.A.R. 129-14-31.

(5) The child shall not be living in a public institution, as specified in K.A.R. 129-14-30.

(c) The presumptive period shall begin on the date on which the qualified entity makes an eligibility determination. The presumptive period shall end on the last day of the month following the month in which the determination is made, unless an application for medical assistance is received. If an application is filed in accordance with K.A.R. 129-14-20 before this date, the presumptive period shall end on the last day of the month in which a full determination is made.

(d) Each child shall be eligible for only one period of presumptive eligibility within a 12-month period under this regulation or under K.A.R. 129-6-151. The 12-month period shall begin on the first day of presumptive eligibility under either of these regulations. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective June 30, 2006; amended, T-129-10-31-13, Nov. 1, 2013; amended Feb. 28, 2014.)

**129-14-52. Presumptive eligibility to be determined by qualified entities.** (a) Each qualified entity shall be designated by the department to make determinations of presumptive eligibility as specified in K.A.R. 129-14-51.

(b) Each qualified entity shall meet the requirements of 42 C.F.R. 435.1100.

(c) For each determination of presumptive eligibility, a qualified entity shall perform the following:

(1) Make a finding of presumptive eligibility pursuant to K.A.R. 129-14-51 or 129-6-151;

(2) notify the child's parent or caretaker, by written or electronic means, of the results of the determination at the time of the determination;

(3) provide the child's parent or caretaker with an application for regular medical assistance. For a child determined to be presumptively eligible, the qualified entity shall notify the child's parents or caretaker that, unless a regular medical assistance application is submitted before the

last day of the month following the month of the presumptive determination, eligibility shall end on that date;

(4) assist the child's parent or caretaker in completing and filing a regular medical assistance application; and

(5) notify the department of the presumptive determination within five working days after the determination. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective June 30, 2006; amended, T-129-10-31-13, Nov. 1, 2013; amended Feb. 28, 2014.)



## Agency 130

# Kansas Home Inspectors Registration Board

### Articles

- 130-1. REGISTRATION, RENEWAL, AND EXAMINATION.
- 130-2. FEES.
- 130-3. EDUCATION PROGRAMS.
- 130-4. CODE OF ETHICS AND STANDARDS OF PRACTICE.
- 130-5. CONTINUING EDUCATION.

### Article 1.—REGISTRATION, RENEWAL, AND EXAMINATION

**130-1-1. Registration.** Each person applying for registration as a home inspector shall provide the following to the board:

(a) The applicant's full legal name and date of birth;

(b) the applicant's residential, business, and mailing addresses;

(c) the applicant's residential and business telephone numbers;

(d) the applicant's electronic mail address;

(e) complete answers to all questions regarding conduct that might be grounds for denying an application for registration;

(f) (1) Identification of the school district or other entity that granted the applicant a high school diploma or its equivalent; or

(2) documentation that the applicant was engaged in the practice of performing home inspections on July 1, 2009;

(g)(1) Documentation that the applicant has completed an educational program that meets the requirements of K.A.R. 130-3-1; or

(2) documentation that the applicant was engaged in the practice of performing home inspections for at least two years before July 1, 2009 and has completed at least 50 fee-paid home inspections;

(h) documentation from an insurer authorized to do business in Kansas stating that the applicant is insured by a policy of liability insurance in the amount required by K.S.A. 58-4509, and amendments thereto;

(i) documentation from an insurer or financial institution establishing that the applicant is financially responsible as required by K.S.A. 58-4509, and amendments thereto;

(j)(1) Documentation that the applicant has

successfully completed the examination required by the board for registration; or

(2) documentation that the applicant was engaged in the practice of performing home inspections for at least two years before July 1, 2009 and has completed at least 50 fee-paid home inspections;

(k) the initial registration fee specified in K.A.R. 130-2-1; and

(l) a declaration signed by the applicant under penalty of perjury under Kansas law stating that all information submitted is true and correct. (Authorized by K.S.A. 2008 Supp. 58-4504, as amended by L. 2009, Ch. 118, § 3; implementing K.S.A. 2008 Supp. 58-4509, as amended by L. 2009, Ch. 118, § 6; effective Jan. 4, 2010.)

**130-1-2. Registration renewal.** Each person applying for annual renewal of registration shall provide the following to the board:

(a) The applicant's full legal name and date of birth;

(b) the applicant's residential, business, and mailing addresses;

(c) the applicant's residential and business telephone numbers;

(d) the applicant's electronic mail address;

(e) proof that the applicant has obtained at least 16 credit hours of approved continuing education;

(f) complete answers to all questions regarding conduct that might be grounds for denying an application for registration or imposing a disciplinary sanction against a registered home inspector;

(g) documentation from an insurer authorized to do business in Kansas stating that the applicant is insured by a policy of liability insurance in the amount required by K.S.A. 58-4509, and amendments thereto;

(h) documentation from an insurer or financial institution establishing that the applicant is finan-

cially responsible as required by K.S.A. 58-4509, and amendments thereto;

(i) the renewal fee specified in K.A.R. 130-2-1; and

(j) a declaration signed by the applicant under penalty of perjury under Kansas law stating that all information submitted is true and correct. (Authorized by K.S.A. 2008 Supp. 58-4504, as amended by L. 2009, Ch. 118, §3; implementing K.S.A. 2008 Supp. 58-4509, as amended by L. 2009, Ch. 118, §6; effective, T-130-1-4-10, Jan. 4, 2010; effective May 7, 2010.)

**130-1-3. Examination.** (a) To be approved by the board, each examination required for registration shall meet the following requirements:

(1) Test the applicant's knowledge of and proficiency in methods of inspection, residential building systems, report writing, and professional practices; and

(2) be psychometrically sound as evidenced by documented evaluation of the examination by an independent organization.

(b) Each examination shall be administered at a location that is under the control of either the examination owner or an entity that has agreed by contract to administer the examination. Each examination shall be proctored according to written policies and procedures that ensure the security and integrity of the examination.

(c) Each applicant shall determine, before taking an examination, whether both the examination and the entity proctoring the examination have been approved by the board.

(d) Each applicant shall pay all examination fees directly to the examination owner or administrator.

(e) Successful completion of the examination by an applicant shall mean that the applicant meets either of the following requirements:

(1) Achieved a scaled score of at least 500 on a range of 200 to 800 on the national home inspection exam offered by the examination board of professional home inspectors; or

(2) achieved a raw score of 70% on the examination offered by the national association of home inspectors, inc. (Authorized by K.S.A. 2008 Supp. 58-4504, as amended by L. 2009, Ch. 118, §3; implementing K.S.A. 2008 Supp. 58-4509, as amended by L. 2009, Ch. 118, §6; effective, T-130-1-4-10, Jan. 4, 2010; effective May 7, 2010.)

**130-1-4. Registration expiration; renewal.** Each application for renewal of a registration shall

be submitted to the board before the end of each calendar year. Each registration that is not renewed shall expire on December 31 of the year in which the registration was issued. (Authorized by and implementing K.S.A. 2008 Supp. 58-4509(c), as amended by L. 2009, Ch. 118, § 6; effective Jan. 4, 2010; amended May 7, 2010.)

**130-1-5. Reinstatement of registration.**

(a) Each person applying for reinstatement of a registration that has been expired for less than one year and that has not been revoked shall provide the following to the board:

(1) The information required for renewal of a registration specified in K.A.R. 130-1-2; and

(2) the fee for reinstatement of an expired registration specified in K.A.R. 130-2-1.

(b) Each person applying for reinstatement of a registration that has been expired for one year or more and that has not been revoked shall provide the following to the board:

(1) The information required for renewal of a registration specified in K.A.R. 130-1-2;

(2) documentation that within the one-year period before the application for reinstatement, the applicant successfully completed the examination required by the board for initial registration; and

(3) the fee for reinstatement of an expired registration specified in K.A.R. 130-2-1.

(c) Each person applying for reinstatement of a registration that has been revoked shall provide the following to the board:

(1) The information required for initial registration specified in K.A.R. 130-1-1;

(2) documentation that the applicant completed 16 credit hours of approved continuing education within the 12-month period before the application for reinstatement;

(3) documentation that within the one-year period before the application for reinstatement, the applicant successfully completed the examination required by the board for initial registration;

(4) evidence that the applicant is sufficiently rehabilitated to warrant the public trust; and

(5) the fee for reinstatement of a revoked registration specified in K.A.R. 130-2-1. (Authorized by and implementing K.S.A. 2008 Supp. 58-4509, as amended by L. 2009, Ch. 118, § 6; effective Jan. 4, 2010.)

**Article 2.—FEES**

**130-2-1. Fees.** The registration fees shall be as follows:

(a) (1) Initial registration received January 1 through June 30.....	\$100
(2) Initial registration received July 1 through September 30 .....	\$75
(3) Initial registration received October 1 through December 31.....	\$50
(b) (1) Annual renewal of registration received on or before December 31, 2011 .....	no fee
(2) Annual renewal of registration received on or after January 1, 2012.....	\$100
(c) Additional fee for late renewal .....	\$50
(d) Application for inactive status .....	\$50
(e) Renewal of registration from inactive to active status.....	\$200
(f) Reinstatement of expired registration .....	\$250
(g) Reinstatement of revoked registration.....	\$300
(h) Duplicate copy of registration.....	\$10
(i) Application for approval of education provider.....	\$500
(j) Application for approval of continuing education provider .....	\$50

(Authorized by K.S.A. 2010 Supp. 58-4506; implementing K.S.A. 2010 Supp. 58-4506 and K.S.A. 2010 Supp. 58-4509; effective Jan. 4, 2010; amended, T-130-11-21-11, Nov. 21, 2011; amended March 2, 2012.)

**Article 3.—EDUCATION PROGRAMS**

**130-3-1. Approval of education providers.**

(a) Each application packet submitted by an education provider shall include a completed application on a form provided by the board, the fee required by K.A.R. 130-2-1, a syllabus describing the course of study and the proposed date the education program is to begin, and sufficient documentation to establish that all of the requirements of this regulation have been met. Each application packet shall be submitted at least 90 days before the proposed date the education is to begin.

(b) The course of study of each educational program shall include at least 80 hours of instruction in the following topics:

- (1) Structural systems, including the following:
  - (A) Foundations, basements, and drainage;
  - (B) interior walls, windows, doors, stairways, ceilings, and floors;
  - (C) exterior walls, windows, doors, and stairways;
  - (D) exterior coatings, claddings, and glazing;
  - (E) roof structure, coverings, penetration, drainage, and attics;
  - (F) porches, decks, driveways, and walkways;
  - (G) railings and assistive devices; and
  - (H) thermal insulation, air penetration, and moisture barriers;

(2) environmental heating, cooling, and ventilation devices, controls, and distribution systems, including the following:

- (A) Solid, liquid, and gas fuel heating systems;
- (B) electrical heating and cooling systems; and
- (C) chimneys, ductwork, vents, fans, flues, and dryer vents;
- (3) plumbing systems, controls, and drain, vent, water, and gas components;
- (4) waste and sewage systems, but not including private waste systems;
- (5) water supply systems and components, but not including private water supplies;
- (6) electrical systems, controls, and components for heating, ventilation, and air conditioning;
- (7) electrical systems, controls, and components for lighting and home appliance power;
- (8) (A) Primary electrical service from the mast-head to the main panel, which is also known as the electrical service entrance; and
- (B) electrical panels, branch electrical circuits, connected devices, and fixtures;
- (9) the Kansas home inspection laws and regulations;
- (10) the Kansas code of ethics specified in K.A.R. 130-4-1 and the standards of practice specified in K.A.R. 130-4-2;
- (11) home inspection documents, forms, and contracts; and
- (12) report writing and the legal ramifications of report content.

(c) Instruction shall be on-site, except that an educational program may include as many as three field training experiences of no more than four hours each. Field training shall not include distance learning or any other type of instruction in a virtual classroom. The duration of each course shall not exceed six months.

(d) Each instructor shall meet at least one of the following requirements:

- (1) Have experience practicing as a home inspector for at least five of the seven years immediately before becoming an instructor;
- (2) have experience teaching the subject matter now being taught for at least five of the seven years immediately before becoming an instructor in the program;
- (3) have attained at least 12 credit hours in the subject being taught and have practiced in a field related to the subject being taught for at least 12 of the 24 months immediately before becoming an instructor;
- (4) have successfully completed a postsecond-

ary educational program in the subject being taught and have practiced in a field related to the subject matter being taught for at least 12 of the 24 months immediately before becoming an instructor; or

(5) have experience working in a field related to the subject being taught at least 1,000 hours each year for at least five of the seven years immediately before becoming an instructor.

(e) Each educational provider shall require 100 percent attendance during the course of study instruction.

(f) Each educational provider shall require successful completion of at least one comprehensive examination on the topics in the course of study.

(g) The provider of each educational program shall furnish a certificate or other official document verifying successful completion of the program to each student who has successfully completed the program.

(h) The provider of each educational program shall maintain a record of each program for at least 36 months following the completion of the program and shall provide a copy of each record to the board within five days following receipt of a request by the board. The record shall include at least the following:

- (1) Course materials;
- (2) documentation that each instructor who provides instruction in the program meets the requirements of this regulation;
- (3) a list of each student enrolled in the program;
- (4) for each student enrolled in the program, a record that the student completed the program, failed the program, or withdrew from the program; and
- (5) for each field training experience included as part of the program, a statement of the date, number of hours, and location of the field training experience.

(i) Each approved education provider shall notify the board within 10 days that any of the information provided to the board has changed. Approval of an education provider shall be withdrawn if the board determines after notice and an opportunity to be heard that the education provider no longer meets the requirements of this regulation. (Authorized by and implementing K.S.A. 2008 Supp. 58-4504, as amended by L. 2009, Ch. 118, §3; effective, T-130-1-4-10, Jan. 4, 2010; effective May 7, 2010.)

#### **Article 4.—CODE OF ETHICS AND STANDARDS OF PRACTICE**

**130-4-1. Code of ethics.** Each registrant shall conduct each home inspection in accordance with the Kansas home inspectors registration board's "code of ethics," as approved on April 17, 2009 and hereby adopted by reference. (Authorized by and implementing K.S.A. 2009 Supp. 58-4504; effective, T-130-1-4-10, Jan. 4, 2010; effective June 18, 2010.)

**130-4-2. Standards of practice.** Each registrant shall conduct each home inspection in accordance with the Kansas home inspectors registration board's "home inspection standards of practice," as approved on September 17, 2009 and hereby adopted by reference. (Authorized by and implementing K.S.A. 2008 Supp. 58-4504, as amended by L. 2009, Ch. 118, §3; effective June 18, 2010.)

#### **Article 5.—CONTINUING EDUCATION**

**130-5-2. Approval of continuing education providers.** (a) Each continuing education course required by K.A.R. 130-1-2 or K.A.R. 130-1-5 shall meet all of the following requirements:

(1) Each workshop, seminar, or presentation offered shall be conducted by a person having expertise in home inspections through education, training, or experience.

(2) Each registrant attending a continuing education course shall receive written materials suitable for later reference by the registrant.

(3) Each continuing education course shall be publicized with identification and qualifications of the faculty who will present the course, a description of the subject matter, the learning objectives, the cost of attending the program, and the number of continuing education hours to be awarded upon completing the course.

(4) Each continuing education course offered shall be open for attendance by any registrant who pays the fee. No registrant shall be denied admission on the basis of race, gender, age, or any similar factor.

(5) Each continuing education course shall be accessible by a person with a disability.

(6) Each registrant attending a continuing education course shall be given written documentation identifying the course by name, the approved continuing education provider, and the date on which the registrant attended the course

and certifying the number of hours awarded to the registrant.

(b) Any continuing education provider that has not previously been approved by the board may submit a written request for approval to the board. Each request for approval shall contain the following:

(1) The name, address, and telephone number of the organization or person requesting approval;

(2) a description of each continuing education course that the provider intends to offer and each date on which the course is intended to be offered;

(3) a copy of the publication materials required by paragraph (a)(3) for each course that is intended to be offered; and

(4) the fee specified in K.A.R. 130-2-1.

(c) Each approved continuing education pro-

vider shall maintain records of each continuing education course offered for at least three years from the date the course was offered. These records shall include a copy of all publication materials distributed, identification of each presenter, a description of the qualifications of each presenter, a copy of all written materials distributed to registrants, and a copy of the documentation for each registrant required by paragraph (a)(6).

(d) Each approval of a continuing education provider shall be effective for one year. (Authorized by K.S.A. 2008 Supp. 58-4504, as amended by L. 2009, Ch. 118, §3; implementing K.S.A. 2008 Supp. 58-4504, as amended by L. 2009, Ch. 118, §3, and K.S.A. 2008 Supp. 58-4509, as amended by L. 2009, Ch. 118, §6; effective May 7, 2010.)



**Agency 131**  
**Committee on Surety Bonds and Insurance**

*Articles*

131-1. DEFINITIONS.

**Article 1.—DEFINITIONS**

**131-1-1. Definition of purchase.** (a) “Purchase,” as used in K.S.A. 75-4101 and amendments thereto, shall not include the purchase of insurance through a lease of real property that meets all of the following conditions:

- (1) The state agency is the lessee.
- (2) (A) The cost to insure the property is included as a part of the lease payment; or  
(B) the lessee is required to reimburse the lessor for the cost of the insurance.
- (3) The secretary of administration has approved the lease in accordance with K.S.A. 75-3739, and amendments thereto.

(b) “Purchase,” as used in K.S.A. 75-4101 and amendments thereto, shall include the purchase of insurance through a lease of real property if all of the following conditions are met:

- (1) The state agency is the lessee.
- (2) The lease requires that the property be insured.
- (3) The lease requires the lessee to pay the insurance premium to the insurance company. (Authorized by K.S.A. 75-4111; implementing K.S.A. 2010 Supp. 75-4101 and K.S.A. 2010 Supp. 75-4109; effective March 18, 2011.)



## Agency 132

# 911 Coordinating Council

### Articles

- 132-1. FEES.
- 132-2. LOCAL COLLECTION POINT ADMINISTRATOR REQUIREMENTS.
- 132-3. GRANT FUNDS.
- 132-4. PENALTIES.

### Article 1.—FEES

**132-1-1. Fees.** The 911 fee shall be \$.60 per month for each subscriber account, pursuant to K.S.A. 2014 Supp. 12-5369 and amendments thereto. (Authorized by K.S.A. 2014 Supp. 12-5364; implementing K.S.A. 2014 Supp. 12-5364 and 12-5369; effective Oct. 2, 2015.)

### Article 2.—LOCAL COLLECTION POINT ADMINISTRATOR REQUIREMENTS

**132-2-1. LCPA; prerequisites; selection; contract.** (a) Each qualified person selected to provide the services of the local collection point administrator (LCPA) pursuant to the Kansas 911 act (“act”), L. 2011, ch. 84, secs. 1 through 19 and sec. 25 and amendments thereto, shall at a minimum meet the following requirements:

(1) Have the ability to comply with all contract requirements established by the secretary of administration;

(2) have at least three years of experience in public sector financial administration and accounting;

(3) secure and manage accounts and services at a federally insured financial institution with a physical presence in Kansas and ensure the required collateralization of 911 funds in bank accounts;

(4) establish and maintain a physical office in Kansas; and

(5) have the ability to provide appropriate staffing to the 911 coordinating council (“council”) to meet the council’s obligations under the act.

(b) Each LCPA shall be selected by the council with the advice and consent of the legislative coordinating council through a competitive procurement process administered by the Kansas department of administration. The competitive process shall begin at least six months before the

expiration of the contract with the current LCPA, unless both the council and the legislative coordinating council concur before then that the contract with the LCPA should be extended for an additional contract term, as allowed by the act.

(c)(1) The initial contract with the selected person shall be for a two-year period. A yearly performance review of the LCPA shall be conducted by the council. The council’s findings shall be reported to the legislative coordinating council.

(2) The term of a contract with the LCPA may be increased to three years by the council if the council determines the following:

(A) The LCPA has successfully fulfilled its contractual and legal responsibilities for at least 12 months.

(B) The annual audit of the 911 fee receipts and disbursements by the LCPA demonstrates appropriate recordkeeping and administration of monies.

(C) The contract extension can control cost increases for services or reduce risks of disruption of essential LCPA services. (Authorized by L. 2011, ch. 84, sec. 3; implementing L. 2011, ch. 84, secs. 3 and 6; effective March 2, 2012.)

### Article 3.—GRANT FUNDS

#### **132-3-1. 911 federal grants; distribution.**

(a) Federal grant funds shall be distributed by the chair of the 911 coordinating council (“council”) to any entity only if all of the following conditions are met:

(1) A majority of voting members on the council approves the award of any contract or agreement to the entity seeking federal grant funds before execution of the contract or agreement.

(2) The proposed use of the funds is consistent with the federal grant fund requirements and K.S.A. 12-5365, and amendments thereto.

(3) The federal grant funds will be used to im-

plement next-generation 911 services at a regional or statewide level.

(4) The equipment and services to be purchased using federal grant funds meet national technical standards established for next-generation 911 services as adopted by reference in subsection (b), to the greatest extent possible, and are open architectural designs.

(b) The following portions of the “detailed functional and interface specification for the NENA i3 solution — stage 3,” dated June 14, 2011, are hereby adopted by reference as the national technical standards established for next-generation 911 services:

(1) Pages 4 through 236; and

(2) pages 256 through 280.

(c) As used in this regulation, “open architectural designs” shall mean architectural designs that meet the following requirements:

(1) Are available to the general public and are intended for widespread adoption;

(2) facilitate interoperability and data exchange among different products or services; and

(3) contain no proprietary constraints. (Authorized by K.S.A. 2011 Supp. 12-5364, as amended by L. 2012, ch. 21, sec. 2; implementing K.S.A. 2011 Supp. 12-5364, as amended by L. 2012, ch. 21, sec. 2, and K.S.A. 2011 Supp. 12-5365; effective Jan. 11, 2013.)

#### Article 4.—PENALTIES

##### 132-4-1. Delinquent status; penalties.

(a)(1) A provider shall be deemed to be in delinquent status by the 911 coordinating council or the council’s designee under any of the following conditions:

(A) The provider fails to submit the provider’s contact information, pursuant to L. 2011, ch. 84, sec. 3 (j) and amendments thereto, on or before January 1, 2012, in the form and containing the information required by the 911 coordinating council to the 911 coordinating council or the council’s designee.

(B) The provider has not previously provided service in this state and fails to submit the provider’s contact information, pursuant to L. 2011, ch. 84, sec. 3 (j) and amendments thereto, within

three months of first offering services in this state, in the form and containing the information required by the 911 coordinating council to the 911 coordinating council or the council’s designee.

(C) The provider fails to notify the 911 coordinating council or the council’s designee within 30 days of any change in the provider’s contact information.

(2) A provider shall be deemed to be in delinquent status by the 911 coordinating council or the council’s designee if the provider fails to submit 911 fees and the return in the form required by the LCPA, pursuant to L. 2011, ch. 84, sec. 9 and amendments thereto, to the LCPA on or before the 30th day of each calendar month following a return for the preceding month.

(b)(1) If the 911 coordinating council or the council’s designee determines that a provider is in delinquent status, a penalty shall be assessed against the provider by written order of the 911 coordinating council or the council’s designee.

The penalty for failing to comply with the requirement to submit the provider’s contact information shall be \$500.00 per day or 10 percent of the 911 fees due from the delinquent provider to the LCPA for the corresponding month, whichever is greater. The penalty for failing to submit 911 fees and the return shall be \$500.00 per day or 10 percent of the 911 fees due from the delinquent provider to the LCPA for the corresponding month, whichever is greater.

(2) Written notification of the penalty assessment, the violation, and the provider’s right to appeal to the 911 coordinating council or the council’s designee shall be issued to the provider by the 911 coordinating council or the council’s designee. Each penalty payment shall be remitted directly to the 911 coordinating council or the council’s designee.

(c) Any provider that is assessed a penalty may request a hearing, pursuant to L. 2011, ch. 84, sec. 3 (l) and amendments thereto. The request for hearing shall specify the reason or reasons the provider denies being in violation of the submission requirements, pursuant to L. 2011, ch. 84, sec. 3 and amendments thereto. (Authorized by L. 2011, ch. 84, sec. 3; implementing L. 2011, ch. 84, secs. 3 and 9; effective March 2, 2012.)

# Agency 133

## Office of Administrative Hearings

### Editor's Note:

Effective July 1, 2009, all powers, duties, and functions of the Office of Administrative Hearings, formerly within the Kansas Department of Administration and under the Secretary of Administration, were transferred to the Office of Administrative Hearings and the Director of this office established by the Administrative Procedure Act. See K.S.A. 77-562.

### Articles

#### 133-1. GENERAL PROCEDURES CONCERNING PARTIES.

##### Article 1.—GENERAL PROCEDURES CONCERNING PARTIES

**133-1-1. Definitions.** (a) As used in this article, each of the terms defined by K.S.A. 77-502, and amendments thereto, shall have the meaning specified in that statute.

(b) Each of the following terms shall have the meaning specified in this subsection:

(1) "Director" means director of the office of administrative hearings.

(2) "KAPA" means the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto.

(3) "OAH" means the office of administrative hearings.

(4) "Presiding officer" means the administrative law judge assigned to preside over an administrative hearing. (Authorized by and implementing K.S.A. 2016 Supp. 75-37,121 and 77-562; effective Jan. 20, 2017.)

**133-1-2. Assignment of administrative law judges.** (a) Any state agency head or a designee may request that the director assign an administrative law judge to act as the presiding officer in an administrative hearing that is neither subject to KAPA nor listed in K.S.A. 77-551, and amendments thereto, and for which the agency head is responsible. The request may be made in writing, by telephone, or by electronic transmission.

(b)(1) Upon receiving a request for assignment of an administrative law judge, an administrative law judge of OAH shall be assigned by the director, unless the director determines either of the following:

(A) The existing caseloads of the administrative law judges would prevent OAH from providing a timely hearing.

(B) There is a conflict that would subject the administrative law judges to disqualification.

(2) In making each assignment, the relative experience, caseloads, and expertise of the OAH administrative law judges, as well as potential conflicts, time frames, and other relevant resources and factors, may be considered by the director.

(c) After the assignment of an administrative law judge, the requesting state agency shall forward to the director written documentation of the basis for the administrative hearing, which may include any of the following materials:

(1) A request for an administrative hearing;

(2) a petition for a hearing from a party to the state agency proceedings;

(3) the order that is the subject of the request for a hearing; or

(4) any other documentation of the event or action that forms the basis for the administrative hearing under applicable law. (Authorized by and implementing K.S.A. 2016 Supp. 75-37,121 and 77-562; effective Jan. 20, 2017.)

**133-1-3. Conduct of proceedings.** (a)(1) Each administrative hearing to which an administrative law judge is assigned under K.S.A. 75-37,121(b), and amendments thereto, shall be conducted in accordance with KAPA, unless other applicable statutes or regulations provide otherwise.

(2) Each administrative hearing to which an administrative law judge is assigned under K.S.A. 75-37,121(d), and amendments thereto, shall be conducted in accordance with any applicable statutes, regulations, ordinances, or other law.

(b) All parties to the state agency proceedings may be required by the administrative law judge or the director to submit motions, objections,

briefs, and other pleadings in a format established by the director and with the number of copies prescribed by the director.

(c) When an administrative law judge is assigned to an administrative hearing under K.S.A. 75-37,121(d), and amendments thereto, the order issued by the administrative law judge shall contain the elements required under any applicable statutes, regulations, ordinances, or other law. (Authorized by and implementing K.S.A. 2016 Supp. 75-37,121 and 77-562; effective Jan. 20, 2017.)

**133-1-4. Electronic filing.** (a) As used in this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) "Filing" means any pleading, motion, objection, proffer of evidence, discovery request or response, brief, or any other formal communication by a party regarding the docketed administrative proceeding for which the filing is relevant and the filer is a party.

(2) "OAH e-filing system" and "system" mean a public, web-based internet portal established by OAH to which the parties to a proceeding are given secure and password-protected access for the purpose of sending or receiving electronically submitted filings regarding their proceeding.

(b) In any proceeding for which the director has appointed a presiding officer, any party to the proceeding may submit any filing to the presiding officer by using mail or telephone facsimile. Additionally or alternatively, any party may submit any filing for its proceeding using the OAH e-filing system, subject to the following:

(1) The system may be used only by parties who meet the following requirements:

(A) Have submitted to OAH a written and signed consent to the terms of use for the system that are specified by the director; and

(B) have completed the system's online registration for the specific proceeding to which they are a party.

(2) The only modes by which signed consent to the terms of use for the system may be submitted to OAH are personal service, mail, telephone facsimile, or scanning and electronically mailing the signed consent document to the electronic mail address specified for only this purpose by the director.

(3) Once a party's signed consent is received by OAH, the party shall be sent by OAH, in a manner specified by the agreed terms of use, directions

and information for completing that party's online registration for the system.

(4) Any party may satisfy its duty to serve a copy of its filings to any other party using the OAH e-filing system, but only if both the serving party and the recipient party have completed their prerequisite signed consent and online registration for the immediate proceeding to which they are party.

(5) Only OAH personnel and the parties to a given proceeding shall have access to submit online or to view online any filings for their proceedings. Whether filed electronically or through other means, records of a proceeding shall be available to nonparties only as provided by the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto.

(c) No person may submit a filing or use the OAH e-filing system for a proceeding to which the person is not a party unless the presiding officer has recognized the person as an authorized representative of the party on whose behalf the person is filing or using the system.

(d) All orders and notices issued by the presiding officer shall be served in conformity with K.S.A. 77-531, and amendments thereto.

(e) A party's inability to utilize the OAH e-filing system shall not constitute a basis for an extension of time in which to file any matter with the presiding officer or with opposing parties. This inability shall not affect any applicable filing deadlines imposed by law or by order of the presiding officer.

(f) For purposes of determining whether an error was committed by the OAH e-filing system before the effective date of a default or initial order, any party to the proceedings in question may request that OAH perform an audit of the system and deliver the audit findings to the presiding officer if all of the following conditions are met:

(1) The requesting party alleges that it was unable to make a timely filing due to an error of the system.

(2) The timeliness or existence of the filing transaction in question is material to the disposition of the party's case.

(3) The party submits its audit request before a proposed default order for its case has become effective or before an initial order in the case has been issued.

(g) For purposes of determining whether an error was committed by the OAH e-filing system during an appeal pursuant to K.S.A. 77-527 and amendments thereto, any party to the appeal may

request that OAH perform an audit of the system and deliver the audit findings to the agency head if all of the following conditions are met:

(1) The requesting party alleges that it was unable to make a timely filing during the course of the appeal due to an error of the system.

(2) The timeliness or existence of the filing transaction in question is material to the disposition of the party's appeal.

(3) The party submits its audit request before a final order on its appeal has been issued.

(h) Concise documentation of the results of any system audit performed in accordance with this regulation shall be incorporated into the record of any case in which a system error was alleged. (Authorized by K.S.A. 2016 Supp. 75-37,121 and 77-562; implementing K.S.A. 2016 Supp. 77-519 and 77-531; effective Jan. 20, 2017.)



# INDEX

## to the

### 2009 Volumes

### and 2021 Supplement

## of the

# Kansas Administrative Regulations

#### 911 Coordinating Council, Agency 132

- Fees, 132-1-1
- Grant funds,
  - 911 federal grants; distribution, 132-3-1
- Local collection point administrator (LCPA) requirements,
  - LCPA; prerequisites; selection; contract, 132-2-1
- Penalties,
  - Delinquent status; penalties, 132-4-1

#### A

#### Abortion

- Department of Health and Environment, Agency 28

#### Abstracters' Board of Examiners, Agency 85

- Bonds, 85-3-2
- Fees,
  - Examination, 85-7-1
  - License, 85-4-1
- Insurance, 85-6-1

#### Accountancy, Board of, Agency 74

- Certificate, issuance,
  - Ethics examination requirement, 74-3-8
- Certified public accountancy by notification, 74-15-1 et seq.
- Conduct, code of professional, 74-5-2 et seq.
  - Accounting principles, 74-5-203
  - Applicability, 74-5-2b
  - Commissions and referral fees, 74-5-103
  - Contingent fees, 74-5-104
  - Definitions, 74-5-2, 74-5-2a
  - Forecasts, 74-5-204
  - Incompatible occupations, 74-5-105
  - Independence, 74-5-101
  - Integrity and objectivity, 74-5-102
  - Professional standards, 74-5-205
- Responsibilities and practices, 74-5-301 et seq.
  - Acting through others, 74-5-402
  - Address, change of, 74-5-408
  - Advertising, 74-5-403
  - Confidential client information, 74-5-301
  - Cooperation with board, 74-5-407
  - Discreditable acts, 74-5-401
  - Firm or professional names, 74-5-406
  - Form of practice, 74-5-405, 74-5-405a
    - Records, retention of client, 74-5-302
  - Name, change of, 74-5-408

#### Accountancy, Board of—Cont.

- Conduct, code of professional—Cont.
  - Responsibilities and practices—Cont.
    - Non-attest services, 74-5-404a
    - Standards, compliance, 74-5-202
    - Standards, general, 74-5-201
- CPA exam application and education requirements, 74-2-1 et seq.
  - College credits, evaluation, 74-2-2
  - College transcripts, submission, 74-2-3
  - Concentration in accounting, 74-2-7
  - Conditionally qualified within ninety days, 74-2-4
  - Examination, 74-2-1
  - Residence requirement, 74-2-5
- Education requirements, 74-4-1 et seq.
  - Continuing education, 74-4-7, 74-4-8, 74-4-9, 74-4-10
  - Experience requirement, 74-4-4
    - Part-time experience, 74-4-5
  - Fees, permit, 74-4-1, 74-12-1
  - Permit to practice, 74-4-1
- Examinations, 74-1-1 et seq.
  - Administration; cheating, 74-1-8
  - Credits, 74-1-3
  - Fees, 74-1-5
  - Grades, 74-1-2
  - Refund of fees, 74-1-6
  - Security, 74-1-7
  - Transfer of credit, 74-1-4
  - Type, 74-1-1
- Firm registration, 74-7-1 et seq.
  - Eligible firms, 74-7-2
  - Revocable living trusts, 74-7-3
  - Sole proprietors, 74-7-4
- Municipal public accountants, licensed,
  - Licenses, duration and renewal, 74-10-1
    - Administrative hearings, 74-10-2
- Offices, practice from additional,
  - Emergency assistance, 74-6-3
  - Management, 74-6-2
  - Office, defined, 74-6-1
- Peer review program, 74-11-6 et seq.
  - Completion, letter of, 74-11-13
  - Definitions, 74-11-6
  - Off-site, 74-11-12
  - On-site, 74-11-11
  - Oversight, 74-11-15
  - Provisions, general, 74-11-8
  - Renewal of a firm's registration, 74-11-7
  - Requirements, waiver, 74-11-14
  - Team member, 74-11-9
    - Captain, 74-11-10

**Accountancy, Board of—Cont.**

- Permits to practice and continuing education requirements, 74-4-1 et seq.
- Professional corporations, 74-8-1 et seq.
- Registered firms, eligibility, 74-7-2
- Uniform accountancy act, 74-15-1 et seq.

**Adjutant General, Agency 56**

- Armories, 56-1-1 et seq.
  - Definitions, 56-1-1
  - Enforcement, 56-1-6
  - Policies, 56-1-3
  - Purpose and funding, 56-1-2
  - Responsibilities, 56-1-4
  - Variance, 56-1-5
- Local disaster agencies, standards for, 56-2-2
  - Definitions, 56-2-1
- Nuclear emergency preparedness fees, 56-3-1 et seq.
  - Budget approvals, notification of, 56-3-5
  - Definitions, 56-3-1
  - Disbursements, 56-3-3
    - Request for, 56-3-4
  - Fee fund, 56-3-2
  - Reimbursement, direct, 56-3-6

**Administration, Department of, Agency 1**

- Administrative hearings, office of, 1-39-1 et seq.
  - Administrative law judges, 1-39-2
    - Assignment of, 1-39-3
  - Conduct of proceedings, 1-39-4
  - Definitions, 1-39-1
- Allotment system, state moneys, 1-61-1 et seq.
  - Monitoring and reporting, 1-61-2
  - Required findings and notice of implementation, 1-61-1
    - Review of allotment decisions, 1-61-3
- Batch data scheduling, 1-36-1 et seq.
- Canteens and benefit funds, 1-27-1 et seq.
  - Accounting records and reports, 1-27-3
  - Canteen coupon books, 1-27-5
  - Custodian, 1-27-2
  - Deposits and expenditures, 1-27-4
  - Establishment, 1-27-1
- Classification, 1-4-1 et seq.
  - Class titles, 1-4-9
  - Plan, preparation of, 1-4-1
  - Position,
    - Allocation, 1-4-5
    - Analysis, 1-4-4
    - Description, 1-4-3
    - Management, 1-4-2
    - Reallocation, 1-4-7, 1-4-8
    - Reviews, 1-4-6
- Commercial driver positions,
  - Alcohol and controlled substances tests, 1-9-25, 1-9-26
- Compensation and salaries,
  - Pay,
    - Beginning, 1-5-8
    - Benefits, employees activated to military duty, 1-5-30
    - Biweekly or hourly rates, 1-5-21
    - Call-in and call-back pay, 1-5-25
    - Changes, 1-5-6, 1-5-7

**Administration, Department of—Cont.**

- Compensation and salaries—Cont.
  - Pay—Cont.
    - Classified from unclassified service, 1-5-12
    - Decrease in, 1-5-20
    - Demotion of employee, 1-5-15
    - Higher class, 1-5-13
    - Longevity pay, 1-5-29
    - Military leave, returning employee, 1-5-11
    - Overtime, 1-5-24
      - Exempt employee, 1-2-42
      - Non-exempt employee, 1-2-42a
    - Pay grades, 1-5-4
      - Changes, effect, 1-5-19c
      - Step increases, individual, 1-5-19b
    - Position reallocated to a lower class, 1-5-16
    - Reinstated or reemployed employee, 1-5-10
    - Temporary employee, 1-5-9
    - Transfer of employee, 1-5-14
    - Two or more positions, 1-5-22
  - Pay plan, 1-5-1, 1-5-2, 1-5-3
  - Shift differential, 1-5-28
  - Stand-by compensation, 1-5-26
- Computer services, 1-31-1 et seq.
- Conduct on certain buildings and grounds, 1-49-1 et seq.
  - Capitol dome, 1-49-6, 1-49-7
  - Defacing or damaging property, 1-49-5
  - Eating, 1-49-3
  - Firearms, possession of, prohibited, 1-49-11
  - Noise, 1-49-4
  - Observation tower, office building, 1-49-8
  - Penalty and enforcement, 1-49-9
  - Personal conduct, 1-49-1
  - Prior approval of activities, 1-49-10
  - Smoking prohibited, 1-49-12
  - Trash, 1-49-2
- Confidentiality and security procedures, 1-38-1 et seq.
- Data processing services, 1-31-2, 1-31-3
- Discipline, 1-10-6 et seq.
  - Corrective action,
    - Violation of civil service act, 1-10-10
    - Violations regarding employee benefits, 1-10-11
  - Dismissal, suspension or demotion,
    - Permanent employee, 1-10-6
    - Probationary employee, 1-10-8
    - Relief from or change of duty, 1-10-7
    - Temporary employee, 1-10-9
- Employee maintenance; housing and food service, 1-19-1 et seq.
  - Administration, 1-19-8
  - Agreements and contracts, existing, 1-19-7
  - Applicability, 1-19-1
  - Benefits authorized, 1-19-4
  - Benefits not authorized, 1-19-5
  - Definitions, 1-19-2
  - Exempt services, 1-19-11
  - Policy, 1-19-3
  - Rate schedule, 1-19-9
    - Permissive changes, 1-19-10
  - Visiting other agencies, 1-19-6
- Energy audits for real property, 1-66-1 et seq.
  - Definitions, 1-66-1
    - New lease, or lease renewal or extension, of non-state-owned real property, 1-66-3
  - State-owned building, 1-66-2

**Administration, Department of—Cont.**

- Energy efficiency performance standards for state-owned buildings, 1-67-1 et seq.
  - Definitions, 1-67-1
  - New construction, 1-67-2
  - Renovated, retrofitted, or repaired buildings, 1-67-3
- Energy star products and equipment, 1-65-1 et seq.
  - Purchase of, 1-65-1
- Equal employment opportunity and affirmative action, 1-3-6
  - Definitions, 1-3-5
- Grievances and appeals, 1-12-1 et seq.
  - Agency appeals, 1-12-2
  - Procedure, 1-12-1
- Handicapped accessibility standards, 1-62-1
- Hours, leaves, 1-9-1 et seq.
  - Authorized and unauthorized, 1-9-3
  - Commercial drivers, alcohol and controlled substances tests, 1-9-25, 1-9-26
  - Communications, 1-9-17
  - Counseling of employee, 1-9-15, 1-9-16
  - Disaster service volunteer leave, 1-9-24
  - Drug screening, 1-9-19a
  - Duty, relief from or change of, 1-9-19
  - Equal employment opportunity, 1-9-18
  - Exit interview, 1-9-20
  - Family and medical leave act, 1-9-27
  - Funeral, 1-9-12
  - Holidays, 1-9-2
  - Hours of work, 1-9-1
  - Injury on the job, 1-9-22
  - Jury duty, 1-9-8
  - Military leave, 1-9-7a, 1-9-7b, 1-9-7c
  - Nepotism, 1-9-21
  - Official meetings, 1-9-9
  - Separation, payment for leave, 1-9-13
  - Shared leave, 1-9-23
  - Sick leave, 1-9-5
  - State leave payment reserve fund payouts, 1-9-5a
  - Transfer of credits, 1-9-14
  - Vacation leave, 1-9-4
  - Without pay, 1-9-6
- Layoff, procedures and alternatives, 1-14-6 et seq.
  - Abolishing agency, 1-14-12
  - Bumping and layoff conferences, 1-14-10
  - Furlough leave, 1-14-11
    - Notice, 1-14-7, 1-14-9
    - Plan, 1-14-6
    - Scores, 1-14-8
  - Institution closings, 1-14-12a
- Parking,
  - Statehouse vicinity,
    - Application, hours of, 1-46-1
    - Eighth and Harrison streets, 1-46-20
    - Eighth and Tenth streets, 1-46-21
    - Judicial center, 1-46-24
    - Legislative department, 1-46-7
    - Legislators, 1-46-17, 1-46-18, 1-46-19
  - Permits, 1-46-6
    - Display, 1-46-23
    - Executive department, 1-46-9
  - Press, 1-46-9, 1-46-13
  - Reserved parking, permanent, 1-46-14
  - Restrictions, 1-46-2, 1-46-3, 1-46-16
  - Temporary, 1-46-22
  - Tow-away, 1-46-5

**Administration, Department of—Cont.**

- Parking—Cont.
  - Statehouse vicinity—Cont.
    - Transfer not allowed, 1-46-15
    - Violations of regulations, 1-46-4
- Payment of charges, 1-35-1 et seq.
  - Federally funded agencies, 1-35-4
  - Separate cost centers, 1-35-3
  - Statements, 1-35-2
- Payroll deductions for charitable contributions, 1-24-1 et seq.
  - Coercion, prohibited, 1-24-4
  - Minimum and maximum amount, 1-24-3
  - Written authorization, 1-24-1
- Performance reviews, 1-7-10 et seq.
  - Appeal, 1-7-11, 1-7-12
  - General, 1-7-10
- Personnel, 1-2-4 et seq.
  - Definitions,
    - Administrative leave, 1-2-74
    - Allocation, 1-2-7
    - Applicant, 1-2-8
    - Appointing authority, 1-2-9
    - Candidate, 1-2-14
    - Candidate pool, 1-2-35
    - Career path, 1-2-15
    - Compensatory time, 1-2-25
    - Demotion, 1-2-31
    - Division, 1-2-33
    - Employee, type of,
      - Director, 1-2-32
      - Exempt, 1-2-42
      - Incumbent, 1-2-43a
      - New hire, 1-2-50
      - Non-exempt, 1-2-42a
      - Permanent employee, 1-2-53
      - Probationary employee, 1-2-64
      - Rehire, 1-2-72
      - Supervisor, 1-2-84
    - Holiday compensatory time, 1-2-25a
    - In pay status, 1-2-44
    - Limited term position, 1-2-48
    - Reemployment pool, 1-2-71
    - Registrant, 1-2-68
  - Intern program, 1-2-45
  - Pay grade, 1-2-54
    - Time-on-step, 1-2-86
  - Pay increase date, 1-2-51
  - Permanent status, 1-2-57
  - Policies,
    - Act, 1-2-3
    - Agency, 1-2-4
  - Position, type of,
    - Budgeted position, 1-2-13
    - Class, 1-2-17
    - Commercial driver position, 1-2-20
    - Designated position, 1-2-30
    - Established position, 1-2-41
    - Lead worker, 1-2-84a
    - Manager, 1-2-84b
    - Position, definition of, 1-2-59
    - Position description, 1-2-63
    - Probationary status, 1-2-65
    - Promotion, 1-2-67
    - Reallocation, 1-2-69

**Administration, Department of—Cont.**

- Personnel—Cont.
  - Position, type of—Cont.
    - Regular, 1-2-70
    - Reinstatement, 1-2-73
    - Resignation, 1-2-78
    - Retiree, 1-2-77
    - Roster, official, 1-2-79
    - Service, types of,
      - Classified, 1-2-19
      - Length of, 1-2-46
      - Unclassified, 1-2-97
    - Temporary position, 1-2-85
    - Transfer, 1-2-88
  - Personnel management program,
    - Assistance visits, 1-13-4
    - Employee records, contents, 1-13-1a
    - Evaluation, 1-13-3
    - Research, 1-13-2
  - Personnel regulations, 1-1-1 et seq.
    - Adoption and amendment, 1-1-2
    - Dissemination of, 1-1-4
    - Human resource program, 1-1-1
    - Pilot projects, 1-1-5
    - Policies, 1-1-3
  - Policy and procedures memorandum, 1-32-1, 1-32-2
  - Probation, probationary period, 1-7-3 et seq.
    - Dismissal of employee, 1-7-7
    - Duration of, 1-7-4
    - Evaluation of performance, 1-7-10
    - Notice relating to, 1-7-6
  - Quality management, 1-63-1 et seq.
    - Quality initiative leadership, 1-63-2
    - Quality management initiative, state, 1-63-1
  - Rates and charges, 1-33-1 et seq.
    - Adjustments, 1-33-4
      - Basis, 1-33-1
    - Billing periods, 1-33-10
    - Discount rates, 1-33-9
    - Distributed overhead costs, 1-33-3
    - Distribution and publication, 1-33-7
    - Formulae, 1-33-6
    - Premium rates, 1-33-8
    - Software costs, 1-33-5
    - Usage cost, 1-33-2
  - Recruiting and staffing, 1-6-1 et seq.
    - Acting assignments, 1-6-29
    - Appointment,
      - Candidates for regular positions, 1-6-21
      - Demotion, 1-6-27
      - Disqualification of applicants and candidates, 1-6-7
      - Drug and alcohol testing for safety sensitive positions, 1-6-32, 1-6-33
      - Equal employment, 1-9-18
      - Governor's trainee program, 1-6-31
      - Limited-term positions, 1-6-26a
      - Overlapping appointments, 1-6-28
      - Reemployment, 1-6-23
      - Registration for employment, 1-6-1
      - Reinstatement list, 1-6-30
      - Temporary, 1-6-25
      - Training, 1-6-22a
      - Transfer, 1-6-24
      - Unskilled and semiskilled labor, direct entry hires, 1-6-22

**Administration, Department of—Cont.**

- Recruiting and staffing—Cont.
  - Appointment—Cont.
    - Vacancies, filling, 1-6-3
  - Assessments,
    - Recruitment, 1-6-2
  - Selection instruments, 1-6-8
  - Safety sensitive positions,
    - Security standards and procedures, 1-38-1 et seq.
      - Restoration of services, 1-38-5
    - Testing for positions, 1-6-32, 1-6-33
  - Special assessments against the state, 1-60-1 et seq.
    - Definitions, 1-60-1
    - Notification, 1-60-2, 1-60-3
  - State-owned property, parking, 1-45-1 et seq.
    - Content, 1-45-6
    - Decals, 1-45-10
    - Definitions, 1-45-18
    - Display, 1-45-9
    - Fees and charges, 1-45-7, 1-45-8, 1-45-21
    - General provisions, 1-45-1
    - Issuance, 1-45-4
    - Parking fees for state parking garage, 1-45-7a, 1-45-22
    - Penalties and enforcement, 1-45-15
    - Permits, 1-45-19, 1-45-20
    - Removal of motor vehicles, 1-45-16, 1-46-5
    - Reservation of spaces, 1-45-13
    - Restrictions, 1-45-2, 1-45-3, 1-45-23
    - State agency permits, 1-45-11
    - Subletting prohibited, 1-45-5
    - Temporary permits, 1-45-12
    - Termination, 1-45-17
    - Violations, 1-45-14, 1-45-24
  - Submission of data, 1-37-1
    - Control functions, 1-37-4, 1-37-5
    - Standards for, 1-37-2, 1-37-3
  - Subsistence, 1-16-14 et seq.
    - Allowance, 1-16-18, 1-16-18a
    - Furnished by public agency, not allowed, 1-16-14
    - Reduced allowances, 1-16-15
    - Students, inmates, prisoners and patients, 1-16-22
  - Systems design and services, 1-34-1 et seq.
    - Contractual services, 1-34-4
    - Format, 1-34-2
    - Options, 1-34-3
    - Programming services, 1-34-1
  - Termination of employment, 1-11-1 et seq.
    - Death, 1-11-3
    - Resignation, 1-11-1
  - Traffic rules and regulations, 1-47-1
    - Right of way, 1-47-5
    - Roads and driveways, 1-47-6
    - Speed limits, 1-47-2
    - Stop signs, 1-47-4
    - Traffic flow, 1-47-3
    - Violations and penalties, 1-47-7
  - Training and career development, 1-8-1 et seq.
    - Leadership training programs, 1-8-6
    - Management programs, 1-8-5
    - Orientation, 1-8-2
    - Standards, 1-8-3
    - State programs, 1-8-1
    - Trainee programs, 1-8-7
    - Training records of agencies, 1-8-4

**Administration, Department of—Cont.**

- Transfer of employee, 1-16-2b et seq.
- Agreement with transferred employee, 1-16-2d
- Moving expenses, 1-16-2b
  - Bidding required, 1-16-2e
  - Limitations, 1-16-2j
  - Self-move, 1-16-2i
- Nonreimbursable transfer expenses, 1-16-2c
- Sale of residence, expenses not allowed, 1-16-2k
- Separation from service, 1-16-2l
- Travel reimbursement, 1-16-1 et seq.
  - Advancements from imprest fund, 1-16-1a
  - Advisory personnel, 1-16-1b
  - After leave of absence, 1-16-5
  - Airline travel, 1-16-7
  - Conference lodging, 1-16-18a
  - Date and hour of departure and return, 1-16-4
  - Exceptions, 1-16-18a
  - High-cost geographic areas, 1-16-18a
  - Home, travel to and from, 1-16-12
  - Incapacitated employee, 1-16-3a, 1-16-3b
  - Mileage rates, 1-16-18a
  - Miscellaneous expenses, 1-16-20
  - Official station, 1-16-2, 1-16-3
    - Employee residing outside, 1-16-3c
  - Personal funds to be supplied, 1-16-1
  - Privately owned conveyance, 1-16-8
  - Railroad accommodations, 1-16-6
  - Reduced allowances, 1-16-15
  - Registration fees, 1-16-2l
  - Relocation assistance, 1-16-2a
  - Sharing expenses, 1-16-18b
  - Special conveyances, 1-16-13
  - Subsistence allowance rates, 1-16-18, 1-16-18a
  - Subsistence and lodging expenses, 1-16-22
  - Taxicabs, 1-16-11
- United States savings bond deduction program, 1-21-2 et seq.
  - Compliance with federal regulations, 1-21-12
  - Custody of deductions, 1-21-7
  - Eligible employees, defined, 1-21-1
  - Individual employee participation, 1-21-2
  - Limitations,
    - Dollar limits, 1-21-4
- Vanpool program, 1-23-1 et seq.
  - Accident reporting, 1-23-8
  - Alternate driver requirements, 1-23-5
  - Decals and bumpers, 1-23-9
  - Definitions, 1-23-1
  - Maintenance and operating expenses of state-owned vans, 1-23-6
  - Major and emergency repairs or purchases, 1-23-7
  - Passenger requirements, 1-23-3
  - Primary driver requirements, 1-23-4
  - Program administration, review committee, 1-23-2
- Vehicles, privately owned, rates, 1-16-8, 1-18-1a
- Vehicles, state-owned, fuel economy standards, 1-68-1 et seq.
  - Definitions, 1-68-1
  - Purchase of a new motor vehicle during fiscal year 2011, 1-68-2
- Vehicles, state-owned or operated, 1-17-2 et seq.
  - Accident repairs, 1-17-7c
  - Accident reporting, 1-17-7b, 1-17-18
  - Agency responsibility for rented vehicles, 1-17-7a
  - Assignments of, permanent, 1-17-5a

**Administration, Department of—Cont.**

- Vehicles, state-owned or operated—Cont.
  - Commuting from residence to official work station, 1-17-2a
  - Compliance with regulations, 1-17-4
  - Definitions, 1-17-1
  - Expenses, 1-17-13
  - Parking, maintenance, and storage, 1-17-12
  - Permanent assignment, 1-17-5a
  - Point of duty, 1-17-11
  - Prohibitions, 1-17-19
  - Rate and charges, 1-17-8
  - Repairs or purchases, 1-17-14, 1-17-15
  - Requests, 1-17-6
  - Responsibility of operator, 1-17-3
  - Return and parking, 1-17-16
  - Towing charges, 1-17-17
  - Travel records, 1-17-10
  - Use, 1-17-2
  - Verification of mileage, 1-17-11
- Wireless and VoIP Enhanced 911 Services, 1-64-1 et seq.
  - Delinquent status; penalties, 1-64-1
- Workforce planning and control, 1-3-1 et seq.
  - Career paths, development, 1-3-3
  - Position inventory system, 1-3-4
  - Program, 1-3-1
  - Reciprocal agreements with other public agencies, 1-3-2
- Write-off of accounts receivable by state agencies, 1-26-1 et seq.
  - Minimum collection procedures, 1-26-2
  - Procedures, 1-26-1

**Administrative Hearings, Office of, Agency 133**

- General procedures concerning parties, 133-1-1 et seq.
  - Assignment of administrative law judges, 133-1-2
  - Conduct of proceedings, 133-1-3
  - Definitions, 133-1-1
  - Electronic filing, 133-1-4

**Adult Care Homes**

- Billboards and outdoor advertising, Kansas
  - Department of Transportation, Agency 36
- Dental hygienists, 71-3-1, 71-3-2
- Department for Aging and Disability Services, Agency 26
- Department of Health and Environment, Agency 28
- Department of Health and Environment—Division of Health Care Finance, Agency 129
- Department of Revenue—Division of Alcoholic Beverage Control, Agency 14
- Department of Social and Rehabilitation Services, Agency 30
- Pharmacy board, 68-8-1
- Securities commissioner, 81-10-1
- State Fire Marshal, Agency 22

**Aging and Disability Services, Kansas Department for, Agency 26**

- Adult care home administrators, licensure of,
  - Advisory opinion, 26-38-5
  - Application for initial licensure, 26-38-3
  - Change of name or address, 26-38-10
  - Continuing education, 26-38-8

**Aging and Disability Services, Kansas Dept. for—Cont.**

- Adult care home administrators, licensure of—Cont.
  - Definitions, 26-38-1
  - Display of license, 26-38-9
  - Educational requirements for licensure, 26-38-2
  - Fees, 26-38-5, 26-38-11
  - Licensing examinations, 26-38-4
  - Licensing renewal and license reinstatement, 26-38-8
  - Licensure by reciprocity, 26-38-7
  - Potentially disqualifying civil and criminal records, 26-38-5
  - Sponsorship, 26-38-8
  - Temporary license, 26-38-6
  - Replacement licenses, 26-38-10
- Adult care homes, 26-39-100 et seq.
  - Admission, transfer, and discharge rights of residents, 26-39-102
  - Adoptions by reference, 26-39-105
  - Definitions, 26-39-100
  - Dispute resolution, informal,
    - Definitions, 26-39-144
    - Notification of final decision, 26-39-441
    - Panel, 26-39-439
    - Process, 26-39-440
    - Requests, 26-39-438
    - Resident functional capacity screening, 26-39-243, 26-39-278, 26-39-427
  - Licensure, 26-39-101
  - Receivership of, 26-39-104
  - Registered operators, 26-39-500 et seq.
    - Application for registration, 26-39-502
    - Change of name or address, 26-39-506
    - Definitions, 26-39-500
    - Fees, 26-39-505
    - Operator course, 26-39-503
    - Registration, 26-39-501
    - Registration renewal and reinstatement; continuing education, 26-39-504
  - Resident rights in adult care homes, 26-39-103
- Adult care homes, unlicensed employees in, 26-50-1 et seq.
  - Curricula and instruction manuals, 26-50-12
  - Definitions, 26-50-10
  - Medication aide,
    - Certification renewal and reinstatement; notification of changes, 26-50-38
    - Continuing education course, 26-50-40
    - Course; instructor and course sponsor, 26-50-32
    - Out-of-state and allied health training equivalency, 26-50-36
    - Program, 26-50-30
    - State test; registry, 26-50-34
  - Nurse aide,
    - Out-of-state and allied health training equivalency, 26-50-26
    - State test, 26-50-24
    - Training course; personnel and course sponsor, 26-50-22
    - Training program, 26-50-20
- Adult day care facilities, 26-43-101 et seq.
  - Administration, 26-43-101
  - Community governance, 26-43-106
  - Dietary services, 26-43-206
  - Disaster and emergency preparedness, 26-43-104
  - General services, 26-43-203
  - Health care services, 26-43-204

**Aging and Disability Services, Kansas Dept. for—Cont.**

- Adult day care facilities—Cont.
  - Infection control, 26-43-207
  - Medication management, 26-43-205
  - Negotiated service agreement, 26-43-202
  - Residents,
    - Resident criteria, 26-43-200
    - Resident functional capacity screening, 26-43-201
    - Resident records, 26-43-105
  - Staff,
    - Staff development, 26-43-103
    - Staff qualifications, 26-43-102
- Area agencies subgrants and contracts, 26-3-1 et seq.
  - Appeals, 26-3-7
  - Contracting practices, 26-3-1
  - Reporting requirements, 26-3-6
  - Responsibilities, 26-3-4
  - Revision, 26-3-5
  - Service contracts, 26-3-3
  - Subgrants, 26-3-2
- Assisted living facilities and residential health care facilities, 26-41-101 et seq.
  - Administration, 26-41-101
  - Community governance, 26-41-106
  - Dietary services, 26-41-206
  - Disaster and emergency preparedness, 26-41-104
  - General services, 26-41-203
  - Health care services, 26-41-204
  - Infection control, 26-41-207
  - Medication management, 26-41-205
  - Negotiated service agreement, 26-41-202
  - Residents,
    - Resident criteria, 26-41-200
    - Resident functional capacity screening, 26-41-201
    - Resident records, 26-41-105
  - Staff,
    - Staff development, 26-41-103
    - Staff qualifications, 26-41-102
- Client assessment, referral, and evaluation (CARE) program,
  - Nursing facilities, 26-9-1
- Employment program, 26-6-1 et seq.
  - General provisions, 26-1-1 et seq.
    - Area agencies,
      - Confidentiality, 26-1-7, 26-1-8
      - Definitions, 26-1-1
      - Plan development, 26-1-5
      - Policies, procedures, 26-1-6
      - Redesignation, 26-1-2, 26-1-3
      - Withdrawal of designation, 26-1-9
    - State needs hearing, 26-1-4
- Grants and contracts, 26-2-1 et seq.
  - Assessments of performance and compliance, 26-2-5
  - Audits, 26-2-9, 26-2-10
  - Notification of grant award or contract, 26-2-1
  - Reporting and unearned funds requirements, 26-2-3
  - Revision, 26-2-4
  - Termination, suspension, 26-2-7
  - Withholding payments, 26-2-6
- Homes plus, 26-42-101 et seq.
  - Administration, 26-42-101
  - Dietary services, 26-42-206
  - Disaster and emergency preparedness, 26-42-104
  - General services, 26-42-203
  - Health care services, 26-42-204

**Aging and Disability Services, Kansas Dept. for—Cont.**

- Homes plus—Cont.
  - Infection control, 26-42-207
  - Medication management, 26-42-205
  - Negotiated service agreement, 26-42-202
  - Resident criteria, 26-42-200
  - Resident functional capacity screening, 26-42-201
  - Resident records, 26-42-105
  - Staff development, 26-42-103
  - Staff qualifications, 26-42-102
- Medicaid programs, administration of, 26-10-1
- Medicaid programs, customer and provider appeals, 26-4a-1 et seq.
  - Appeals and fair hearings, 26-4a-2
  - Fair hearing program, 26-4a-1
- Non-Medicaid hearings and appeals, 26-4-1 et seq.
  - Decisions, 26-4-4
  - Definitions, 26-4-5
  - Department's review of its actions, 26-4-9
  - Hearing, 26-4-3
  - Hearing panel, 26-4-2
  - Notice, 26-4-1, 26-4-7
  - Post-appeal, prehearing reviews of action, 26-4-8
  - Pre-appeal administrative processes, 26-4-6
  - Presiding officer, 26-4-10
  - Presiding officer's decision, appeal of, 26-4-13
  - Presiding officer's decision, final order, 26-4-12
  - Recording the hearing; transcripts, 26-4-11
  - Telephone proceedings, 26-4-15
  - Venue, 26-4-14
- Nursing facilities, 26-40-301 et seq.
  - Nursing facility physical environment,
    - Applicants for initial licensure and new construction, 26-40-302
    - Construction and site requirements, 26-40-301
    - Details and finishes, 26-40-304
    - Existing nursing facilities, 26-40-303
    - Mechanical, electrical, and plumbing systems, 26-40-305
- Nutrition program, in-home, 26-5-1 et seq.
  - Application for funding, 26-5-1
  - Client contributions, 26-5-7
  - Delivery of meals, 26-5-9
  - Eligibility, 26-5-6
  - Procurement, 26-5-4
  - Provider accountability, 26-5-2
  - Services, 26-5-5
  - State program income, 26-5-8
  - Targeting, 26-5-10
  - Termination of contracts, 26-5-3
- Pharmacy assistance program, senior, 26-11-1 et seq.
  - Benefit limitations, 26-11-2
  - Eligibility, 26-11-1
  - Priority of funding, 26-11-3
- Senior care act, 26-8-1 et seq.
  - Appeal from hearing order, 26-8-11
  - Assessment, 26-8-5
  - Costs for administration, start-up and evaluation, 26-8-14
  - Definitions, 26-8-1
  - Eligibility criteria, 26-8-2
  - Fees, 26-8-4
  - Formal hearing, 26-8-10
  - Level of payments to providers, 26-8-6
  - Matching funds, 26-8-15

**Aging and Disability Services, Kansas Dept. for—Cont.**

- Senior care act—Cont.
  - Maximum expenditures per customer and customer fees, 26-8-7
  - Priority of services, 26-8-3
  - Reporting requirements, 26-8-12
  - Request for hearing, 26-8-9
  - Targeting of services, 26-8-13
  - Termination, 26-8-8

**Agricultural Labor Relations Board, Agency 12**

- General provisions, 12-1-1 et seq.
  - Definitions, 12-1-1
  - Scope, 12-1-2
- Procedure, 12-2-1 et seq.
  - Authorization cards, 12-2-4
  - Complaints, alleged violation of act, 12-2-13
  - Elections,
    - Certification of results, 12-2-11
    - Eligibility and conditions, 12-2-9
    - Procedure, 12-2-10
  - Hearings,
    - Conduct, 12-2-2
    - Notice of, 12-2-14
  - Impasse resolutions, 12-2-12
  - Intervention in proceedings, 12-2-3
  - Joinder of parties, 12-2-16
  - Petition for determination, 12-2-7
  - Procedures following filing of petition, 12-2-8
  - Proceedings, 12-2-15
  - Proof of interest, 12-2-5
  - Service of process, 12-2-1
  - Strikes or lockout, 12-2-17
  - Units of employees, 12-2-6

**Agricultural Remediation Board, Kansas, Agency 125**

- Agriculture remediation reimbursement program, 125-1-1 et seq.
  - Application, 125-1-2
  - Process, 125-1-3
  - Arbitration, 125-1-5
  - Conflict of interest, 125-1-9
  - Corrective action costs,
    - Eligible, 125-1-6
    - Exclusions, 125-1-7
    - Payment of, 125-1-8
  - Definitions, 125-1-1
  - Multiple eligible persons, 125-1-4

**Agriculture, Department of, Agency 4**

- Agricultural chemicals, 4-1-1 et seq.
  - Adulteration, 4-1-11
  - Definitions, 4-1-2
  - Enforcement, product sampling, 4-1-13
  - Experimental use, 4-1-14
  - Labels, requirements, 4-1-5, 4-1-6
  - Registration, 4-1-9
    - Emergency situation exemptions, 4-1-9b
    - Fees, 4-1-17
    - Special local need, 4-1-9a
  - Warning statement, 4-1-8
- Anhydrous ammonia, containers, equipment, 4-10-1 et seq.
  - Container valves and appurtenances, 4-10-2e

**Agriculture, Department of—Cont.**

- Anhydrous ammonia, containers, equipment—Cont.
- Containers, 4-10-4a
  - Gauging devices, 4-10-4f
  - Hose specifications, 4-10-4e
  - Markings, 4-10-4b
  - Pressure-relief valves, 4-10-4d
- Definitions, 4-10-1
- Guidelines, 4-10-15
- Implements of husbandry, 4-10-7
- Inspection seals, proof, 4-10-17
- Permanent storage, 4-10-4c
- Production,
  - Reactor units, 4-10-16
  - Rules, 4-10-2a through 4-10-2k, 4-10-7
  - Stationary installations, 4-10-4
  - Transportation, 4-10-5, 4-10-5a, 4-10-6, 4-10-6a, 4-10-6b
- Prohibited acts, 4-10-1a
- Reportable events, 4-10-1b
- Safety, 4-10-10
- Certificate of free sale, 4-6-1 et seq.
- Chemicals. See Agricultural chemicals.
- Chemigation, 40-20-3 et seq.
  - Agronomic application rates, 4-20-15
  - Certificates and pocket cards, 4-20-13
  - Certified chemigation equipment operator,
    - Address change, 4-20-14
    - Examination, 4-20-12
  - Chemical injection line and check valve, 4-20-8
  - Civil penalties, 4-20-11
  - Injection equipment, 4-20-6
  - Permits, 4-20-4
  - Vacuum relief device and automatic low pressure drain, 4-20-7
- Waterline check valves, 4-20-5
- Commercial feeding stuffs, 4-3-2 et seq.
  - Hearings, 4-3-13
  - Labeling, feeds, commercial feedstuffs,
    - Artificial color, 4-3-14
    - Definitions, 4-3-2, 4-3-48
    - Drugs, 4-3-9
    - Feed ingredients and official feed terms, 4-3-47
    - Ingredient statement, 4-3-7
    - Legibility and conspicuousness, 4-3-3
    - Manufacturer's name and address, 4-3-6
    - Name, 4-3-5
    - Urea, 4-3-10
    - Vitamin products, 4-3-8
  - Manufacturing practices, 4-3-49, 4-3-50
  - Name-unmixed by-product feeds, 4-3-15
  - Permit system, 4-3-12
  - Prohibited, 4-3-51
  - Registration, 4-3-11
- Eggs, 4-11-2 et seq.
  - Definitions, 4-11-2
  - Egg containers, 4-11-3
  - False advertisement, 4-11-4
  - Federal standards, adopted by reference, 4-11-14
  - Inspection fee, 4-11-9
  - License fee, 4-11-15
  - Registration of place of business, 4-11-7
  - Sampling, requirements, 4-11-8
  - Temperature requirements, 4-11-6

**Agriculture, Department of—Cont.**

- Fertilizers, commercial, 4-4-1 et seq.
  - Inspection fee, 4-4-2
  - Micronutrients, 4-4-1
- Fertilizers, containment, 4-4-900 et seq.
  - Abandoned containers, 4-4-912
  - Application for new or modified storage facilities, 4-4-985
  - Bulk fertilizer storage facility, alternative design, 4-4-956
  - Containers, 4-4-901
    - Mobile, 4-4-982, 4-4-983, 4-4-984
  - Containment areas, 4-4-911
  - Definitions, 4-4-900
  - Dikes, drainage, 4-4-935
  - Diking requirements, 4-4-932, 4-4-934
  - Dry bulk fertilizers, 4-4-920
  - Inspection and maintenance requirements, 4-4-937
  - Liners, 4-4-933
  - Liquid bulk fertilizer bladder tank requirements, 4-4-986
  - Recessed catch drain, 4-4-936
  - Record keeping, 4-4-921
  - Secondary containment, 4-4-931
  - Storage container, facility,
    - Initial diagram or plans, 4-4-950
    - Plans and specifications, 4-4-951
    - Timeframe for construction, 4-4-952, 4-4-953
  - Storage containers,
    - Construction, 4-4-903
    - Discharge response plan, 4-4-922
    - Filling, 4-4-906
    - Grounding and anchoring of, 4-4-904
    - Inspection and maintenance, 4-4-910
    - Labeling of, 4-4-909
    - Liquid level gauging device, 4-4-908
    - Mobile, 4-4-983
    - Pipes and fittings, 4-4-907
  - Storage tank over 100,000 gallons, 4-4-923, 4-4-924
- Food safety, 4-28-1 et seq.
  - Adoption by reference, 4-28-2
  - Adoption of Kansas food code, 4-28-8
  - Breaded products, 4-28-22
  - Compliance and enforcement, 4-28-15
  - Definition; specialized processing, 4-28-1
  - Definitions and standards of identity,
    - Beef products, 4-28-19
    - Pork products, 4-28-21
  - Equipment, utensils, and linens, 4-28-11
  - Fees,
    - Education facility with a school lunch program, 4-28-31
    - Food processing plant, 4-28-5
    - Food service establishment, 4-28-7
    - Food vending machine company, application for, 4-28-4
    - Mobile retail ice cream vendor, 4-28-3
    - Retail food establishment, 4-28-6
  - Food establishments, 4-28-10
    - Exemption from licensure; definitions, 4-28-34
    - Fees; risk levels, 4-28-6
    - Management and personnel, 4-28-9
    - Mobile and temporary food establishments, 4-28-16
    - Physical facilities, 4-28-13

**Agriculture, Department of—Cont.**

- Food safety—Cont.
  - Food establishments—Cont.
    - Poisonous or toxic materials, 4-28-14
    - Sanitation and hygiene requirements for exempt food establishments, 4-28-33
    - Water, plumbing, and waste, 4-28-12
  - Frozen food locker plant,
    - Cleansing and sterilizing tools and equipment, 4-28-26
    - Inspection by plant operator, 4-28-28
    - Place for processing, 4-28-30
    - Products to be frozen before storage, 4-28-29
    - Temperature requirements, 4-28-25
    - Toilet and handwashing facilities, 4-28-27
  - Guaranty; definition, 4-28-18
  - Rooms where food is handled, 4-28-24
  - Sidewalk or street display, 4-28-23
  - Vehicles used in transportation, 4-28-32
- Grain,
  - Transfer of grain between public warehouses, 25-5-1
- Grain warehouse, 4-25-2 et seq.
  - Appraisals, 4-25-13
  - Definition of 12-month period, 4-25-15
  - Dry, edible beans, allowance for storage, 4-25-11
  - Fees and charges, 4-25-16
  - Financial statements, 4-25-12
  - Grain bank grain, 4-25-10
  - License, credit for unexpired portion, 4-25-18
  - Public warehouse receipts; form, 4-25-7
  - Record retention, 4-25-2
  - Return of documents, 4-25-3
  - Scale tickets,
    - Inbound form, 4-25-8
    - Outbound form, 4-25-9
  - Secretary's right to seal bins and weigh grain, 4-25-6
  - Storage liability reports, 4-25-5
  - Storage space; exception, 4-25-4
  - Successor agreement, 4-25-14
  - Transfer of grain between public warehouses, 4-25-17
- Honeybees, 4-14-1 et seq.
  - Fees,
    - Inspection, 4-14-1
    - Registration, 4-14-3
    - Transportation, 4-14-2
- Industrial hemp, 4-34-1 et seq.
  - Access to records and property, 4-34-28
  - Compliance with applicable law, 4-34-15
  - Corrective action plans, 4-34-29
  - Definitions, 4-34-1
  - Disposal; violations, 4-34-25
  - Harvest and pre-harvest requirements, 4-34-17
  - Harvest certificates, 4-34-17
  - Land-use restrictions, 4-34-14
  - Licenses,
    - Administrative license, 4-34-10
    - Approval process, 4-34-3
    - Commercial cultivation or production, 4-34-22
    - Fees, 4-34-12
    - General requirements, 4-34-5
    - Modification of license, 4-34-13
    - Research distributor license, 4-34-7
    - Research grower license, 4-34-6
    - Research license applications, 4-34-4
    - Research processor license, 4-34-8

**Agriculture, Department of—Cont.**

- Industrial hemp—Cont.
  - Licenses—Cont.
    - State educational institution research license, 4-34-9
  - Movement, 4-34-15
  - Planting and pre-harvest requirements, 4-34-23
  - Planting restrictions, 4-34-27
  - Post-harvest inspection,
    - Sample collection, 4-34-19
    - Testing and post-testing actions, 4-34-19
  - Pre-harvest inspection,
    - Sample collection, 4-34-18
    - Testing and post-testing actions, 4-34-18
  - Reports, 4-34-20
  - Sale or transfer restrictions, 4-34-15
  - Sampling, testing, and harvest requirements, 4-34-24
  - Seed, certified, 4-34-2
  - Signage requirements, 4-34-27
  - State advisory board, 4-34-11
  - State educational institutions, 4-34-30
  - Transportation of industrial hemp, 4-34-26
  - Violations,
    - Disciplinary sanctions, 4-34-21
    - Disposal, 4-34-25
    - Negligent, 4-34-29
    - Voluntary partial destruction, 4-34-16
    - Voluntary withdrawal, 4-34-16
    - Volunteer plants, 4-34-27
  - Liming materials, agricultural, 4-5-1 et seq.
    - Classification, 4-5-2
    - Definitions, 4-5-1
    - Inspection tonnage report, 4-5-3
    - Testing, 4-5-4
  - Livestock remedies, registration fee, 4-18-1
  - Lodging establishments, 4-27-1 et seq.
    - Application fees, 4-27-1
    - Definitions, 4-27-2
    - Dishware and utensils, 4-27-10
    - Facilities and maintenance,
      - Electrical systems, 4-27-19
      - Exterior premises, 4-27-15
      - Heating, ventilation, and air-conditioning (HVAC) systems, 4-27-21
    - Housekeeping and laundry facilities; maintenance supplies and equipment, 4-27-11
    - Plumbing systems, 4-27-20
    - Public indoor areas, 4-27-13
    - Sewage systems, 4-27-18
    - Swimming pools, recreational water facilities, and hot tubs, 4-27-16
    - Water supply systems, 4-27-17
  - Food service and food safety, 4-27-4
  - General requirements, 4-27-6
  - Guest and public safety, 4-27-8
  - Guest rooms, 4-27-9
  - Ice and ice dispensing, 4-27-14
  - Imminent health hazard, 4-27-5
  - Inspections by qualified individuals, private entities, or public entities, 4-27-22
  - Licensure; plans and specifications; variances, 4-27-3
  - Personnel; health, cleanliness, and clothing, 4-27-7
  - Poisonous or toxic materials, 4-27-12
- Meat and meat products inspection, 4-16-1 et seq.
  - Civil penalty, 4-16-300 et seq.

**Agriculture, Department of—Cont.**

- Meat and meat products inspection—Cont.
  - Definitions, 4-16-1a
  - Exemptions, 4-16-3a
  - Federal guidelines, packing plants, 4-16-250, 4-16-251
  - Federal regulations adopted by reference, 4-16-1c
  - Inspection fees, 4-16-7a
  - Miscellaneous beef products, 4-16-260
  - Temperature requirements, 4-16-252
- Milk and dairy products, 4-7-1 et seq.
  - Dairy laws, Kansas, 4-7-900 et seq.
    - Civil penalty, 4-7-900
    - Complaint, 4-7-900, 4-7-902
    - Dollar amount of, 4-7-902, 4-7-903, 4-7-905
    - Informal settlement, 4-7-904
  - Definitions, 4-7-213, 4-7-214, 4-7-531, 4-7-717
  - Desserts, frozen, 4-7-510, 4-7-513, 4-7-532, 4-7-533
  - Dietary, frozen desserts, 4-7-507
  - Fees, Grade A, 4-7-202
  - Fees, lab work, 4-7-804
  - Grade A dry milk and whey products, 4-7-722
  - Grade A pasteurized, 4-7-718, 4-7-719, 4-7-720
  - Milk for manufacturing purposes,
    - Adoption by reference, 4-7-213
    - Bacterial and somatic cell count, 4-7-213a
    - Enforcement, 4-7-216
    - Insertions, 4-7-215
  - Milk hauler license, 4-7-1000
  - Milk tester license, 4-7-1001
  - Testing and sampling procedures, 4-7-408, 4-7-720
  - Ungraded milk and cream,
    - Bacterial and coliform count, 4-7-6
    - Handling requirements, 4-7-4
    - Health of herd, 4-7-2
    - Production requirement, 4-7-3
- Mill levy assessment, 4-33-1 et seq.
- Noxious weeds, 4-8-13 et seq.
  - Biological control plan, 4-8-41
  - Canada thistle control program, 4-8-33
  - Herbicides approved for cost share, 4-8-14a
  - Hoary cress control program, 4-8-30
  - Kudzu control program, 4-8-37
  - Multiflora rose control program, 4-8-39
  - Notices and statements, 4-8-13
  - Pignut control program, 4-8-36
  - Quackgrass control program, 4-8-35
  - Russian knapweed control program, 4-8-31
  - Sericea lespedeza control program, 4-8-40
  - Sericea lespedeza disaster area declaration, 4-8-43
  - Weed control practices, 4-8-27 et seq.
  - Weed supervisors, approval of employment, 4-8-38
- Nutrient utilization plan, 4-21-1 et seq.
- Pesticide laws, Kansas, 4-13-10 et seq.
  - Aircraft, marking, 4-13-19
  - Application,
    - Household, 4-13-29
    - Preconstruction, 4-13-26
  - Bulk storage and handling, 4-13-25 et seq.
  - Civil penalty, 4-13-60 et seq.
    - Adjusting the amount of the proposed penalty, 4-13-65
    - Amount, 4-13-62
    - Answer to the complaint, 4-13-61
    - Criteria to determine the dollar amount of the penalty, 4-13-63
    - Order, 4-13-60

**Agriculture, Department of—Cont.**

- Pesticide laws, Kansas—Cont.
  - Definitions, 4-13-1
  - Informal settlement, 4-13-64
  - Liability insurance, 4-13-27
  - Licenses and certificates,
    - Address change, 4-13-32
    - Business license, 4-13-2
      - Fees, 4-13-20, 4-13-24
    - Categories and subcategories, 4-13-3
    - Certificates and pocket cards, 4-13-15, 4-20-13
  - Commercial applicator,
    - Age restriction, 4-13-12
    - Categories and subcategories, 4-13-11
    - Certificate, application fee, 4-13-22
    - Certificate, display of, 4-13-31
    - Certified commercial applicator not acting for business, 4-13-5
    - Change of address, 4-13-17
    - Dealer records, 4-13-30
    - Disposal of pesticides and containers, 4-13-18
    - Examination, fees, 4-13-13, 4-13-14, 4-13-23
    - Fees, 4-13-21, 4-13-24
    - Governmental agency registration, 4-13-10, 4-13-21
  - Pest control technicians, 4-13-33 et seq.
  - Report of change by business, 4-13-9
  - Statement or contract of service, written,
    - Business, 4-13-4
    - Requirements for, 4-13-4a
  - Supervision of noncertified applicators, 4-13-16
  - Surety bond requirement, 4-13-8
  - Suspension, revocation, 4-13-40 et seq.
  - Target pests, not specified on label, 4-13-28
  - Termite control application, 4-13-7, 4-13-26
  - Vehicles, marking, 4-13-6
- Plants and plant products, fees, 4-15-1 et seq.
  - Complaints and penalties,
    - Answer to complaint, 4-15-12
    - Civil penalty, 4-15-11, 4-15-13
    - Informal settlement, 4-15-14
  - Inspection and certification, fees,
    - Fees, 4-15-8, 4-15-9
    - Other than plant nurseries, 4-15-2
    - Plant nurseries, 4-15-1
  - Live plant,
    - Dealer certificate of inspection, 4-15-9a
    - Dealer license fee, 4-15-5
    - Dealer licensing exemption, 4-15-7
    - Definitions, 4-15-4
  - Nursery dealer license, 4-15-3
  - Pests,
    - Emergency response fund fee, 4-15-6
    - Freedom standards, 4-15-10
  - Poultry and poultry products inspection, 4-17-1 et seq.
    - Adoption by reference, 4-17-1c
    - Civil penalty, 4-17-300 et seq.
    - Definitions, 4-17-1a
    - Exemptions, 4-17-5a
  - Seed, 4-2-1 et seq.
    - Adoption by reference, 4-2-20
    - Analyses, method, 4-2-8
    - Indistinguishable seed, identification, 4-2-10
    - Labeling,
      - Prohibition, 4-2-1

**Agriculture, Department of—Cont.**

## Seed—Cont.

## Labeling—Cont

Requirements, 4-2-18

Treated seed, 4-2-2

Offered for sale, defined, 4-2-14

Origin, 4-2-11

Sampling procedure, 4-2-3

Tests, charges for, 4-2-17a

Wholesalers and retailers, registration fees, 4-2-21

Soil amendments, registration fee, 4-19-1

Weeds. See Noxious weeds.

**Agriculture, Department of, Division of Animal Health**

See Animal Health Division of Kansas Department of Agriculture, Agency 9

**Agriculture, Department of, Division of Conservation**

See Conservation Division of Kansas Department of Agriculture, Agency 11

**Agritourism**

Wildlife and Parks, Kansas Department of, Agency 115

**Air Quality Standards**

Department of Health and Environment, Agency 28

**Alcoholic Beverage Control, Division of, Department of Revenue—Agency 14**

Advertising, 14-8-1 et seq.

Advertising on vehicles, 14-8-6

Definitions, 14-8-1

Photographs of licensed premises, prohibited, 14-8-12

Prohibited statements and instructions, 14-8-2

Public display, 14-8-3

Signs on buildings, prohibited, 14-8-8

Solicitation prohibited, 14-8-7

Vehicles, prohibited, 14-8-6

Caterers, 14-22-1 et seq.

Application and renewals, 14-22-2

Definitions, 14-22-1

Drinking establishments, 14-22-8

Drinks, minimum prices, 14-22-16

Employees, registration, 14-22-9

Events, filings, notice of, 14-22-6

Excise tax, 14-22-19

Federal retail stamp, 14-22-18

License,

Issuance, 14-22-4

Loss or destruction of, 14-22-5

Requirements, 14-22-3

Cereal malt beverages, 14-12-1 et seq.

Agreements, filings, cancellations, 14-12-9

Applications, 14-12-1

Bills of lading, 14-12-10

Bond, wholesalers, 14-12-2

Cancellation, 14-12-8

Brewers, contract and bond, 14-12-2

Cereal malt beverage, 14-12-10

Labels on containers, 14-12-16

Military refund of tax, 14-12-13

Sale requirements, 14-12-15

Storage, 14-12-5, 14-12-7

**Alcoholic Beverage Control—Cont.**

## Cereal malt beverages—Cont.

Cereal malt beverage—Cont.

Wine distributors, 14-12-18

Change of ownership, 14-12-3

Corporations, trade names, 14-12-4

Importers' contract, 14-12-14

Inducements, 14-12-17

Invoices, 14-12-11

License, established place of business, 14-12-6

Class A clubs, 14-19-4a et seq.

Applications and renewals, 14-19-15

Automated devices, 14-19-40

Cereal malt beverages, sale, 14-19-29

Change of club status, 14-19-19

Definitions, 14-19-14

Employees, registration, 14-19-24

Federal retail stamp, 14-19-33

Guests of members, registration, reciprocal, 14-19-21

Licenses,

Issuance, 14-19-17

Loss or destruction of, 14-19-18

Requirements, 14-19-16

Liquor,

Nontaxed, 14-19-28

Purchase of, 14-19-25

Storage, 14-19-4a, 14-19-27

Premises, extension of, 14-19-39

Public functions on licensed premises, 14-19-36

Reciprocal membership, 14-19-23

Refund upon cancellation, 14-19-20

Responsibility of licensee, 14-19-26

Stockholders, partners, beneficiaries, 14-19-22

Suspension and revocation, grounds, 14-19-35, 14-19-38

Class B clubs, 14-20-14 et seq.

Applications and renewals, 14-20-15

Automated devices, 14-20-42

Cereal malt beverages, sale, 14-20-31

Change of club status, 14-20-19

City and county license, tax, 14-20-34

Definitions, 14-20-14

Drinks, prices, 14-20-32

Employees, registration, 14-20-26

Excise tax, employees, 14-20-36

Federal retail stamp, 14-20-35

Guests of members, reciprocal, 14-20-21

Licenses,

Display of, 14-20-39

Issuance, 14-20-17

Loss or destruction of, 14-20-18

Requirements, 14-20-16

Liquor,

Nontaxed, 14-20-30

Purchase, 14-20-27

Storage, removal from premises, 14-20-29

Membership roster, 14-20-22

Premises, extension of, 14-20-41

Public functions on licensed premises, 14-20-38

Reciprocal membership agreement, 14-20-23

Refund upon cancellation, 14-20-20

Responsibility of licensee, 14-20-28

Restaurant clubs, determination of, 14-20-24

Suspension and revocation, 14-20-37, 14-20-40

Temporary membership, 14-20-25

**Alcoholic Beverage Control—Cont.**

- Containers and labels, 14-6-1 et seq.
  - Capacities, 14-6-2a
  - Labels,
    - Alcohol content statement required, 14-6-4
    - False representations, 14-6-5
    - Liquor, 14-6-3
    - Private, 14-6-6
  - Nature and form, 14-6-1
- Drinking establishments, 14-21-1 et seq.
  - Applications and renewals, 14-21-2
  - Automated devices, 14-21-23
  - Cereal malt beverages, sale, 14-21-14
  - Change of club status, 14-21-6
  - City and county license tax, 14-21-17
  - Criteria for determination, 14-21-8
  - Definitions, 14-21-1
  - Drinks, prices, 14-21-15
  - Employees, registration, 14-21-9
  - Excise tax, employees, 14-21-19
  - Federal retail stamp, 14-21-18
  - License, issuing, 14-21-4
    - Loss or destruction, 14-21-5
    - Nontaxed, 14-21-13
    - Requirements for, 14-21-3
    - Suspension and revocation, 14-21-20, 14-21-22
- Liquor,
  - Nontaxed, 14-21-13
  - Purchase, 14-21-10
    - Storage, removal from premises, 14-21-7, 14-21-12
  - Premises, extension of, 14-21-21
  - Refund upon cancellation, 14-21-7
  - Responsibility of licensee, 14-21-11
- Farm wineries, 14-11-3 et seq.
  - Advertising, instructions, 14-11-14
  - Definitions, 14-11-1
  - Employee registration; salesperson permits, 14-11-4
  - Employment instructions, 14-11-3
  - Farmers' market sales permit, 14-11-24
  - Filing price schedule, penalties, 14-11-10d
  - Illegal sales, 14-11-9
  - Kansas product requirements, 14-11-27
  - Label approval required, 14-11-26
  - Licensee as manufacturer, 14-11-25
  - Minors, sales prohibited, 14-11-28
  - Opened containers, 14-11-6
  - Price listings, 14-11-10b
  - Public display, 14-11-15
  - Rationing, 14-11-11
  - Record retention, reporting requirements, 14-11-29
  - Retail, 14-11-16
  - Sales and deliveries, 14-11-7
  - Special order shipping, 14-11-23
    - License requirements, 14-11-22
  - Sworn statements, 14-11-10a
  - Warehouses, 14-11-5
- Keg registration, beer and cereal malt beverage, 14-15-1 et seq.
  - Definitions, 14-15-1
  - Registration tags, 14-15-2
- Licenses, suspension, revocation, 14-16-14 et seq.
  - Appeals, 14-16-24
  - Business operation during lapse of license, 14-16-22
  - Definitions, 14-16-14
  - Director may revoke, 14-16-15

**Alcoholic Beverage Control—Cont.**

- Licenses, suspension, revocation—Cont.
  - Fines and penalties, 14-16-23
  - Hearing procedures, motions, 14-16-17, 14-16-19
  - Penalties for violations, 14-16-25
  - Prehearing conference, 14-16-18
  - Proceedings for involuntary cancellation, 14-16-16
  - Service of orders, 14-16-21
- Manufacturers; Distributors; Non-Beverage Users;
  - Farm Wineries; Microbreweries,
    - Conduct of licensees, prohibited, 14-14-11
    - Definitions, 14-14-1
    - Franchises, 14-14-5
    - Inventory, withdrawal for sampling, 14-14-6a
    - Licenses,
      - Application for, 14-14-2
      - Corporate licensees, change of ownership, 14-14-4
      - Renewal of, 14-14-3
    - Permit to import small quantities of wine, 14-14-13
  - Records,
    - Distributor's records required, reports required, filing of affidavits, 14-14-8
    - Manufacturer's records required, reports required, filing of affidavits, 14-14-10
- Manufacturers; Distributors; Non-Beverage Users;
  - Farm Wineries; Microbreweries—Cont.
    - Records—Cont.
      - Non-beverage user licensees records required, 14-14-9
    - Sales and transfers of alcoholic liquor by distributors authorized, export permits, 14-14-7
    - Seminars, industry, 14-14-6
    - Transportation by distributors, 14-14-14
    - Transportation of spirits by distributors, 14-14-12
- Miscellaneous, 14-17-1 et seq.
  - Confiscated liquor, sale of, 14-17-3
  - Employees, acceptance of hospitality by director, 14-17-6
  - Hospitality, acceptance of, 14-17-5
  - Residency, determination, 14-17-7
  - Sacramental wine, 14-17-2
  - Subterfuges, rules circumvention, 14-17-4
  - Surety bonds, 14-17-1
- Off-Premises Cereal Malt Beverage Retailers, 14-25-1 et seq.
  - Definitions, 14-25-1
  - Prohibited conduct of retailer, 14-25-6
  - Recordkeeping, 14-25-4
  - Retailer's responsibility for conduct of business and employees, 14-25-3
  - Trade practices; applicability, 14-25-2
  - Transfer of retailer's inventory; application for permission; seizure and sale of abandoned inventory, 14-25-5
- On-Premises Cereal Malt Beverage Retailers, 14-26-1, et seq.
  - Definitions, 14-26-1
  - Minimum prices for drinks, acquisition cost, 14-26-5
  - Recordkeeping, 14-26-6
  - Refusal of right to enter or inspect licensed premises prohibited, 14-26-4
  - Retailer's responsibility for conduct of business and employees, 14-26-3
  - Storage of cereal malt beverage or beer containing not more than six percent alcohol by volume; removal from licensed premises; 14-26-7
  - Trade practices; applicability, 14-26-2

**Alcoholic Beverage Control—Cont.****On-Premises Cereal Malt Beverage Retailers—Cont.**

- Transfer of retailer's inventory; application for permission; seizure and sale of abandoned inventory, 14-26-8
- Retail liquor dealer, 14-13-1 et seq.
  - Conduct prohibited, 14-13-13
  - Containers, defective, repurchase by retailer, 14-13-12
  - Definitions, 14-13-1
  - "Doing business as" names, 14-13-15
  - Employees, 14-13-5
  - License, application, 14-13-2
  - License, duplicate, 14-13-7
  - License, renewal, 14-13-3
  - Location change, 14-13-6
  - Management by someone other than owner, 14-13-14
  - Ownership change; notice to director, 14-13-18
  - Prohibited transactions, 14-13-9
  - Records, 14-13-10
  - Signs, 14-13-11
  - Stock transfer; seizure and sale of abandoned liquor, 14-13-8
  - Tasting events,
    - Requirements; prohibitions, 14-13-16
    - Supplier participation; requirements; prohibitions, 14-13-17
  - Taxes required, 14-13-4
- Storage, transportation, carriers, 14-5-1 et seq.
  - Alcoholic liquor, 14-5-1
  - Carriers permits, 14-5-2
  - Delivery, 14-5-6
  - Storage of liquor, 14-5-4
- Tax; crowns, lids, labels, 14-7-2 et seq.
  - Alcoholic liquor, 14-7-4
  - Beer, 14-7-2
  - Distributors, 14-7-10 to 14-7-12
  - Identification stamps, liquor, 14-7-6
- Temporary permits, 14-23-1 et seq.
  - Applications, 14-23-2
  - Definitions, 14-23-1
  - Drink prices, 14-23-12, 14-23-13
  - Employees, 14-23-7
  - Events, filing, notice of, 14-23-5
  - Issuance, 14-23-4
  - Liquor,
    - Non-taxed, 14-23-11
    - Purchase, 14-23-8
    - Refund upon cancellation, 14-23-6
    - Removal of, 14-23-10
    - Requirements, 14-23-3
    - Responsibility, 14-23-9
    - Suspension and revocation, 14-23-15
- Trade practices, 14-10-1 et seq.
  - Advertising signs, cooperative advertising, trade journals, 14-10-10
  - Advertising specialties, 14-10-14
  - Defective liquor containers, 14-10-16
  - Definitions, 14-10-5
  - General, 14-10-6
  - Inducement, indirect, 14-10-7
  - License, assistance in acquiring, 14-10-9
  - Product displays, 14-10-13
  - Recordkeeping requirements, 14-10-12
  - Repurchase by distributor; when allowed, 14-10-18
  - Retailer association activities, 14-10-15

**Alcoholic Beverage Control—Cont.****Trade practices—Cont.**

- Sale of equipment, supplies, or services, 14-10-8
- Trade practices, 14-10-17
- Value-added packages, 14-10-11
- Winery shipping permits, 14-24-1 et seq.
  - Definitions, 14-24-1
  - Disposition of wine shipment not removed from retailer's premises, 14-24-3
  - Liquor enforcement tax, calculation and payment, 14-24-5
  - Permit holders,
    - Gallonage tax returns and payments, out-of-state, 14-24-4
    - Report of sales, 14-24-6
  - Shipping record to accompany each shipment of wine, 14-24-2

**Alcoholism**

- Alcohol and drug abuse treatment program.
- Department of Social and Rehabilitation Services, Agency 30

**Ambulances**

- Emergency Medical Services Board, Agency 109

**Amusement Rides**

- Department of Labor, Agency 49

**Animal Health Division of Kansas Department of Agriculture, Agency 9**

- Animal facility inspection program, 9-18-1 et seq.
  - Age of animal, 9-18-20
  - Animal breeders and animal distributors, 9-18-24
  - Animal grouping,
    - Compatible grouping, 9-18-15
    - Separation by gender, 9-18-16
  - Animal research facilities, 9-18-26
  - Cleaning, sanitization, and pest control, 9-18-14
  - Contingency planning, 9-18-18
  - Definitions, 9-18-4
  - Employees and volunteers, 9-18-19
  - Enclosures, 9-18-13
  - Euthanasia methods; prohibition, 9-18-31
  - Exercise, 9-18-22
  - Feeding and watering, 9-18-17
  - Fees, 9-18-1, 9-18-6
  - Feline immunodeficiency virus-positive cats, 9-18-23
  - Foster homes for pet animals, 9-18-28
  - Gift of sale of certain animals prohibited, 9-18-25
  - Importing dogs and cats, 9-18-5
  - Inspection, complaint, 9-18-3
  - Inspections of premises, 9-18-2, 9-18-8, 9-18-9
  - Mobile adoption facilities, 9-18-29
  - Records, 9-18-7
  - Requirements for housing facilities, 9-18-10
    - Indoor and sheltered housing facilities, 9-18-11
    - Outdoor housing facilities, 9-18-12
  - Rescue networks, 9-18-27
  - Tethering of animals by boarding or training kennel operators, 9-18-30
  - Veterinary medical care, 9-18-21

**Animal Health Division—Cont.**

- Animal pounds and shelters, 9-22-1 et seq.
- Animal health and husbandry standards, 9-22-2
- Foster homes, 9-22-4
- Group homes and rescue homes, 9-22-5
- Records, 9-22-3
- Animal research facility, 9-21-1 et seq.
- Anthrax vaccine, 9-1-1, 9-1-2
- Bovine brucellosis, 9-2-1 et seq., 9-7-4
  - Calfhood vaccine,
    - Reports, 9-2-6
  - Definitions, 9-2-1
  - Federal eradication guidelines adopted, 9-2-32
  - Imported cattle requirements, 9-7-4
  - Movement of sexually intact cattle and bison from designated surveillance areas, 9-2-35
  - Test eligible cattle, sale of, 9-2-33
- Branding heifers, 9-2-34
- Brucella ovis*, 9-28-1 et seq.
  - Definitions, 9-28-1
  - Tests, 9-28-2
- Cervidae, 9-29-1 et seq.
  - Brucellosis, 9-29-5
  - Chronic wasting disease,
    - Affected herds, 9-29-15
    - Definitions, 9-29-12
    - Program levels, 9-29-14
    - Requirements to participate in program, 9-29-13
  - Confinement, handling, husbandry and health, 9-29-7
  - Definitions, 9-29-1
  - Fees, 9-29-2
  - Handling, care, treatment, and transportation, 9-29-10
  - Health certificates and importation permits, 9-29-4
  - Public sales and auction, 9-29-9
  - Records, 9-29-3
  - Recovery or destruction of escaped domesticated deer, 9-29-8
  - Tuberculosis, 9-29-6, 9-29-11
- Cholera, hog, 9-6-1 et seq.
  - Disinfection of premises, 9-6-4
  - Quarantine, requirements, 9-6-2
  - Quarantined herds,
    - Movement to slaughter, 9-6-6
    - Supervision, 9-6-3
  - Reportable disease, 9-6-1
  - Vaccination, 9-6-7, 9-6-8, 9-6-9
- Diseases, reportable,
  - Infectious or contagious, designation of, 9-27-1
- Equine infectious anemia, 9-30-1 et seq.
  - Infected equidae moving to another state, 9-30-3
  - Notification, 9-30-1
  - Testing positive, 9-30-2
- Euthanasia methods, 9-26-1
  - Prohibition, 9-18-31
- Feedlots, livestock, 9-8-1 et seq.
  - Cleaning of premises, 9-8-1
  - Drainage, 9-8-4
  - Equipment, 9-8-6
  - Facilities, location and construction of, 9-8-3
  - Insects, rodents and pests, control of, 9-8-2
  - Veterinarian, 9-8-5
- Garbage feeding, 9-5-1 et seq.
  - Diseased swine, destruction, 9-5-3
  - Heating requirements, 9-5-7

**Animal Health Division—Cont.**

- Garbage feeding—Cont.
  - Hogs, movement or sale, 9-5-1
  - Platforms for feeding, 9-5-4
    - Disposal of materials removed from, 9-5-5
  - Receiving, purchasing or slaughtering animals fed garbage refuse, 9-5-2
  - Records, 9-5-8
  - Supervision by veterinarian inspectors, 9-5-6
- Hobby kennel operators, 9-23-1 et seq.
- Husbandry and operational standards, 9-19-1 et seq.
  - Adoption by reference, 9-19-12
  - Cleaning, sanitization, housekeeping and pest control, 9-19-10
  - Employees, 9-19-11
  - Exercise, 9-19-7
  - Feeding, 9-19-8
  - Grouping, compatible, 9-19-6
  - Housing facilities,
    - General, 9-19-1
    - Indoor, 9-19-2
    - Outdoor, 9-19-4
    - Sheltered, 9-19-3
  - Primary enclosures, requirements, 9-19-5
  - Watering, 9-19-9
- Kennel operators, 9-24-1 et seq.
- Livestock brands, 9-15-1 et seq.
  - Ear marks, 9-15-2
  - Inspection fees, 9-15-5
  - Locations, 9-15-3
  - Registration and renewal fees, 9-15-4
  - Single letters or numerals, 9-15-1
- Livestock dealers registration, 9-14-1, 9-14-2, 9-14-3
- Livestock, movement of, 9-7-1 et seq.
  - Buffalo or bison, 9-7-12
  - Camelidae, 9-7-17
  - Cats, 9-7-9a
  - Cattle, 9-7-4, 9-7-4a, 9-7-5, 9-7-6
  - Cervidae, 9-7-16
  - Dogs, 9-7-9
  - Equidae, 9-7-14
  - Equine passport, 9-7-19
  - Exhibition purposes, 9-7-10
  - General provisions, 9-7-1
  - Goats, 9-7-13
  - Health certificates, 9-7-2
  - Permits, livestock importation, 9-7-3
  - Ratites, 9-7-15
  - Rodeo stock, 9-7-18
  - Sheep, 9-7-8
  - Swine, 9-7-7
  - Zoo and domesticated wild animals, 9-7-11
- Market, public livestock, 9-10-1 et seq.
  - Backtagging procedures, 9-10-24a
  - Brucellosis,
    - Test chart, 9-10-25a
    - Testing procedures, 9-10-26a
  - Diseased or exposed animals,
    - Handling procedures, 9-10-27a
    - Quarantine, 9-10-15
  - Disinfection of premises, 9-10-19
  - Disposal of euthanized carcasses, 9-10-39
  - Electronic auctions, 9-10-33a
  - Euthanasia, 9-10-38

**Animal Health Division—Cont.**

## Market, public livestock—Cont.

- Fees,
  - License and license renewal, 9-10-40
  - Regulatory, 9-10-23
  - Veterinary testing, 9-10-22a
- Health certificates, 9-10-3, 9-10-33a
- Injured or defective livestock, 9-10-16, 9-10-33
- Inspection,
  - Cattle, 9-10-5
  - General, 9-10-4
  - Sheep and goats, 9-10-7
  - Swine, 9-10-8
- Notice, 9-10-34
- Pens and facilities, 9-10-21
- Poultry, 9-10-14
- Premises, limitation on use, 9-10-18
- Procedures, 9-10-35
- Sales, 9-10-1, 9-10-2, 9-10-31, 9-10-32
- Swine, 9-10-10
  - Rejected by veterinary inspector, 9-10-30
  - Restrictions on sale, 9-10-9
- Unfit for sale,
  - Diseases, 9-10-36
  - Injuries, 9-10-37
- Yard facilities, 9-10-17
- Meat, inedible, and disposable plants, 9-4-1 et seq.
  - Containers, marking, 9-4-2
  - Definitions, 9-4-1
  - Exemptions, 9-4-6
  - Handling, 9-4-3
  - Records, 9-4-4
  - Sales, registration, 9-4-5
- Pet shops, 9-20-1 et seq.
  - Animal health and husbandry standards, 9-20-2
  - Prohibiting the sale or gift of certain animals, 9-20-4
  - Records, 9-20-3
- Poultry and hatching eggs, 9-9-1 et seq.
  - Importation,
    - Immediate slaughter, 9-9-2
    - Permits, 9-9-4
    - Prohibited, certain cases, 9-9-1
  - Poultry under 5 months, 9-9-3
    - Health certificates, 9-9-5
- Pseudorabies, swine, 9-17-1 et seq.
  - Breeding, monitored qualified feedlot, 9-17-7
  - Change of ownership, 9-17-6
  - Definitions, 9-17-1
  - Eradication of pseudorabies from infected swine herds, 9-17-3
  - Exhibition swine, 9-17-4
  - Feed lot restrictions, 9-17-8
  - Qualified pseudorabies negative herd, 9-17-2
  - Swine slaughter show, 9-17-5
- Retail breeders facility standards, 9-25-1 et seq.
  - Access to and inspection of records and property, 9-25-13
  - Adequate medical veterinary care, 9-25-15
  - Age of animal, 9-25-12
  - Compatible grouping, 9-25-7
  - Employees, 9-25-11
  - Exercise for dogs, 9-25-8
  - Feeding, 9-25-9
  - Housing facilities,
    - Cleaning, sanitization, housekeeping and pest control, 9-25-6

**Animal Health Division—Cont.**

## Retail breeders facility standards—Cont.

- Housing facilities—Cont.
    - General, 9-25-1
    - Indoor, 9-25-2
    - Outdoor, 9-25-4
    - Primary enclosures, 9-25-5
    - Sheltered, 9-25-3
  - Watering, 9-25-10
  - Scrapie in sheep and goats, 9-32-1 et seq.
    - Definitions, 9-32-1
    - Exhibition sheep and goats, 9-32-6
    - Identification requirements, 9-32-2
    - Movement into Kansas of sheep and goats intended for breeding, 9-32-4
    - Movement into Kansas of sheep and goats intended for slaughter, 9-32-5
    - Movement of scrapie-infected or scrapie-exposed sheep and goats, 9-32-3
    - Recordkeeping requirements, 9-32-8
    - Sheep and goats consigned to Kansas livestock markets, 9-32-7
  - Specific pathogen free, 9-12-1 et seq.
    - Accreditation status, 9-12-9
      - Suspension or termination, 9-12-8
    - Definitions, 9-12-1
    - Inspections, 9-12-5
      - Personnel, 9-12-10
    - Laboratory licensure, 9-12-3
    - Laboratory swine, 9-12-2
    - Parasites, 9-12-6
    - Slaughter examinations, 9-12-4
    - Validation as brucellosis free, 9-12-7
  - Swine brucellosis and cervids, 9-3-1 et seq.
    - Brucellosis,
      - Definitions, 9-3-1
      - Eradication of brucellosis, plans, 9-3-3
      - Official program work and reports, 9-3-4
      - Quarantine, 9-3-5
      - Validated brucellosis-free swine herd, 9-3-2
    - Cervids,
      - Brucellosis, 9-3-10
      - Definitions, 9-3-6
      - Certification of veterinary inspection; requirements and permits, 9-3-9
      - Confinement, handling, and health, 9-3-12
      - CWD-infected herds, 9-3-17
      - Escaped domesticated cervids, 9-3-13
      - Fees, 9-3-7
      - Handling, care, treatment, and transportation, 9-3-14
      - Participation in the chronic wasting disease monitoring program, 9-3-15
      - Program levels, 9-3-16
      - Records, 9-3-8
      - Tuberculosis, 9-3-11
  - Trichomoniasis,
    - Imported cattle requirements, 9-7-4a
  - Tuberculosis,
    - Federal eradication guidelines adopted, 9-11-10
    - Imported cattle requirements, 9-7-4
- Apartment Houses**
- Lodging.
    - Department of Health and Environment, Agency 28

## **Architects, Registration and Examinations**

Board of Technical Professions, Agency 66

## **Armories**

Office of the Adjutant General, Agency 56

## **Asbestos**

Department of Health and Environment, Agency 28

## **Athlete Agent Act**

Secretary of State, Agency 7

## **Athletic Commission, Kansas, Agency 128**

Department of Commerce—Kansas Athletic Commission

## **Attorney General, Agency 16**

Bail enforcement agent licensing, 16-15-1 et seq.

Application for license, 16-15-2

Definitions, 16-15-1

Fees, 16-15-3

License renewal, 16-15-4

Batterer intervention program requirements and certification, 16-12-1 et seq.

Certification,

Certification reinstatement; application, 16-12-9

Initial certification; application, 16-12-7

Renewal certification; application, 16-12-8

Definitions, 16-12-2

Domestic violence offender assessment, 16-12-5

Evaluating and monitoring certified batterer intervention programs, 16-12-10

Program requirements, 16-12-4

Scope, 16-12-1

Temporary permit; application, 16-12-6

Training and continuing education, 16-12-3

Child rape protection, 16-10-1 et seq.

Definitions, 16-10-1

Disposal of fetal tissue, 16-10-3

Preservation and submission of fetal tissue, 16-10-2

Commercial driver's license: training in human trafficking identification and prevention, 16-17-1 et seq.

Training course approval for providers, 16-17-1

Continuing education, 16-4-1 et seq.

Professional education,

Documentation, 16-4-4

Program requirements, 16-4-3

Requirements, 16-4-2

Crime victims assistance group, 16-7-1 et seq.

Application, deadlines, 16-7-2

Requirements, 16-7-3

Review, 16-7-4

Decision, notification of, 16-7-5

Definitions, 16-7-1

Fund use, limitations, 16-7-7

Funding limits, 16-7-6

Grant committee, 16-7-9

Reporting, requirements, 16-7-8

Debt collection and restitution,

Administrative costs, 16-9-1

Elder and Dependent Adult Abuse Prevention Council,  
16-18-1 et seq.

Definitions, 16-18-1

Duties, 16-18-3

## **Attorney General—Cont.**

Elder & Dependent Adult Abuse Prevention—Cont.

Meetings, 16-18-2

Membership, 16-18-2

Human trafficking identification and prevention training,  
16-17-1 et seq.

Training course approval for providers, 16-17-1

Open carry signs, 16-13-1

Open meetings act, Kansas,

Compliance during an emergency declaration, 16-20-1

Personal and Family Protection Act, 16-11-1 et seq.

Application procedure, 16-11-5

Concealed carry signs, 16-11-7

Definitions, 16-11-1

Handgun safety and training course, 16-11-4

Instructors, 16-11-3

Instructor certification standards, 16-11-2

Renewal of license; requalification weapons safety  
and training course, 16-11-6

Restraining order, 16-11-8

Private detectives and agencies,

Definitions, 16-2-1, 16-2-1a

Demonstrates a need, 16-6-2

Fees, 16-1-7

Firearm permits, 16-6-1, 16-6-3

Firearm trainers, 16-5-1 et seq.

Licenses,

Application procedure, 16-3-1

Renewal, 16-3-2

Qualifications, additional, 16-3-3

Roofing contractors, 16-8-1 et seq.

Definitions, 16-8-1

Fees, 16-8-6

Incomplete applications, 16-8-5

Initial application, 16-8-2

Renewal application, 16-8-3

Status of registration, 16-8-7

Suspension, revocation, and reinstatement, 16-8-4

School law enforcement skill development training course,  
16-16-1 et seq.

Curriculum, 16-16-2

Definitions, 16-16-1

Training requirement, 16-16-3

Scrap metal dealers' registration and hearing procedure,  
16-14-1 et seq.

Computation of time, 16-14-3

Default, 16-14-9

Definitions, 16-14-11

Evidence, 16-14-8

Fees, 16-14-1

Hearings, 16-14-4

Notice of hearing, 16-14-5

Procedure, 16-14-7

Initial application, 16-14-2

Service of order or notice, 16-14-6

Submission of required information, 16-14-10

Victim information and notification everyday advisory board,

Definitions, 16-19-1

Duties, 16-19-3

Membership; meetings, 16-19-2

## **Awards**

Employee Award Board, Agency 18

## B

### Bakeries

Department of Health and Environment, Agency 28  
Bakery products, 28-21-40a et seq.

### Bank Commissioner, State, Agency 17

Adjustable rate notes, 104-1-1  
Application fees, 17-22-1  
Bank holding companies, 17-21-1 et seq.  
    Application, 17-21-2, 17-21-8  
    Concurrent jurisdiction, 17-21-6  
    Contents, 17-21-3  
    Filing, 17-21-4  
    When complete, 17-21-5  
    Examination of, 17-21-7  
Charter applications, 17-16-1 et seq.  
    Comment letters, notification of the applicant,  
    17-16-4  
    Consideration by board, 17-16-9  
    Contents, 17-16-2  
    Filing, 17-16-1  
    Hearing, 17-16-5  
    Statements, 17-16-8  
    Transcript, 17-16-6, 17-16-7  
    Presentation to board, 17-16-3  
Credit services organizations,  
    Registration, renewal, and amendment fees,  
    17-25-1  
Definitions, 17-1-1  
Deposit of public funds, security for, 17-14-1, 103-1-1  
Documentation requirements, 17-11-1 et seq.  
    Amortization of premium, 17-11-7  
    Appraisals and evaluations, 17-11-21  
    Bank-owned real estate, records, 17-11-17  
    Bonds, records, 17-11-16  
    Charged-off assets, records, 17-11-19  
    Convertible securities, 17-11-8  
    Definition, 17-11-1  
    Delinquent or speculative, prohibited, 17-11-6  
    Descriptive matter, 17-11-20  
    Directors' meetings, 17-11-14  
    Forced acquisitions, 17-11-10  
    Form, required, 17-11-2  
    Insurance, bank property, 17-11-22  
    Limitations, 17-11-5  
    Loans, 17-11-18  
    Loans, records, 17-11-15  
    Mortgages, appraisal, 17-11-21  
    Other assets, records, 17-11-23  
    Records required, 17-11-11  
    Repurchase, 17-11-9  
    Ruling, request for, 17-11-12  
    Stockholders meetings, 17-11-13  
    Transactions as principal, 17-11-4  
    Trustees, 17-11-3  
Employment, 17-20-1  
Financial modernization, 17-8-1 et seq.  
    Financial subsidiaries, 17-8-1  
Futures contracts, financial, 17-17-1 et seq.  
    Bank policy, adoption, 17-17-3  
    Notice, 17-17-4  
    Definitions, 17-17-2  
    Financial condition, effect on banks, 17-17-9

### Bank Commissioner, State—Cont.

Futures contracts, financial—Cont.  
    Internal controls, 17-17-10  
    Ledger accounts or register, 17-17-6  
    Limitations, 17-17-1  
    Monthly review, 17-17-5  
    Mortgage banking hedging, 17-17-8  
    Review, market valuation, 17-17-7  
Investment securities, 17-9-1 et seq.  
    Acquisition through debt previously contracted, 17-9-6  
    Amortization of premium, 17-9-4  
    Conversion, 17-9-5  
    Definitions, 17-9-1  
    Ledger and records, 17-9-3  
    Limitations, 17-9-2  
    Repurchase, 17-9-7  
    Rulings, requests for, 17-9-10  
    Transactions as principal, 17-9-9  
    Trustees, 17-9-8  
Mortgage business, 17-24-1 et seq.  
    Bond requirements, 17-24-6  
    Fees, 17-24-2  
    Prelicensing and continuing education, 17-24-3  
    Prelicensure testing, 17-24-5  
    Record retention, 17-24-4  
    Signed acknowledgement; contents, 17-24-1  
Open-end investment companies,  
    Bank policy, adoption, 17-18-3  
    Definition, 17-18-1  
    Limitations on purchases in, 17-18-2, 17-18-4  
Records, 17-15-1  
Reserves, computation, 17-10-1  
Revenue bonds, approval, 17-14-1  
Subsidiaries, security activities, 17-19-1 et seq.  
    Application approval, organization, 17-19-1  
    Capital; lending limit, 17-19-4  
    Registration, licensing; violations; examination, 17-19-2  
    Wholly-owned; leasing; employees; office location, 17-19-3  
Transactions, daily records, 17-12-1 et seq.  
Trust supervision, 17-23-1 et seq.,  
    Books and accounts, 17-23-4  
    Definitions, 17-23-1  
    Fiduciary powers,  
        Administration of, 17-23-3  
        Surrender of, 17-23-10  
    Funds awaiting investment or distribution, 17-23-6  
    Investment, collective, 17-23-11  
    Investment of funds held as fiduciary, 17-23-7  
    Investments, custody of, 17-23-9  
    Policies and procedures with respect to brokerage  
        placement practices, adoption of, 17-23-2  
    Securities trading policies and procedures, 17-23-15  
    Securities transactions,  
        Form of notification for, 17-23-13  
        Record-keeping for, 17-23-12  
        Time of notification for, 17-23-14  
    Self-dealing, 17-23-8  
    Trust activities, audit of, 17-23-5  
    Trust documents, location of, 17-23-16  
Uniform consumer credit code,  
    Application; place of business, 75-6-30  
    Bond requirements, 75-6-31  
    Federal consumer credit laws, 75-6-26  
    Net worth requirements, 75-6-35  
    Notification, 75-6-32

**Bank Commissioner, State, Division of Consumer and Mortgage Lending, Agency 75**

See Consumer Credit Code

**Barbering, Kansas Board of, Agency 61**

Fees, 61-7-2  
Filing date, 61-5-1  
Licenses and certificates of registration, renewal, 61-4-2  
Reciprocity, 61-6-2  
Sanitary rules, 61-1-1 et seq.  
    Barbershops, 61-1-3  
    Cleansing hands, 61-1-15  
    Corpses, 61-1-21  
    Cuspidors, use, 61-1-4  
    Diseases, 61-1-19, 61-1-20  
    Head rests, 61-1-27  
    Inspection, when open for, 61-1-1  
    Licenses and permits conspicuously displayed, 61-1-24  
    Living quarters in shop, 61-1-16  
    Neck strips, 61-1-14  
    Ownership, new, relocated, or change of, 61-1-29  
    Pets, 61-1-28  
    Prohibited substances, 61-1-31  
    Shaving brushes and mugs, 61-1-6  
    Sterilization, 61-1-5  
    Temporary permits issued, 61-1-24  
    Towels, clean, supply and discarding of, 61-1-30  
    Ventilation, 61-1-2  
    Waste disposal, 61-1-3  
    Water supply, 61-1-3  
Schools, 61-3-1 et seq.  
    Application for admission, 61-3-9  
    Apprentice barbers, supervision, 61-3-25  
    Approval, 61-3-1  
    Attendance, 61-3-17  
    Clothing required, 61-3-15  
    Designation, 61-3-14  
    Eligibility, 61-3-24  
    Equipment, minimum, 61-3-8  
    Examinations, 61-3-17  
    Fees, paid to school, 61-3-13  
    Graduation, 61-3-18  
    Ineligibility, 61-3-22  
    Labels on bottles, 61-3-16  
    Library, 61-3-11  
    Minimum requirements for course instruction, 61-3-2  
    Night classes, 61-3-26  
    Permit to operate, 61-3-4  
        Revocation, 61-3-23  
    Positions not guaranteed, 61-3-12  
    Postgraduate course, 61-3-21  
    Records, 61-3-19  
    Requirements, 61-3-7  
    Students, qualifications, 61-3-10  
    Subjects required, 61-3-3  
    Supervisor, qualifications, 61-3-5  
    Teaching staff, 61-3-20

**Beauty Shops**

Board of Cosmetology, Agency 69  
Department of Health and Environment, Agency 28

**Beer**

Department of Revenue—Division of Alcoholic Beverage Control, Agency 14

**Bees**

Honeybees,  
    Department of Agriculture, Agency 4

**Behavioral Sciences Regulatory Board, Agency 102**

Addiction counselors, licensing, 102-7-1 et seq.  
    Application for licensure, 102-7-4  
    Application for licensure based on reciprocity, 102-7-4b  
    Continuing education, 102-7-9  
        Documentation, 102-7-10  
    Definitions, 102-7-1  
    Educational requirements, 102-7-3  
    Examination for addiction counselor or clinical addiction counselor, 102-7-5  
    Fees, 102-7-2  
    Licensure without examination, 102-7-4a  
    Professional postgraduate supervised experience requirement, clinical addiction counselor, 102-7-6  
    Recordkeeping, 102-7-11a  
    Reinstatement after suspension or revocation, 102-7-7a  
    Renewal; late renewal, 102-7-7  
    Renewal audit, 102-7-8  
    Substance use disorders, referral source for use in diagnosis and treatment, 102-7-12  
    Unprofessional conduct, 102-7-11  
Alcohol and other drug abuse counselors, 102-6-1 et seq.  
    Application materials and process, 102-6-4  
    Continuing education for registrants, 102-6-10  
    Definitions, 102-6-1  
    Documentation for continuing education, 102-6-11  
    Examinations, 102-6-5  
    Fees, 102-6-2  
    Registrations, 102-6-8  
    Renewal, 102-6-9, 102-6-9a  
    Unprofessional conduct, 102-6-12  
Applied behavior analysis, 102-8-1 et seq.  
    Continuing Education, 102-8-9  
        Documentation, 102-8-10  
    Definitions, 102-8-1  
    Fees, 102-8-2  
    Licensure  
        Application, 102-8-4  
        Expiration and renewal, 102-8-7  
    Recordkeeping, 102-8-12  
    Renewal audit, 102-8-8  
    Supervision, 102-8-6  
    Unprofessional conduct, 102-8-11  
Counselors, professional, 102-3-1 et seq.  
    Application, 102-3-4, 102-3-4a, 102-3-4b  
    Clinical supervisor application requirements, 102-3-7b  
    Continuing education,  
        Documentation for, 102-3-11a  
        Licensees, 102-3-10a  
    Definitions, 102-3-1a, 102-3-17  
    Documentation, 102-3-12

**Behavioral Sciences Regulatory Board—Cont.**

- Counselors, professional—Cont.
  - Education requirements, 102-3-3, 102-3-3a
  - Examinations, 102-3-5, 102-3-5a
  - Fees, 102-3-2
  - Licensure without examination, 102-3-6a
  - Mental disorder symptoms consult, 102-3-14
  - Mental disorders referral source, 102-3-15
  - Postgraduate supervised professional experience requirement, 102-3-7a
  - References and supervision, professional, 102-3-6
  - Registrants, 102-3-11
  - Registration, 102-3-7, 102-3-8
  - Renewal and reinstatement, 102-3-9a, 102-3-9b
  - Return of license, 102-3-8a
  - Services to individuals located in this state, 102-3-16
  - Social workers, licensing, 102-2-1 et seq.
  - Unprofessional conduct, 102-3-10, 102-3-12a
  - Without examination, 102-3-13
- Marriage and family therapists, licensed, 102-5-1 et seq.
  - Applications for licensure, 102-5-4a, 102-5-4b
  - Applications for registration with examination, 102-5-4
- Clinical supervisor application requirements, 102-5-7b
  - Conduct, unprofessional, 102-5-12, 102-5-16
  - Continuing education,
    - Documentation for, 102-5-11
    - Licensees, 102-5-10
  - Definitions, 102-5-1
  - Education requirements, 102-5-3
  - Examinations, 102-5-5
  - Fees, 102-5-2
  - Licensure without examination, 102-5-6a
  - Mental disorder symptoms consult, 102-5-13
  - Mental disorders referral source, 102-5-14
  - Postgraduate supervised professional experience requirement, 102-5-7, 102-5-7a
  - Registration without examination (grandparenting provision), 102-5-6, 102-5-9a
  - Renewal and reinstatement, 102-5-9, 102-5-9a
  - Return of license, 102-5-8
  - Services to individuals located in this state, 102-5-15
- Psychologists, 102-1-1 et seq.
  - Applications, 102-1-3, 102-1-3a, 102-1-3b
  - Board action, licensure, 102-1-6
  - Certificates, (licenses), 102-1-7
  - Computers, use, 102-1-16
  - Continuing education, 102-1-15
  - Educational requirements, 102-1-12
  - Examinations, 102-1-4
  - Fees, 102-1-13
  - Group service, 102-1-14
  - Mental disorder symptoms consult, 102-1-17
  - Mental disorders referral source, 102-1-18
  - Professional endorsements and supervision, 102-1-5
  - Renewal and reinstatement, 102-1-8, 102-1-8a
  - Services to individuals located in this state, 102-1-19
  - Supervised experience and supervisor qualifications, 102-1-5a
  - Tests, computerized psychological, 102-1-16
  - Unlicensed assistants, supervision, 102-1-11
  - Unprofessional conduct, 102-1-10, 102-1-10a, 102-1-20
- Psychologists, masters level, 102-4-1 et seq.
  - Academically supervised practicum, 102-4-6a

**Behavioral Sciences Regulatory Board—Cont.**

- Psychologists, masters level—Cont.
  - Application, 102-4-4, 102-4-4a, 102-4-4b
  - Computerized tests, use of, 102-4-11, 102-4-13
  - Continuing education, 102-4-10
    - Documentation, 102-4-11a
    - Licensees, 102-4-10a
  - Definitions, 102-4-1, 102-4-1a
  - Educational requirements, 102-4-3, 102-4-3a
  - Examination requirements, 102-4-5a
  - Fees, 102-4-2
  - Mental disorder symptoms consult, 102-4-14
  - Mental disorders referral source, 102-4-15
  - Postgraduate hours in lieu of practicum, 102-4-6b
  - Postgraduate supervised professional work experience requirements, 102-4-7a
  - Practicum or work experience verification, 102-4-6
  - Registration, 102-4-8
  - Renewal, 102-4-9
  - Renewal and reinstatement, 102-4-9a, 102-4-9b
  - Return of license, 102-4-8a
  - Services to individuals located in this state, 102-4-16
  - Unprofessional conduct, 102-4-5, 102-4-12
- Social workers, licensing, 102-2-1 et seq.
  - Application for license, 102-2-2a, 102-2-2b, 102-2-2c
  - Certificate, 102-2-10
  - Clinical social work requirements, special, 102-2-12
  - Continuing education, 102-2-4a, 102-2-4b, 102-2-5
  - Definitions, 102-2-1a
  - Examinations, 102-2-9
  - Fees, 102-2-3
  - Mental disorder symptoms consult, 102-2-13
  - Mental disorders referral source, 102-2-14
  - Program approval, 102-2-6
  - Renewal and reinstatement, 102-2-11, 102-2-11a
  - Services to individuals located in this state, 102-2-15
  - Supervision of, 102-2-8
  - Unprofessional conduct, 102-2-7

**Bingo**

Department of Revenue, Agency 92

**Birth Certificates**

Department of Health and Environment, Agency 28

**Blind Persons**

Libraries, grants, 54-3-1 et seq.  
 Services for, 30-12-16 et seq.  
 Vending facilities, operation, 30-13-17 et seq.

**Boarding Homes for Children and Youth**

Department of Health and Environment, Agency 28

**Boats and Boating**

Kansas Department of Wildlife and Parks, Agency 115

**Bodies, Human**

Dead human bodies.  
 Department of Health and Environment, Agency 28  
 Kansas State Board of Mortuary Arts, Agency 63

## **Boiler Inspection**

Department of Labor, Agency 49

## **Bonds**

Investment securities.

Banking Department, Agency 17

Program, special surety, 23-5-1 through 23-5-8

Revenue bonds, Banking Department, Kansas, 17-14-1

## **Brands**

Animal Health Department, Agency 9

## **Bread**

Enrichment, 28-22-1 et seq.

## **Buildings and Grounds, State**

Access and conduct of persons, 1-49-1 et seq.

## **Bureau of Investigation, Kansas, Agency 10**

Asset seizure and forfeiture repository, 10-23-1 et seq.

Accuracy and completeness, 10-23-2

Definitions, 10-23-1

Duplicate reporting prohibited, 10-23-2

Forfeiture fund report, 10-23-5

Means of reporting, 10-23-3

Point of contact, 10-23-6

Seizure for forfeiture report, 10-23-4

Auditing criminal justice agencies, 10-14-1 et seq.

Disclosure of log, 10-14-2

Logging of disseminations, 10-14-1

Collection and reporting, 10-10-1 et seq.

Accuracy and completeness, 10-10-1

Dispositions, reporting of, 10-10-4

Electronic reporting by district courts, 10-10-5

Forms for reporting, 10-10-3

Reporting time frame, 10-10-2

DNA databank, 10-21-1 et seq.

DNA identification,

Procedural compatibility with the FBI, 10-21-3

Purpose, 10-21-2

DNA records and samples,

Collection of samples, 10-21-6

Expungement, 10-21-4

Maintenance, 10-21-5

Definitions, 10-21-1

Definitions, 10-9-1

Dissemination, 10-12-1 et seq.

Conviction records, 10-12-1

Employees, when authorized, 10-12-3

Non-conviction records, 10-12-1

Field testing for controlled substances,

Approved field tests, 10-22-1

Inspection and challenge, 10-13-1 et seq.

Right to review, 10-13-1, 10-13-2

Juvenile justice information system, 10-19-1 et seq.

Definitions, 10-19-1

Fingerprints and photos, 10-19-9

Reporting information, 10-19-1 through 10-19-8

Missing and unidentified deceased persons, 10-20-1

Definitions, 10-20-1

Dissemination, 10-20-4

Procedures and forms for reporting, 10-20-2,

10-20-2a, 10-20-3

## **Bureau of Investigation, Kansas—Cont.**

Reportable events, duplication, 10-15-1 et seq.

Scrap metal data repository, 10-24-1 et seq.

Definitions, 10-24-1

Information to be submitted, 10-24-2

Manner of submission, 10-24-3

Security, 10-11-1 et seq.

Access to records, 10-11-1

Nonconviction records, transmission, 10-11-2

## **Burial**

Board of Mortuary Arts, Agency 63

Bodies, human, 28-9-1 et seq.

Reports, 28-17-15, 28-17-16, 28-17-17

## **Butane**

State Fire Marshal, Agency 22

## **C**

### **Cafeterias**

Schools, colleges, universities, sales tax, 92-19-21

### **Campaign Finance**

Kansas Commission on Governmental Standards and

Conduct, Agency 19

### **Camping**

Kansas Department of Wildlife and Parks, Agency 115

Park and Resources Authority, 33-1-9

### **Cancer Drug Repository Program**

Board of Pharmacy, Agency 68

### **Cancer Registry**

Department of Health and Environment, Agency 28

### **Carbonated Water**

Manufacture, handling, 28-23-41 et seq.

### **Casinos**

Racing and Gaming Commission, Agency 112

### **Certified Public Accountants**

Board of Accountancy, Agency 74

### **Child Death Review Board, State, Agency 124**

Child deaths, 124-1-1 et seq.

Agency cooperation, 124-1-3

Coroner guidelines, 124-1-1

Facilitating prosecution for abuse and neglect,

124-1-4

Investigation of, 124-1-2

### **Children and Families, Kansas Department for, Agency 30**

Abuse, adult, 30-50-1 et seq.

Abuse and neglect, child, 30-46-10 et seq.

Central registry, 30-46-16

Expungement of validated perpetrator, 30-46-17

**Children and Families, Kansas Dept. for—Cont.**

Abuse and neglect, child—Cont.  
Decision, notice of, 30-46-15  
Definitions, 30-46-10  
Determination of, 30-46-12  
Reporting of abuse, S.R.S. facility, 30-46-11  
Right to interview, 30-46-13  
Adult care home program of the medicaid program,  
Mentally retarded, intermediate care facilities for  
the, (ICF-MR),  
Admission procedure, 30-10-205  
Care, extra, 30-10-212  
Central office costs, 30-10-224  
Claims, payment of, 30-10-216  
Client days, 30-10-225  
Compensation of owners, spouses, related parties,  
administrators, 30-10-221  
Cost reports, 30-10-213  
Costs allowed, 30-10-219  
Definitions, 30-10-200  
Effective dates, 30-10-215  
Financial data, 30-10-211  
ICF-MR, rates of, 30-10-214  
Inadequate care, 30-10-203  
Inspection and utilization review, 30-10-207  
Interest expense, 30-10-223  
Non-reimbursable costs, 30-10-218  
Ownership reimbursement fee, 30-10-222  
Personal needs fund, 30-10-208  
Physicians, (re)certification, 30-10-206  
Prospective reimbursement, 30-10-209  
Provider agreement, 30-10-202  
Provider, change of, 30-10-210  
Reimbursement, 30-10-210  
Reserve days, 30-10-217  
Revenues, 30-10-220  
Standards for participation, 30-10-204  
Nursing facility program, 30-10-1a et seq.  
Admission information, 30-10-6  
Costs allowed with limitations, 30-10-23b  
Definitions, 30-10-1a  
Inadequate care, 30-10-1d  
Personal needs fund, 30-10-11  
Private pay wings, 30-10-1f  
Provider agreement, 30-10-1c  
Providers, 30-10-1b  
Reimbursement, 30-10-14 et seq.  
Central office costs, 30-10-27  
Compensation of owners, others, 30-10-24  
Financial data, cost reports, 30-10-15b,  
30-10-17  
Nonreimbursable costs, limitations, 30-10-23a  
Payment of claims, 30-10-20  
Property fees, 30-10-25  
Rates, 30-10-18, 30-10-19  
Reserve days, 30-10-21  
Resident days, 30-10-28  
Revenues, 30-10-23c  
Services, payment for, 30-10-15a  
Stabilization review, 30-10-9  
Standards, 30-10-2  
24-hour nursing care, 30-10-29  
Screening, evaluation and referral for, 30-10-7

**Children and Families, Kansas Dept. for—Cont.**

Agencies, community-based, nonmedical, 30-41-1 et seq  
Handicapped adults, 30-41-1 et seq.  
Administration policies, 30-41-6a  
Buildings, 30-41-7b  
Client policies, 30-41-6h  
Client records, 30-41-6g  
Day care programs, 30-41-7c, 30-41-10  
Definitions, 30-41-1  
Disaster policies, 30-41-6c  
Environmental standards, 30-41-7a  
Fiscal policies, 30-41-6f  
Food service, 30-41-7g  
Grounds, 30-41-7h  
Group living, 30-41-15  
Health policies, 30-41-6d  
Independent living, 30-41-17  
Insurance policies, 30-41-6e  
Personnel, 30-41-6b  
Respite care, 30-41-18  
Semi-independent living, 30-41-16  
Skills training, 30-41-11  
Sleeping facilities, 30-41-7d, 30-41-19  
Supported employment, 30-41-7i  
Program content, 30-41-20  
Transportation, 30-41-8  
Vocational evaluation, 30-41-7f, 30-41-14  
Work activity, 30-41-12  
Work adjustment, 30-41-7e, 30-41-13  
Licenses,  
Eligibility, 30-41-3  
Procedures, 30-41-2  
Statement of services offered, 30-41-4  
Terms, 30-41-5  
Alcohol and drug abuse treatment programs,  
30-31-1 et seq.  
Administration, 30-31-7  
Adoption by reference, 30-31-1 et seq.  
Nondiscrimination, 30-31-10  
Treatment components, classification of, 30-31-2  
Treatment facilities,  
Inspections, 30-31-6  
License,  
Application, 30-31-4  
Program, discontinued, 30-31-12  
Requirements, 30-31-3  
Terminology, change, 30-31-11  
Assistance, general, 30-2-1 et seq.  
Civil rights and equal employment opportunity,  
30-2-15  
Fees for copying, 30-2-12  
Grants, interpretations and changes, 30-2-13  
Information, disclosure of, 30-2-11  
Laws, regulations, interpretation of, 30-2-2  
Long-term care programs, administration of, 30-2-17  
Permanency planning goals, Federal Social  
Security Act, 30-2-16  
Blind, services for, 30-12-16 et seq.  
Advice and consultation, 30-12-18  
Definitions, 30-12-16  
Information and referral services, 30-12-19  
Medical care to restore eyesight, 30-12-20  
Rehabilitation teacher, 30-12-21  
Services, scope of, 30-12-17

**Children and Families, Kansas Dept. for—Cont.**

- Blind, services for—Cont.
- Vocational rehabilitation, 30-12-22
- Children's health insurance program, Healthwave, 30-14-1 et seq.
- Applicable income, 30-14-30
- Applicants and recipients,
  - Agency responsibility to, 30-14-24
  - Responsibilities of, 30-14-23
  - Rights of, 30-14-22
- Application process, 30-14-20
- Eligibility,
  - Definitions, 30-14-2
  - Financial, 30-14-27
  - General requirements, 30-14-25
- Establishment of Healthwave, 30-14-1
- Income, general rules for consideration of, 30-14-29
- Insurance coverage, 30-14-26
- Payment amounts, 30-14-31
- Premium payment requirement, 30-14-28
- Providers, 30-14-3
- Reenrollment process, 30-14-21
- Scope of services, 30-14-50
- Complaints, appeals, and fair hearings, 30-7-64 et seq.
  - Administrative disqualification hearing, waiver of, 30-7-103
  - Administrative hearings, 30-7-67, 30-7-101
  - Administrative remedies, pre-appeal, 30-7-69
  - Appeals committee, state, 30-7-78
  - Assistance, continuation of, 30-7-66
  - Court actions on consent agreement, 30-7-104
  - Definitions, 30-7-64
  - Disqualification hearings, 30-7-102
  - Exams, independent, medical, psychiatric, psychological, 30-7-74
  - Fair hearing, request for, 30-7-68
  - Intended action, notice to recipients, 30-7-65
  - Intentional TAF or GA program violation, definition of, 30-7-100
  - Motions, 30-7-79
  - Rehearing, 30-7-77
  - Review of decision, agency's, 30-7-70
  - Summary, agency, 30-7-75
  - Summary reversals, 30-7-73
  - Telephone hearings, 30-7-72
  - Transcripts, 30-7-76
  - Venue, 30-7-71
- Corporate guardians, certification, 30-43-1
- Developmental disabilities,
  - Community developmental disability organizations (CDDOs), 30-64-1 et seq.
  - Community mental retardation centers, formerly, 30-64-10
  - Contracting organizations,
    - Annual budget planning report, 30-64-34
    - Case management, 30-64-24
    - Continuity and portability of services, 30-64-28
    - Dispute resolution, 30-64-32
    - Fiscal management, 30-64-33
    - Implementation responsibilities, 30-64-22
    - Procedures applicable to the service area, 30-64-21
    - Quality assurance, 30-64-27
    - Quality enhancement, 30-64-26

**Children and Families, Kansas Dept. for—Cont.**

- Developmental disabilities—Cont.
- CDDOs—Cont.
- Contracting organizations—Cont.
  - Requirements and enforcement actions, 30-64-20
  - Single point of application, determination and referral, 30-64-23
  - Statewide service access list, 30-64-30
  - Uniform access to services, 30-64-25
  - Council of community members, 30-64-31
  - Definitions, 30-64-1
    - Application for approval of proposal, 30-64-12
    - Approval or disapproval of proposal, 30-64-13
  - Gatekeeping, 30-64-29
- Licensing providers of community services, 30-63-1 et seq.
  - Abuse, neglect, exploitation, 30-63-28
  - Case management, 30-63-32
  - Compliance reviews, 30-63-13
  - Definitions, 30-63-1
  - Emergency preparedness, 30-63-27
  - Individual health, 30-63-24
  - Individual rights and responsibilities, 30-63-22
  - License required, exceptions, 30-63-10
  - License revocation or suspension, 30-63-14
  - Licensing procedure, requirements and duration, 30-63-12
  - Mandated requirements, 30-63-20
  - Medications, 30-63-23
  - Nutrition assistance, 30-63-25
  - Person centered support planning, implementation, 30-63-21
  - Physical facilities, 30-63-30
  - Records, 30-63-29
  - Registration with CDDOs, 30-63-31
  - Staffing, 30-63-26
    - Two types of license; display, 30-63-11
- Foster Care Licensing, 30-47-3
- Hospitals, state, 30-26-1 et seq.
  - (Larned, Osawatomie, Rainbow Mental Health Facility, Topeka State, State Security Hospital)
- Admission, 30-26-2
- Catchment areas, 30-26-1a
- County outpatient treatment centers, establishment of, 30-26-8
- District offices, duties, 30-26-4
- Districts, 30-26-1
- Medical information,
  - Defined, 30-26-11
  - Release with payment of fee, 30-26-13
  - Release without payment of fee, 30-26-12
- Patient status, change of, 30-26-7
- Patients' personal fund, 30-26-9
- Payment for care, 30-26-3
- Medical assistance program, clients eligibility, 30-6-34 et seq.
- Aid to dependent children (ADC), 30-6-72, 30-6-72w
- Deprivation in, 30-6-73
- Applicants and recipients,
  - Act on own behalf, 30-6-52, 30-6-52w
  - Agency responsibility, 30-6-40
  - Financial eligibility, 30-6-53, 30-6-53w
  - Payment for care,
    - Application process, 30-6-35, 30-6-35w

**Children and Families, Kansas Dept. for**—Cont.  
 Medical assistance program, clients eligibility—Cont.  
 Applicants and recipients—Cont.  
 Payment for care—Cont.  
   Assignment of medical support, 30-6-63  
   Assistant planning, definitions, 30-6-41, 30-6-41w  
   Automatic eligibles, 30-6-65, 30-6-65w  
   Citizenship, alienage, residence, 30-6-54, 30-6-54w  
   Cooperation by applicant or recipient, 30-6-55, 30-6-55w  
   Property of applicant recipient, transfer of, 30-6-56, 30-6-56w  
   Responsibilities of, 30-6-39  
   Rights of, 30-6-38  
 Breast and cervical cancer, determined eligibles, 30-6-89  
 Disabled individuals with earned income, 30-6-88  
 Eligibility, 30-6-94, 30-6-94w  
 Estate recovery, 30-6-150, 30-6-150w  
 Foster care children, Title XIX, 30-6-80  
   Eligibility,  
     General factors, 30-6-50, 30-6-50w  
     Redetermination of process, 30-6-36  
 General assistance (GA),  
   Determining need,  
     Consideration of resources, 30-6-105, 30-6-105w, 30-6-106, 30-6-106w  
     Income, 30-6-110 through 30-6-113w  
     Labor disputes, 30-6-59  
 Living in public institution, 30-6-60, 30-6-60w  
   Medicaid determined eligibles, children, 30-6-81, 30-6-81w  
   Medical assistance program, 30-6-70 et seq.  
   Medicare beneficiaries, eligibility, 30-6-86, 30-6-86w  
   Non-title XIX foster care, 30-6-95  
   Protected income levels, 30-6-103, 30-6-103w  
 Title XIX,  
   Aged, blind, disabled, 30-6-85, 30-6-85w  
   Aid to pregnant women, 30-6-78, 30-6-78w  
   Children hospitals and intermediate care facilities, 30-6-81, 30-6-81w  
   Technology-assisted child, eligibles, 30-6-82, 30-6-82w  
 Non-ADC child determined eligibles, 30-6-79  
   Process, 30-6-51  
   Strikes, 30-6-59, 30-6-59w  
 Payment amounts, 30-6-140  
 Poverty level working disabled, 30-6-87, 30-6-87w  
 Pregnant women and children, poverty level, 30-6-77, 30-6-77w  
 Property, 30-6-107, 30-6-107w, 30-6-108, 30-6-109, 30-6-109w  
 Temporary assistance for families (TAF), 30-6-70  
**Mental health centers**, 30-60-1 et seq.  
 Community,  
   Access identification, information, 30-60-15  
   Affiliation agreement, 30-60-29  
   Audit, annual, 30-60-27  
   Behavioral interventions, 30-60-48  
   Complaints, 30-60-51  
   Compliance, 30-60-13, 30-60-14  
   Conflict of interest, prohibited, 30-60-26

**Children and Families, Kansas Dept. for**—Cont.  
 Mental health centers—Cont.  
 Community—Cont.  
   Consumer comments and suggestions, 30-60-30  
   Definitions, 30-60-2  
   Denial of required services, 30-60-16  
   Establishment of, 30-60-10  
     Necessary elements, 30-60-11  
     Proposal, results of, 30-60-12  
   Fees, inability to pay, 30-60-17  
   Financing, state, application, 30-22-30  
   Governing or advisory board, 30-60-25  
   Involvement, community, 30-60-18  
   Licensing,  
     Notice of need, 30-60-8  
     Renewal, provisional, 30-60-6  
     Revocation, suspension, voluntary surrender, 30-60-7  
     Types, requirements, 30-60-5  
   Mission and vision statements, 30-60-28  
   Participating, 30-61-1 et seq.  
     Contracts, annual; plan; provisions, 30-61-5  
     Definitions, 30-61-2  
     Liaison services, 30-61-11  
     Licensed center, preference, 30-61-6  
     Scope, 30-61-1  
     Screening and gatekeeping services, 30-61-10  
     Services, community support,  
       Adolescents and children, 30-61-16  
       Enhanced, 30-61-15  
 Personnel, 30-60-40  
 Personnel policies and procedures, 30-60-41  
   Clients' rights, 30-60-50  
 Programs and services,  
   Optional services, 30-60-70  
     Acute care, 30-60-72  
     Alcohol and drug abuse, 30-60-71  
     Intervention, home-based, 30-60-75  
     Partial hospitalization, 30-60-73  
     Research, 30-60-76  
     Residential treatment, 30-60-74  
   Quality improvement program, 30-60-55  
 Records,  
   Administrative, 30-60-45  
   Clinical, 30-60-46  
   Information, confidentiality and release of, 30-60-47  
   Risk management program, 30-60-56  
   Utilization review program, 30-60-57  
 Reporting, data and statistical, 30-60-19  
 Required service, 30-60-60  
   Delivery standards, 30-60-62  
   Targeted members, denial of services, 30-60-61  
   Response requirements, 30-60-63  
   Support services, 30-60-64  
   Transportation, 30-60-49  
**Mental retardation centers**, community,  
   Application, 30-22-32  
   Grants, special purpose, 30-22-33  
   Handicapped persons, facilities, licensing, 30-22-1  
**Mental Retardation Developmental Disability Provider Revolving Fund**, 30-65-1 et seq.

**Children and Families, Kansas Dept. for—Cont.**

- Mental Retardation Developmental Disability—Cont.
  - Loan,
    - Agreement, proceeds availability, 30-65-3
    - Application, approval, 30-65-2
    - Interest, repayment, 30-65-1
  - Oil and gas leases on institutional properties, 30-27-1 et seq.
    - Cash bonus, rental, 30-27-3
    - Indemnity bonds, 30-27-4
    - Land to be leased, 30-27-1
    - Notice, form of bids, 30-27-2
    - Wells, operation and management, 30-27-5
  - Provider participation, scope of services, reimbursements for the Medicaid (Medical Assistance) Program, 30-5-58 et seq.
  - Kan Be Healthy Program, scope of, 30-5-87, 30-5-155
    - Reimbursement for, 30-5-87a
  - Medicaid/Medikan Program,
    - Ambulatory center services,
      - Reimbursement for, 30-5-83a
      - Scope of, 30-5-83
    - Chiropractic services, 30-5-34, 30-5-64
      - Scope of, 30-5-101, 30-5-160
    - Co-pay requirements, 30-5-71, 30-5-150
      - Definitions, 30-5-58
      - Health center services,
        - Federally qualified, 30-5-118
        - Reimbursement, 30-5-118a, 30-5-118b
      - Hearing services, 30-5-105, 30-5-105a, 30-5-163
    - Dental Services,
      - Reimbursement, 30-5-100a
      - Scope of, 30-5-100, 30-5-159
    - Health department services, 30-5-112, 30-5-112a
    - Home- and community-based services,
      - Assessment requirements, 30-5-305
      - Cost effectiveness, 30-5-303
      - Cost efficient plans of care, 30-5-304
      - Definitions, 30-5-300
      - Developmental disabilities, 30-5-79
      - Effective date for HCBS eligibility, 30-5-306
      - Family reimbursement restrictions, 30-5-307
      - Head injury trauma, 30-5-78
      - Independent living counselors, limitations, 30-5-302
      - Nonsupplementation of HCBS services, 30-5-308
      - Provider participation, 30-5-301
      - Scope of and reimbursement for, 30-5-80, 30-5-310
      - Technology assisted, 30-5-77
    - Home health services,
      - Reimbursement, 30-5-89a
      - Scope of, 30-5-89, 30-5-157
    - Hospice services, scope of, 30-5-115
      - Reimbursement for, 30-5-115a
    - Hospitals,
      - Change of ownership, 30-5-81t
      - Reimbursements, basis of, 30-5-81b
      - Scope of services, 30-5-151
    - Laboratory services, independent,
      - Reimbursement, 30-5-85a
      - Scope, 30-5-85

**Children and Families, Kansas Dept. for—Cont.**

- Provider participation, scope of services—Cont.
  - Medicaid/Medikan Program—Cont.
    - Maternity center services, scope of, 30-5-117
      - Reimbursement for, 30-5-117a
    - Medical claims, filing limitations, 30-5-65
    - Medical contracts, funding, 30-5-72
    - Medical equipment, durable, 30-5-108, 30-5-166
      - Reimbursement for, 30-5-108a
    - Medical necessity, 30-5-63
    - Medical services, control of, 30-5-73
    - Medicare, beneficiaries, scope of, reimbursement for services, 30-5-76
    - Mental health center services, community,
      - Financial record keeping, 30-5-86d
      - Rates,
        - Existing, 30-5-86b
        - Modification, 30-5-86e
        - New, 30-5-86c
      - Services,
        - Reimbursement for, 30-5-86a
        - Scope of, 30-5-86
    - Nonemergency medical transportation,
      - Reimbursement, 30-5-107a
    - Nurses, advanced registered practitioners services, 30-5-113 et seq.
    - Optometric services,
      - Reimbursement, 30-5-102a
      - Scope, 30-5-102
    - Pharmacy services,
      - Cost report, 30-5-95
      - Data and recordkeeping, 30-5-96
      - Limitations and allowances, 30-5-97
      - Reimbursement, 30-5-94
      - Scope, 30-5-92, 30-5-158
    - Physician services,
      - Reimbursement, 30-5-88a
      - Scope of, 30-5-88, 30-5-156
    - Podiatric services,
      - Reimbursement, 30-5-103a
      - Scope of, 30-5-103, 30-5-161
    - Prior authorization, 30-5-64
    - Prospective payment system,
      - Hospital services, scope of, 30-5-81
    - Provider participation,
      - Reinstatement, 30-5-62
      - Requirements, 30-5-59
      - Suspension of payment liability, 30-5-61b
      - Termination, 30-5-60
      - Withholding of payments, 30-5-61a
    - Psychiatric services and facilities,
      - Reimbursement, 30-5-109a, 30-5-110a
      - Scope of, 30-5-109, 30-5-110, 30-5-167, 30-5-169
    - Psychological services,
      - Reimbursement, 30-5-104a
      - Scope of, 30-5-104, 30-5-162
    - Regulations, effective date, cost reporting periods, 30-5-66
    - Rehabilitation services, 30-5-116, 30-5-116a
    - Reimbursement system, hospital groups,
      - Diagnosis related, 30-5-81u
      - Inpatient services, DRG, 30-5-81r
    - Rural health services,
      - Reimbursement, 30-5-82a
      - Scope of centers, 30-5-82, 30-5-152

**Children and Families, Kansas Dept. for—Cont.**

- Provider participation, scope of services—Cont.
- Medicaid/Medikan Program—Cont.
  - Services, family planning, 30-5-168
    - Hospital, 30-5-81
    - Physician, 30-5-88
  - Specific expenses, recipient eligibility for, 30-5-70
  - Targeted care management services, 30-5-114 et seq.
  - Volume purchase, negotiated contracts, 30-5-69
- Psychiatric hospitals, licensing, 30-22-1 et seq.
  - Standards, 30-22-2 through 30-22-3d
- Public Assistance Program, 30-4-34 et seq.

**Includes:**

- Aid to Dependent Children (ADC)
- Aid to Dependent Children-Foster Care (ADC-FC)
- Aid to Pregnant Women (APW)
- Burial Assistance (BA)
- Emergency Assistance to Needy Families with Children (EA)
- General Assistance-Foster Care (GA-FC)
- General Assistance-Unrestricted (GAU)
- Temporary Assistance for Families (TAF)

**Regulations:**

- ADC child, eligibility, 30-4-72, 30-4-72w, 30-4-74, 30-4-74w
- ADC, deprivation in, 30-4-73
- ADC, specific eligibility factors, 30-4-70w
- ADC, support rights, assignment of, 30-4-71, 30-4-71w
- APW program, eligibility factors, 30-4-78
- Components of program, 30-4-34
- EA (emergency assistance) eligibility factors, 30-4-85a
- Enforcement, 30-4-140
- FFP-FC program, eligibility factors, 30-4-80
- Funeral assistance (FA) program, 30-4-96
- GA program (general assistance) eligibility factors, 30-4-90, 30-4-90w
- General assistance,
  - Applicants and recipients,
    - Application process, 30-4-35
    - Assistance planning for TANF, 30-4-41, 30-4-41w
    - Eligibility determination, 30-4-50 through 30-4-63
    - Eligibility for assistance, 30-4-50, 30-4-50w
    - Eligibility, redetermination of, 30-4-36
    - Responsibilities, 30-4-39
    - Rights of, 30-4-38
  - Citizenship, 30-4-54, 30-4-54w
  - Cooperation by applicant, 30-4-55, 30-4-55w
  - Department responsibility, 30-4-40
  - Financial eligibility, 30-4-53, 30-4-53w
  - Funeral assistance program, 30-4-98
  - General, 30-4-50
  - KanLearn program, 30-4-65w
  - Minors, act in own behalf, 30-4-52, 30-4-52w
  - Payees,
    - Type, 30-4-130
  - Payments,
    - Amounts, 30-4-140, 30-4-140w
    - Type, 30-4-130, 30-4-130w
  - Penalties, 30-4-140
  - Potential employment, 30-4-58, 30-4-58w
  - Pregnant women, (APW) eligibility, 30-4-78
  - Process, 30-4-51, 30-4-35w

**Children and Families, Kansas Dept. for—Cont.****Public Assistance Program—Cont.****Regulations—Cont.****General assistance—Cont.**

- Public institution resident, ineligible, 30-4-60, 30-4-60w
- Resources, 30-4-105, 30-4-105w
  - Income, 30-4-111w
  - Definitions, 30-4-110w
  - Exempt applicable income, 30-4-113w
  - Exempt income, 30-4-112, 30-4-112w, 30-4-113
  - General rules, 30-4-106, 30-4-106w
  - Income, 30-4-110, 30-4-111
  - Personal property, 30-4-109, 30-4-109w
  - Property exemption, 30-4-107
  - Real property, 30-4-108
- Special allowances,
  - ADC, ADC-FC, APW, GAU, GA-FC recipients, 30-4-120w
  - Burial expenses, 30-4-121
  - Emergency assistance, 30-4-122a
  - Special needs for TAF applicants and recipients, 30-4-120
- Standards,
  - Children in foster care, 30-4-102
  - Payment standards, budgetary requirements, 30-4-100, 30-4-100w
  - Persons at home, in homes, specialized living, 30-4-101
  - Supplemental Security Income benefits, applicant ineligible, 30-4-61, 30-4-61w
- Strikes, 30-4-59, 30-4-59w
- TAF program, eligibility factors, 30-4-70
- TGA program, eligibility factors, 30-4-91
- Work program requirements for TANF, 30-4-63w, 30-4-64, 30-4-64w
  - Non-FFP-FC program, eligibility factors, 30-4-95
- Security and security policemen, 30-20-5 et seq.
  - Accidents, fire or theft, reporting, 30-20-14
  - Badge, 30-20-5
  - Buses, 30-20-11
  - Law enforcement assistance, 30-20-6
  - Prohibited acts, 30-20-15
  - Removal of vehicles and bicycles, 30-20-19
  - Rules of the road, 30-20-9
  - Speed limit, 30-20-10
  - Superintendent, responsibilities, 30-20-8
  - Traffic and parking control, 30-20-7
    - Fines, 30-20-16
      - Failure to pay, 30-20-16
      - Review by superintendent, 30-20-17
  - Vehicle and equipment,
    - Maintenance, 30-20-12
    - Movement of, 30-20-13
- Support enforcement,
  - Birthing hospital, 30-44-3
  - Credit reporting agencies, disclosure to, 30-44-4
  - Recovery fee, standardized cost, 30-44-2
  - Scope of services, judgment interest, 30-44-5
  - Support arrears forgiveness, 30-44-6
- Transportation, 30-41-8
- Vending facilities operated by the division of services for the blind, 30-13-17 et seq.
  - Assessments, 30-13-25
  - Definitions, 30-13-17

**Children and Families, Kansas Dept. for—Cont.**

Vending facilities operated by the division of services for the blind—Cont.

Equipment,

Repair and maintenance of, 30-13-24

Stock, title to, 30-13-23

Income, 30-13-22, 30-13-26

License, 30-13-18

Requirements for, 30-13-19

Termination of, 30-13-20

Promotion of operators, 30-13-21

Youth services, 30-45-1 et seq.

Adoption,

Medical history of child, 30-45-2

Medical history of parents, 30-45-1

Medical history updating, 30-45-4

Foster child educational assistance, 30-45-20

Infants, medically neglected, 30-45-11

Reporters, 30-45-12

Reports,

Public information, 30-45-14

Records, 30-45-13

**Children and minors**

Child welfare, 30-11-1 et seq.

Employment.

Department of Human Resources, Agency 49

Eyes of newborn, treatment, 28-4-73

Intoxicating liquor, sale to or for, 14-3-36

Medically neglected infants, 30-45-10 et seq.

Mentally retarded, 30-23-1 et seq.

**Cigarette Tax**

Department of Revenue, Agency 92

**Civil Rights**

Kansas Human Rights Commission, Agency 21

**Civil Service**

Department of Administration, Agency 1

**Clubs**

Department of Revenue—Division of Alcoholic Beverage Control, Agency 14

**Collective Bargaining**

Department of Human Resources, Agency 49

**Colleges and Universities**

Board of Regents, Agency 88

Community colleges, accrediting, 91-8-1 et seq.

Motor vehicles, traffic and parking, 88-4-1 et seq.

Scholarship program, Kansas, 88-13-1 et seq.

Washburn University, state aid, 91-9-1 et seq.

**Commerce, Department of, Agency 110**

Agritourism promotion act, 110-12-1 et seq.

Contracts, 110-12-6

Definitions, 110-12-1

Liability insurance, 110-12-3

New registration form, 110-12-5

Registration, 110-12-2

**Commerce, Department of—Cont.**

Agritourism promotion act—Cont.

Tax credits, 110-12-4

Certified capital formation companies, 110-8-1 et seq.

Accrual and payment of tax credits, 110-8-6

Annual report and recertification, 110-8-8

Application for authorization, 110-8-2

Certification, 110-8-4

Decertification, 110-8-10

Eligibility, 110-8-1

Investment in qualified Kansas businesses, 110-8-5

Presentations to certified capital investors, 110-8-3

Public records and confidentiality, 110-8-11

Reporting material changes in operation, 110-8-9

Enterprise facilitation fund, 110-13a-1 et seq.

Application requirements for project funding, 110-13a-2

Definitions, 110-13a-1

Reporting, 110-13a-3

High Performance Incentive Program, 110-6-1 et seq.

Application, 110-6-9

Approval guidelines for private consultants, 110-6-5

Authority for designating a qualified firm, 110-6-2

Certification of a worksite, 110-6-10

Certification period (CP), 110-6-11

Criteria for designation of a "qualified firm", 110-6-1

Definitions, 110-6-3, 110-6-8

Eligibility and application procedures for the high performance incentive fund, 110-6-4

Guidelines for prioritizing business assistance programs, 110-6-6

Requirements for firms receiving benefits, reporting, 110-6-7

Training and education requirement, 110-6-1a, 110-6-12

Housing Resources Corporation, 110-10-1 et seq.

Low income housing tax credits, 110-10-1

Individual Development Account Program Act, 110-14-1 et seq.

Allocation of tax credit to program contributors, 110-14-1

Tax credit, 110-14-2

Investments in Major Projects and Comprehensive

Training (IMPACT) Act, 110-4-1 et seq.

Kansas Community Services Program, 110-7-1 et seq.

Audits, 110-7-6

Definitions, 110-7-1, 110-7-5

Gifts, 110-7-9

Projects, administration, 110-7-10

Proposals,

Review of, 110-7-3, 110-7-8

Submission of, 110-7-2

Tax credits, amount of, 110-7-4

Kansas Downtown Redevelopment Act, 110-11-1 et seq.

Application for proposed redevelopment area, 110-11-2

Definitions, 110-11-1

Progress reports, 110-11-3

Kansas Energy Development Act,

Biomass to energy projects, 110-18-1 et seq.

Annual compliance and audit, 110-18-4

Application; additional documentation, 110-18-2

Definitions, 110-18-1

Secretary's review and determination, 110-18-3

Integrated coal or coke gasification nitrogen fertilizer plants, 110-17-1 et seq.

Annual compliance and audit, 110-17-4

**Commerce, Department of—Cont.**

- Kansas Energy Development Act—Cont.
  - Integrated coal or coke gasification nitrogen fertilizer plants—Cont.
    - Application; additional documentation, 110-17-2
  - Definitions, 110-17-1
  - Secretary's review and determination, 110-17-3
- New qualifying pipelines projects, 110-16-1 et seq.
  - Annual compliance and audit, 110-16-4
  - Application; additional documentation, 110-16-2
  - Definitions, 110-16-1
  - Secretary's review and determination, 110-16-3
- Refinery and expanded refinery projects, 110-15-1 et seq.
  - Annual compliance and audit, 110-15-4
  - Application; additional documentation, 110-15-2
  - Definitions, 110-15-1
  - Secretary's review and determination, 110-15-3
- Renewable electric cogeneration facility projects, 110-19-1 et seq.
  - Annual compliance and audit, 110-19-4
  - Application; additional documentation, 110-19-2
  - Definitions, 110-19-1
  - Secretary's review and determination, 110-19-3
- Storage and blending equipment projects, 110-20-1 et seq.
  - Annual compliance and audit, 110-20-4
  - Application; additional documentation, 110-20-2
  - Definitions, 110-20-1
  - Secretary's review and determination, 110-20-3
- Kansas Enterprise Zone Act, 110-5-1 et seq.
  - Annual report requirements, 110-5-6
  - Definitions, 110-5-1
  - Designation, term of, 110-5-5
  - Eligible applicants, 110-5-2
  - Quarterly report, 110-5-4
  - Required documentation, 110-5-3
- Kansas Export Finance Act, 110-40-1 et seq.
  - Application,
    - Content, 110-40-3
    - Procedure, 110-40-4
  - Definitions, 110-40-1
  - Financial assistance,
    - Availability and form, 110-40-2
    - Criteria, 110-40-6
    - General terms, 110-40-5
    - Loan administration and servicing, 110-40-7
    - Loan guarantee agreement, 110-40-8
- Kansas Partnership Fund Program, 110-3-1 et seq.
  - Application criteria, 110-3-1
  - Eligible applicants, 110-3-2
  - Eligible projects, 110-3-3
  - Funds, distribution of congressional, 110-3-7
  - Loan, conditions of final approval, 110-3-6
  - Program fees and administration, 110-3-8
  - Program, terms of, 110-3-5
  - Projects,
    - Eligible, 110-3-3
    - Ineligible, 110-3-4
  - Repayment assurances, 110-3-11
  - Suspension, terms of, 110-3-9
  - Termination procedures, 110-3-10
- Local seed capital, 110-2-1, 110-2-2
- Promoting Employment Across Kansas (PEAK)
  - Program, 110-21-1 et seq.
  - Agreement, 110-21-4

**Commerce, Department of—Cont.**

- Promoting Employment Across Kansas—Cont.
    - Definitions, 110-21-1
    - Eligibility and application requirements, 110-21-2
    - Reconsideration of application, 110-21-3
    - Reporting requirements, 110-21-5
  - Rural business development tax credit program,
    - 110-13-1 et seq.
      - Allocation of tax credits, 110-13-5
      - Appeals, 110-13-7
      - Auditing, 110-13-9
      - Contributions and regional business development fund, administration of, 110-13-10
      - Definitions, 110-13-1
      - Designated regions, 110-13-2
      - Progress reports, 110-13-8
      - Reallocation of tax credits, 110-13-6
      - Regional business development funds, eligible projects, 110-13-4
      - Regional foundations, determination of, 110-13-3
  - Sales Tax Revenue Bonds, 110-9-1 et seq.
    - Audit reports, 110-9-7
    - Bond payments; subsequent special bond projects, 110-9-8
    - Certain findings; timing, 110-9-3
    - Definitions, 110-9-1
    - Due diligence, 110-9-5
    - Major commercial entertainment and tourism area; criteria, 110-9-6
    - Secretary's review, 110-9-4
    - Special bond project plan; additional documentation, 110-9-2
  - Student loan repayment program, 110-22-1 et seq.
    - Appeal process, 110-22-4
    - Application, 110-22-2
    - Definitions, 110-22-1
    - Determination of eligibility, 110-22-3
    - Repayment of outstanding student loan balance, 110-22-6
    - Resolution by county; intent to participate, 110-22-5
  - Venture capital companies, 110-1-1, 110-1-2
- Commerce, Department of—Kansas Athletic Commission, Agency 128**
- Definitions, 128-1-1
  - Facility and equipment requirements for professional boxing, kickboxing, full-contact karate, mixed martial arts, amateur mixed martial arts, and amateur sanctioning organizations, 128-5-1 et seq.
    - Approval of nationally recognized amateur sanctioning organization, 128-5-3
  - Contest requirements for professional boxing, kickboxing, bare-knuckle fighting, full-contact karate
  - Professional and amateur mixed martial arts contests, 128-5-2
  - Professional boxing, professional kickboxing, and professional full-contact karate contests, 128-5-1
  - Inspectors and their responsibilities, 128-4a-1 et seq.
    - Inspector, 128-4a-1
  - Licenses and permits, 128-2-1 et seq.
    - Contestant, 128-2-3
    - Fees for permits and identification cards, 128-2-12
    - General licensure requirements, 128-2-1

**Commerce—Kansas Athletic Commission—Cont.**

Licenses and permits—Cont.

- Judge, 128-2-4
- Manager, 128-2-5
- Matchmaker, 128-2-6
- Permits, 128-2-13
- Physician, 128-2-7
- Prohibited substance use and submission to drug testing, 128-2-3a
- Promoter, 128-2-8
- Referee, 128-2-9
- Second, 128-2-10
- Timekeeper, 128-2-11
- Officials and licensees and their responsibilities, 128-4-1 et seq.
  - Announcer, 128-4-1
  - Contestant, 128-4-2
  - Judge, 128-4-3
  - Matchmaker, 128-4-4
  - Physician, 128-4-5
  - Promoter, 128-4-6
  - Referee, 128-4-7
  - Second, 128-4-8
  - Timekeeper, 128-4-9
- Rules of conduct and equipment requirements for professional boxing, kickboxing, full-contact karate, and mixed martial arts, 128-6-1 et seq.
  - Grappling, 128-6-6
  - Pankration, 128-6-7
  - Professional bare-knuckle fighting, 128-6-8
  - Professional boxing, 128-6-1
  - Professional kickboxing, 128-6-2
  - Professional mixed martial arts contests, 128-6-4
- Tickets and fees, 128-3-1 et seq.
  - Tickets and fees, 128-3-1

**Commercial Feeds**

Board of Agriculture, Agency 4

**Communicable Diseases**

- Death from.
- Board of Mortuary Arts, Agency 63
- Department of Health and Environment, Agency 28

**Communication Systems**

- Data processing services.
- Department of Administration, Agency 1

**Community Health**

Department of Health and Environment, Agency 28

**Compensating Tax**

Department of Revenue, Agency 92

**Computer Services**

- Data processing services.
- Department of Administration, Agency 1

**Conservation, Division of—Kansas Department of Agriculture, Agency 11**

Cost sharing for land treatment above multipurpose small lake projects, 11-5-1 et seq.

**Conservation, Div. of, Dept. of Ag—Cont.**

Cost sharing—Cont.

- Availability, 11-5-1
- Disbursement of funds, 11-5-4
- Land treatment contracts, 11-5-3
- Grants for small lakes, 11-4-1 et seq.
  - Annual inspection, 11-4-14
  - Application, 11-4-6
  - Costs to project, 11-4-12
  - Definitions, 11-4-1
  - Funding, 11-4-5
  - Letter of intent, 11-4-3
  - Letter of interest, 11-4-2
  - Maintenance, 11-4-13
  - Modifications to construction or renovation plan, 11-4-11
  - Notification of completion, 11-4-10
  - Partial payments, 11-4-9
  - Procedures, 11-4-8
  - Renovation projects, eligible components, 11-4-15
  - Review process, 11-4-4
  - Sediment from reservoir, testing and disposal, 11-4-16
  - State contract, 11-4-7
- High priority cost-share program, 11-2-4 through 11-2-6
- Irrigation transition assistance program, 11-11-1 et seq.
  - Application and review, 11-11-3
  - Definitions, 11-11-1
  - Dismissal of water right, 11-11-6
  - Eligible areas, 11-11-2
  - Payment, 11-11-4
  - Petition for reconsideration, 11-11-7
  - Transition to dry land, 11-11-5
- Land reclamation program, 11-8-1 et seq.
  - Bond or other security, 11-8-8
  - Definitions, 11-8-1
  - Mining license renewal, 11-8-2
  - Reclamation,
    - Plan, 11-8-6
    - Requirements, 11-8-7
  - Site registration,
    - Initial, 11-8-3
    - Renewal, 11-8-4
- Non-point Source Pollution Control Fund, 11-7-1 et seq.
  - Abandoned water well plugging, 11-7-13
  - Allocation, 11-7-5
  - Cancellation of funds, 11-7-10
  - Conservation district program, 11-7-7
  - Contract funds, 11-7-6
  - Definitions, 11-7-1
  - Final payment, 11-7-9
  - Financial assistance contract, 11-7-8
  - Livestock waste control systems, 11-7-14
  - Local pollution management plan, 11-7-2
  - Maintenance contract, 11-7-11
  - On-site wastewater system, 11-7-12
  - Petition for reconsideration, 11-7-15
  - Project work plan, 11-7-3
  - Project work plan amendment, 11-7-4
  - Special projects, 11-7-16
- Sediment and Nutrient Reduction Initiative, Kansas, 11-13-1 et seq.
  - Definitions, 11-13-1
  - Haying and grazing, 11-13-4
  - Incentive payments; refunds, 11-13-6
  - Initiative requirements for new applications; funds for existing contracts, 11-13-2

**Conservation, Div. of, Dept. of Ag—Cont.**  
 Sediment and Nutrient Reduction Initiative—Cont.  
   Practices eligible for incentive payments, 11-13-5  
   Selection of applicants for initiative, 11-13-3  
 Water quality buffer initiative, Kansas, 11-9-1 et seq.  
   Contracts, 11-9-6  
   Definitions, 11-9-1  
   Eligible applicants, 11-9-3  
   Eligible areas, 11-9-2  
   Eligible practices, 11-9-4  
   Haying and grazing, 11-9-8  
   Payments, annual, 11-9-5  
   Petition for reconsideration, 11-9-10  
   Selection, 11-9-7  
   Termination, 11-9-9  
 Water resources cost-share program, 11-1-1 et seq.  
   Allocation of funding, 11-1-7  
   Cancellation of funds, 11-1-10  
   Conservation district program, 11-1-8  
   Contract between landowner and commission, 11-1-11  
   Definitions, 11-1-6  
   Financial assistance contract, 11-1-9  
   Irrigation funding procedures, 11-1-3  
   Petition for reconsideration, 11-1-14  
   Special projects, 11-1-12  
 Water rights purchase program, 11-10-1 et seq.  
   Application, 11-10-2  
   Definitions, 11-10-1  
   Payment, 11-10-5  
   Petition for reconsideration, 11-10-6  
   Priority areas, 11-10-3  
   Procedures, 11-10-4  
 Water right transition assistance pilot project program (WTAP), 11-12-1 et seq.  
   Application and review, 11-12-3  
   Definitions, 11-12-1  
   Dismissal or reduction of water right, 11-12-6  
   Eligible areas, 11-12-2  
   Payment, 11-12-4  
   Petition for reconsideration, 11-12-7  
   Transition to dry land, 11-12-5  
 Water supply restoration program, 11-6-1 et seq.  
   Definitions, 11-6-1  
   Eligible components of projects, 11-6-2  
   Letter of intent, 11-6-4  
   Letter of interest, 11-6-3  
   Restoration plan, 11-6-5  
   Review process, 11-6-6  
 Watershed dam construction program, 11-3-1 et seq.

**Consumer Credit Code—Consumer and Mortgage Lending Division, State Bank Commissioner, Agency 75**

Adjustable rate notes, 104-1-2  
 Consumer credit insurance.  
 Insurance Department, Agency 40  
 Investment Certificate Act, 75-8-1 et seq.  
   Appraisal, 75-8-9  
   Delinquency, 75-8-2  
   Insurance required, 75-8-7  
   Investment limitations, 75-8-3  
   Loans, records, gifts, 75-8-8  
   Personal property, acquisition and holding of, 75-8-6  
   Premiums and gifts, 75-8-1

**Consumer Credit Code—Cont.**  
 Investment Certificate Act—Cont.  
   Real property, acquisition and holding of, 75-8-4  
   Records, 75-8-5  
   Reserves for losses, 75-8-10  
   Stockholder meetings, 75-8-11  
 Uniform consumer credit code, 75-6-1 et seq.  
   Adjustment in dollar amounts, 75-6-24  
   Application; place of business, 75-6-30  
   Bond requirements, 75-6-31  
   Computation of time, 75-6-6  
   Current installments, 75-6-10  
   Default, notice, 75-6-17  
   Deficiency balances, 75-6-16  
   Federal consumer credit laws, 75-6-26  
   Finance charges,  
     Actuarial method, 75-6-2  
     Additional charges, 75-6-9  
     Annual percentage rates, 75-6-7  
     Precomputed, 75-6-3  
     Refunding precomputed installment contract, 75-6-29  
   Fraudulent conduct, 75-6-18  
   Loans, precomputed, conversion, 75-6-11  
   Motor vehicle loan balloon payment, 75-6-34  
   No assignment of earnings, 75-6-23  
   Payments, received by assignor, 75-6-4  
   Prelicensing and continuing education, 75-6-36  
   Prelicensure testing, 75-6-37  
   Record retention, 75-6-8, 75-6-33, 75-6-38  
   Reference base index, changes, 75-6-25  
   Transactions outside scope subject to code, 75-6-1

**Contractors**

Nonresident,  
   Hearings, 92-1-1 et seq.  
   Registration and bond, 92-15-1 et seq.

**Controlled Substances**

Board of Pharmacy, Agency 68

**Corporation Commission, Kansas, Agency 82**

Electric generating facilities. See Public utilities.  
 Motor carriers, 82-4-1 et seq.  
   Accessories and equipment, 82-4-8a  
   Authority of agents, employees, or representatives, 82-4-2a  
   Business change, transfer, 82-4-27c  
   Cab cards, stamps, 82-4-31  
   Certificate of convenience and necessity and certificates of public service,  
     Applications for, 82-4-27, 82-4-27a  
   Certificates, permits, licenses, 82-4-26 et seq.  
   Common and contract,  
     Permits and certificates, consolidation, 82-4-64  
     Proceedings, contested and uncontested, 82-4-63  
     Specified municipalities, authorized service, 82-4-66  
   Consolidation of, 82-4-28b  
   Contract carriers,  
     Agreements of, 82-4-59  
     Bills of lading or freight bills, 82-4-62  
     Permits, 82-4-28, 82-4-28a  
   Convenience and necessity, 82-4-27  
   Definitions, 82-4-1

## Corporation Commission, Kansas—Cont.

### Motor carriers—Cont.

- Documents, inspection, 82-4-35a
- Drivers,
  - License, 82-4-6e
  - Minimum requirements, 82-4-6a
  - Waiver of physical requirements, 82-4-6d
- Duty, general, 82-4-2
- Emergency use of additional or substitute vehicles, 82-4-42
- Express carriers, 82-4-67
- Hazardous materials, transporting, 82-4-20
- Identification, cards, 82-4-37, 82-4-39
- Inspection stations, 82-4-86
- Insurance,
  - Endorsements, 82-4-25a
  - Forms, 82-4-24a
  - General policy requirements, 82-4-23
  - Procedure, 82-4-22
  - Required, who, 82-4-21
  - Requirements, intrastate, 82-4-22
- Interstate licenses, 82-4-32
- Interstate registration, applications, 82-4-30a
- Joint registration of equipment, 82-4-29a
- Marking of commercial motor vehicles, 82-4-8h
- Merger or consolidation, 82-4-27e
- Name change of, 82-4-27c, 82-4-27g
- Passengers, prohibited, 82-4-40
- Preservation, 82-4-35
- Private carriers, 82-4-29
- Public carriers,
  - Baggage, loss or damage, 82-4-47
  - Bills of lading and antitrust immunity regulations, 82-4-48a
  - Bills of lading and freight bills, 82-4-48
  - C.O.D. regulations, 82-4-49b through 82-4-49e
  - Discontinuing service, 82-4-44
  - Passenger service, abandonment, 82-4-58d
- Passengers,
  - Carriers, 82-4-50
  - Treatment of, 82-4-51
- Tariffs,
  - Concurrences, powers of attorney, 82-4-57
  - Household goods and passenger carriers, 82-4-56a
  - Passenger carriers, filing requirements, 82-4-58a through 82-4-58c
  - Postponement of publications, procedure, 82-4-55
  - Publication, less than 30 days notice, 82-4-54
  - Suspension, modification, 82-4-58
  - Uniform system of accounts and reports, 82-4-46
- Rates, collective,
  - Agreements, 82-4-68
    - Applications by member carriers, 82-4-85
    - Revoking, 82-4-84
  - Applications, 82-4-69
  - Commission review, 82-4-83
  - Independent action, 82-4-77
    - Docketing, 82-4-78 to 82-4-80
  - Meetings, 82-4-72, 82-4-73
  - Proposals, notice and voting, 82-4-74 through 82-4-76
  - Protest, 82-4-81
  - Recordkeeping, 82-4-70
  - Service, charges, 82-4-71
  - Violations, proof of, 82-4-82

## Corporation Commission, Kansas—Cont.

### Motor carriers—Cont.

- Safety regulations, 82-4-3
  - Controlled substances and alcohol use, 82-4-3c
  - Driving of commercial motor vehicles, 82-4-3h
  - Employee safety and health standards, 82-4-3m
  - Financial responsibility for motor carriers, minimum levels, 82-4-3e, 82-4-3n
  - General motor carrier safety regulations, 82-4-3f
  - Hours of service, 82-4-3a
  - Imminent hazard, 82-4-3o
  - Inspection, repair, and maintenance, 82-4-3j
  - Parts and accessories necessary for safe operation, 82-4-3i
  - Qualifications of drivers, 82-4-3g
  - Safety fitness procedures, 82-4-3d
  - Transportation of hazardous materials, driving and parking rules, 82-4-3k
  - Transportation of migrant workers, 82-4-3l
  - Transportation workplace drug and alcohol testing programs, 82-4-3b
- Service of process, 82-4-33
- Tags, KCC, 82-4-39
- Tariffs,
  - Rates, 82-4-53
  - Temporary operating authority, 82-4-27f
  - Vehicle inspection stations, 82-4-86
  - Wrecker permit, local, 82-4-30b
- Net metering, 82-17-1 et seq.
  - Definitions, 82-17-1
  - Renewable energy credit program, 82-17-5
  - Reporting requirements, 82-17-4
  - Tariff requirements, 82-17-3
  - Utility requirements pursuant to the act, 82-17-2
- Oil and gas production and conservation,
  - Applicability; exception, 82-3-100
  - Base production, determination of, 82-3-901
    - Certification of well history, 82-3-903
    - Production enhancement projects, 82-3-904 through 82-3-907
      - Relief from severance tax, 82-3-902
      - Severance tax exemption, 82-3-900
  - Carbon dioxide storage facilities, 82-3-1000 et seq.
- Cathodic protection boreholes,
  - Construction of, 82-3-702
  - Groundwater management districts #2 and #5, 82-3-705 through 82-3-710
  - Intent to drill, 82-3-701
  - Plugging methods and procedures, 82-3-704
  - Surface construction requirements, 82-3-703
- Chemical dumping, 82-3-606
- Compressed air energy storage, 82-3-1200 et seq.
  - Cavern storage facilities and cavern storage wells,
    - Long-term monitoring, measurement, and testing, 82-3-1214
    - Operation, monitoring, and measurement requirements, 82-3-1212
  - Decommissioning and abandonment of a storage facility, 82-3-1221
  - Definitions, 82-3-1200
  - Design and construction of storage well, 82-3-1209
  - Fees, 82-3-1223
  - Licensing; financial assurance, 82-3-1201
  - Permits,
    - Amendment, 82-3-1205

**Corporation Commission, Kansas—Cont.**  
Oil and gas production and conservation—Cont.  
Compressed air energy storage—Cont.  
Permits—Cont.  
    Modification, suspension, and cancellation, 82-3-1207  
    Notice of application; publication; protest, 82-3-1204  
    Permit required; permit application, 82-3-1203  
    Signatory; signature for reports, 82-3-1202  
    Transfer, 82-3-1206  
Plugging,  
    Plugging-monitoring status, 82-3-1218  
    Storage well plugging, 82-3-1219  
Reporting required; record retention, 82-3-1222  
Reservoir storage facilities and reservoir storage wells,  
    Long-term monitoring, measurement, and testing, 82-3-1215  
    Operation, monitoring, and measurement requirements, 82-3-1213  
    Temporary abandonment of, 82-3-1220  
Safety and emergency response plan, 82-3-1216  
Safety inspection, 82-3-1217  
Site selection, 82-3-1208  
Storage facility construction and integrity, 82-3-1210  
Storage well workover, 82-3-1211  
Definitions, 82-3-101, 82-3-500, 82-3-700, 82-3-908  
Gas, natural,  
    Allowables, 82-3-312  
    Cancelled underage, reinstatement of, 82-3-300a  
    Common source, ratable production, 82-3-301  
    Completion reports, tests, 82-3-304  
    Conservation assessment, 82-3-307  
    Metered, 82-3-305  
    Natural gas pipeline maps, 82-3-310  
    Natural Gas Policy Act, 82-3-500 through 82-3-504  
    Open flow, determination of, 82-3-303  
    Producers, reports, 82-3-306  
    Production priority schedule, 82-3-313  
    Prorated pools, assignment of gas allowables, 82-3-300  
    Sour gas, 82-3-308  
    Storage formations, drilling in, 82-3-311, 82-3-311a  
    Uses, other than light and fuel, 82-3-309  
Gas gathering services,  
    Access, complaint, hearing, 82-3-802  
    Complaint procedure, abuse of, 82-3-803  
    Licensing, 82-3-800  
    Notice of termination, 82-3-804  
    Report furnished by persons offering, 82-3-801  
Global positioning system use, 82-3-101a  
Hearings, notice of, 82-3-135  
Holes, deviated, horizontal drilling, 82-3-103a  
Horizontal wells, 82-3-1300 et seq.  
    Definitions, 82-3-1300  
    Gas well test exemption, 82-3-1304  
    High-volume pumps, 82-3-1306  
    Horizontal wells, 82-3-1301  
    Notice of intention to drill; setback, 82-3-1302  
    Oil and gas allowables, 82-3-1303  
    Venting and flaring, 82-3-1305  
    Well completion report, 82-3-1307

**Corporation Commission, Kansas—Cont.**  
Oil and gas production and conservation—Cont.  
Hydraulic fracturing treatment, 82-3-1401 et seq.  
    Chemical disclosure, 82-3-1401  
    Definitions, 82-3-1400  
    Disclosure of trade secrets, 82-3-1402  
Intention to drill, penalty, 82-3-103  
Licenses, operator or contractor, 82-3-120 through 82-3-122  
Notice and hearing required, 82-3-103a  
Notice of application, 82-3-135a  
Oil,  
    Conservation assessment, 82-3-206  
    Drilling unit, 82-3-207  
    Flaring of sour gas, 82-3-209  
    Production allowable, 82-3-203  
    Production and sale, report of, 82-3-204  
    Production in prorated areas, balancing of underages, 82-3-201  
    Productivity, determining, 82-3-202  
    Spill notification and clean up, 82-3-603, 82-3-603a  
    Venting and flaring of gas, 82-3-208, 82-3-314  
    Waste, prevention, 82-3-200  
Operator financial responsibility, 82-3-120a  
Operator responsibility, transfer, 82-3-136  
Operators; complaints; hearing, 82-3-122  
Overages and underages in nonprorated areas, 82-3-133a  
Pits permits, 82-3-600 et seq.  
    Closure of pits, 82-3-602  
    Discharges; removal of fluids, 82-3-604  
    Disposal of dike and pit contents, 82-3-607  
    Spill notification and cleanup, 82-3-603  
    Transfer of refuse, 82-3-608  
Pollution,  
    Cementing, 82-3-105, 82-3-106  
    Prevention, 82-3-104  
Pool applications, new, 82-3-138  
Protesters, 82-3-135b  
Pumps,  
    Electric submersible, 82-2-506, 82-2-507  
    Vacuum, 82-3-131  
Purchasers, change in, 82-3-137  
Reports and permits,  
    Commission reports, costs, 82-3-129  
    Completion reports; penalty, 82-3-130  
    Purchasers and producers, 82-3-204  
    Verification, 82-3-128  
    Well completion, 82-3-130  
Tanks and trucks, 82-3-126, 82-3-127  
Tertiary recovery, 82-3-140  
Unlawful production, penalties, 82-3-133  
Wells,  
    Abandoned, 82-3-111, 82-3-113  
    Cementing, 82-3-105  
    Surface pipe, 82-3-106  
    Classification, 82-3-102  
    Commingling, 82-3-123 through 82-3-125  
    Completion reports, 82-3-130, 82-3-141  
    Drill, notice of intent to, penalty, 82-3-103  
    Dual and multiple, 82-3-124  
    Enhanced recovery projects, area notice for, 82-3-401a

**Corporation Commission, Kansas—Cont.**

Oil and gas production and conservation—Cont.

Wells—Cont.

Injection and disposal,

Application, 82-3-401, 82-3-402, 82-3-403

Assessment of costs, 82-3-412

Casings and cement, 82-3-405

Commencement and discontinuance of, 82-3-404

Existing wells, authorization, 82-3-411

Mechanical integrity requirements, 82-3-407

Permits, 82-3-400, 82-3-408

Records, 82-3-409

Simultaneous injection, permitting, 82-3-401b

Transfer of authority, 82-3-410

Trial tests, 82-2-402

Tubing and packer requirements, 82-3-406

Location, 82-3-108

Plugging, 82-3-114 through 82-3-119

Recompletion, 82-3-141

Re-entry notification, 82-3-132

Samples, cores and logs, 82-3-107

Seismic shot holes,

Intent to drill, 82-3-115a

Plugging methods and procedures, 82-3-115b

Shut-off tests, 82-3-112

Spacing,

Orders, 82-3-109

Violations, 82-3-110

Storage and disposal. See Oil and gas.

Department of Health and Environment,

Agency 28

Surface pipe, cementing-in, 82-3-106

Surface ponds, 82-3-600 et seq.

Oil and natural gas liquid pipeline, 82-10-1 et seq.

Pipeline safety, natural oil and gas, 82-11-1 et seq.

Drug and alcohol testing, 82-11-10

Fees, 82-11-11

Practice and procedure,

Classification of public utilities, 82-1-204a

Commission,

Communications to,

Ex parte, 82-1-207

Written, 82-1-206

Conducting business before, 82-1-202

Investigations, hearings, 82-1-237

Office hours, 82-1-205

Orders, 82-1-232

Sessions, 82-1-208

Confidentiality, 82-1-221a

Definitions, 82-1-204

Disputes, expedited review, 82-1-220a

Exhibits, documentary evidence, 82-1-221

Hearings,

Continuances and adjournments, 82-1-226

General provisions, 82-1-228

Notice for certain, 82-3-135

Petitions for consideration, 82-1-235

Prehearing conference, 82-1-222

Rate proceedings, 82-1-231, 82-1-231a,

82-1-231b

Subpoenas, 82-1-227

Testimony prefiled, 82-1-229

Intervention, 82-1-225

Joinder, 82-1-224

**Corporation Commission, Kansas—Cont.**

Practice and procedure—Cont.

Pleadings,

Commencing proceedings, 82-1-214

Complaints, 82-1-220

Copies, 82-1-215

Form and content, 82-1-218

General requirements, 82-1-219

Service of, 82-1-216

Prefatory matter, 82-1-201

Protective orders, 82-1-221b

Settlement agreements, 82-1-230a

Telephone preference service and telephone solicitors, 82-1-250

Time, computation of, 82-1-217

Transcripts, 82-1-238

Public utilities,

Electric generation facilities, 82-8-1 et seq.

Applications, requirements, 82-8-3

Contents and supporting documents, 82-8-2

Definitions, 82-8-1

Waiver provisions, 82-8-4

Supply lines, 82-12-1 et seq.

Applications for, 82-12-3

Construction notice, 82-12-5

Coordinated location, 82-12-8

Definitions, 82-12-1

Exceptions to, 82-12-4

Inductive coordination, 82-12-9

National Electrical Safety Code, adoption of, 82-12-2, 82-12-12

Utility requirements for telecommunication, 82-12-7

Warning buoys and spheres, 82-12-6

Electric utility renewable energy standards, 82-16-1 et seq.

Administrative penalties, 82-16-3

Certification of renewable energy resources, 82-16-5

Definitions, 82-16-1

Renewable energy credit program, 82-16-6

Renewable energy goal and report, 82-16-2

Retail revenue requirement, 82-16-4

Railroads,

Carriers, general duty, 82-5-3

Hazardous materials, 82-5-11

Inspections, bridges and other structures, 82-5-4

Maintenance and repair, track, bridges and structures, 82-5-6

Operating departments, required regulation filing, 82-5-12

Rates, regulation of,

Contracts,

Common carrier responsibilities, 82-9-21

Complaints, 82-9-17, 82-9-18

Definitions, 82-9-16

Future contracts, limitations on, 82-9-20

Review of, 82-9-19

Tariffs and contracts, filing, 82-9-22

Discrimination, rate, 82-9-25

Exempt transportation, 82-9-23

Fires, diesel locomotives, 82-6-1 to 82-6-3

Flexibility, zones of, 82-9-8, 82-9-12

Freight charges, refunds, 82-9-11

**Corporation Commission, Kansas—Cont.**

Railroads—Cont.

Rates, regulation of,—Cont.

- Grade crossing protection rules, 82-7-2, 82-7-5
- Joint rate surcharges and cancellations, 82-9-24
- Market dominance, 82-9-5, 82-9-13
- Maximum rates, 82-9-14
- Monetary adjustments, 82-9-9
- Proceedings,
  - Filing requirements, 82-9-10
  - Time for completion, 82-9-4
- Proceedings against, commencement of, 82-9-2
- Proof, burden of, 82-9-7, 82-9-15
- Reasonableness, 82-9-6
- Suspension of proposed rates, 82-9-3
- Tariffs, filing requirements, 82-9-1

Regulatory Policies Act (PURPA),

- Applicability, 82-1-248
- Compensation, 82-1-246
  - Application, 82-1-241
  - Award, 82-1-245
  - Determination, preliminary, 82-1-243
  - Hearing, preliminary, 82-1-242
- Costs, 82-1-244
- Definitions, 82-1-239
- Relationship to other rules, 82-1-247
- Rule, general, 82-1-240

Safety,

- Clearances, 82-5-14 through 82-5-16
- Exemptions from requirements, 82-5-17
- Speed restrictions, 82-5-10
- Trackage and grade crossings, 82-5-8
- Walkways, 82-5-9

Telecommunications,

- Definitions, 82-13-1
- Loss of service protection, 82-13-2

Underground porosity gas storage facilities,

- 82-3-1000 et seq.
  - Abandonment, 82-3-1011
  - Assessment of costs, 82-3-1012
  - Definitions, 82-3-1000
  - Facility monitoring and reporting, 82-3-1006
  - Federal energy regulatory commission proceedings, 82-3-1001
  - Identification signs, 82-3-1007
  - Operating permits,
    - Fully authorized, 82-3-1003
    - Notice of application, 82-3-1004
    - Provisional, 82-3-1002
  - Plugging notice, methods, reports, fees, 82-3-1010
  - Safety inspections, 82-3-1008
  - Testing and inspection requirements, 82-3-1005
  - Transfer of permit, 82-3-1009

Underground Utility Damage Prevention Act, Kansas, 82-14-1 et seq.

- Definitions, 82-14-1
- Excavator requirements, 82-14-2
- Notification center requirements, 82-14-4
- Operator requirements, 82-14-3
- Tier 3 member notification requirements, 82-14-5
- Violation of act; enforcement procedures, 82-14-6

Video service authorization,

- Application for certificate, 82-15-1

**Corrections, Department of, Agency 44**

Administration, general, 44-1-101 et seq.

- Definitions, 44-1-101
- News media, access to institutions and inmates, 44-1-102

Oaths, administration of, 44-1-105

Public or educational visits or tours, 44-1-103

Community corrections, 44-11-111 et seq.

- Advance grants, 44-11-112
- Base-year expenditures, 44-11-124

Comprehensive plan,

- Centralized administration, 44-11-115
- Changes in plan and budget, 44-11-123
- Corrections program, 44-11-114
- Review, 44-11-113

Definitions, 44-11-111

Fiscal management, 44-11-121

Funds, unexpended, 44-11-129

Grant funds,

- Contract for services, 44-11-132
- Copyrights and patents, 44-11-135
- Jail space, purchase of, 44-11-133
- Real estate acquisition and capital construction, 44-11-130
- Remodeling or renovation, 44-11-131
- Use, 44-11-127

Local programs, 44-11-119

Matching funds, 44-11-120

Plan, submission response by secretary, 44-11-122

Unexpended funds, 44-11-129

Urinalysis tests for controlled substances, 44-11-134

Conduct and penalties, 44-12-101 et seq.

- Administration publications and postings, 44-12-801 et seq.

Assignments to and performance of work, education, training or other duty, 44-12-401 et seq.

Attempt, conspiracy and accessory, 44-12-1101 et seq.

Being present and accounted for, 44-12-501 through 44-12-506

Classification of offenses and penalties, 44-12-1301 through 44-12-1308

Clothing, hygiene, safety, appearance, and living quarters, 44-12-101 through 44-12-107

Communications, inmate, 44-12-601, 44-12-602

Computer-based information, 44-12-212

Contraband, 44-12-901, 44-12-902

Department, violence, disruptive behavior and riot, 44-12-301 through 44-12-328

Legal work, law library, legal assistance, 44-12-702

Penalties, increased, 44-12-1201, 44-12-1202

Property and money, ownership, possession, registration, care, and use, 44-12-201 through 44-12-210

Telephones and other communication devices, 44-12-211

Violation of statutes, regulations, policies and procedures, and orders, 44-12-1001, 44-12-1002

Disciplinary procedure, 44-13-101 et seq.

Appeals, 44-13-701 through 44-13-707

Commencement of proceedings, 44-13-201 through 44-13-203

General, 44-13-101 through 44-13-106

Hearings, 44-13-401 through 44-13-409

Proceedings, nature of, 44-13-302a et seq.

Reports and records, 44-13-501 through 44-13-509

Sentences, 44-13-601 through 44-13-610

**Corrections, Department of—Cont.**

Facilities management, 44-2-102 et seq.  
Contraband, trafficking in, 44-2-103  
Inmates, telephone usage, 44-2-102  
Good time credits, and sentence computation, 44-6-101 et seq.  
Consecutive sentences, computation of, 44-6-143  
Court documents interpretation, 44-6-106  
Date of crime, law applicable, 44-6-107  
Definitions, 44-6-101  
Delinquent time lost on postincarceration supervision, 44-6-136  
Good time credits,  
  Adjustments of previous awards, 44-6-128  
    through 44-6-132  
  Allocation of, 44-6-116, 44-6-117  
  Application to record, 44-6-108, 44-6-120  
  Awarding, withholding, and restoring credits, 44-6-115a, 44-6-115b, 44-6-115c  
  Awarding good time, 44-6-124  
Forfeitures not restored, 44-6-125, 44-6-136a  
  Incentive good time credits, 44-6-145  
  Meritorious, 44-6-126  
  Presumptive sentence, 44-6-146  
Jail credit time, 44-6-134  
Maximum date, 44-6-141  
Parole eligibility computation, 44-6-115, 44-6-114c  
Prison service credit, 44-6-135  
Program credits, 44-6-127  
Release date, conditional, 44-6-114d, 44-6-142  
Release date, guidelines, 44-6-114e  
Sentence begins date, 44-6-138  
Sentence expended at parole eligibility, minimum, 44-6-144  
Sentence, maximum, 44-6-135a  
Sentence terms, controlling minimum dates of, 44-6-140, 44-6-140a  
Staff, training, 44-6-133  
Time lost on escape, 44-6-137  
Inmate management, 44-5-101 et seq.  
  Clinical treatment, 44-5-112  
  Contraband, disposition, 44-5-111  
  Corporal punishment, prohibited, 44-5-107  
  Counseling, 44-5-114  
  Custody classification, levels, 44-5-104  
  Definitions, 44-5-101  
  Force or restraint, use of, 44-5-106  
  Funeral attendance, 44-5-113  
  Inmate rule book, 44-5-108  
  Management problems, special, 44-5-109  
  Marriages, 44-5-110  
  Money and property disposition, 44-5-103  
  Program plan and timetable, 44-5-105  
  Service fees, 44-5-115  
Inmates, grievance procedure, 44-15-101 et seq.  
  Distribution orientation, 44-15-101a  
  Emergency procedure, 44-15-106  
  Grievance procedure, 44-15-101  
  Ombudsman, 44-15-203  
  Problems, special kinds of, 44-15-201  
  Procedure generally, 44-15-102  
  Records, 44-15-105  
  Reprisals prohibited, 44-15-104  
  Review, annual, 44-15-105a  
  Sexual abuse or sexual harassment, 44-15-204

**Corrections, Department of—Cont.**

Inmates, grievance procedure—Cont.  
  Time limits for filing, 44-15-101b  
Parole, postrelease supervision, and house arrest, 44-9-101 et seq.  
  Categories of supervision, 44-9-104  
  Definitions, 44-9-101  
  Final revocation hearings, 44-9-502  
    Waiver of final revocation hearing, 44-9-504  
  General provisions, 44-9-501  
  House arrest program, 44-9-107  
  Records expungement, 44-9-106  
  Sanctions; computation of time, 44-9-503  
  Violators, alleged, preliminary hearing for, 44-9-105  
Programs and activities for inmates, 44-7-102 et seq.  
  Education release, 44-7-105  
  Employment, private non-prison, 44-7-108, 44-7-109  
  Gratuity, release, 44-7-116  
  Handicraft programs and sales, 44-7-103  
  Health care, 44-7-114  
  Incentive pay and job assignment, 44-7-106  
  Law books, preservation, 44-7-115  
  Private employment of inmates, 44-7-108  
    Approval of program, 44-7-112  
  Recreation, exercise and participation in athletic activities, 44-7-102  
  Religious activity, 44-7-113  
  Visitation, 44-7-104  
  Volunteer services and criteria, 44-7-107  
Reporting claims procedure for lost or damaged property or for personal injury, 44-16-102 et seq.  
  Claims between institutions, 44-16-108  
  Claims for or reports of, 44-16-104, 44-16-104a  
  Claims processing, 44-16-107  
  Property at own risk, 44-16-105  
  Reporting loss or damage to property, 44-16-102  
  Reporting personal injury, 44-16-103  
  Reports of inmate losses to secretary, 44-16-106  
Segregation, administrative and disciplinary, 44-14-101 et seq.  
  Administrative segregation, 44-14-301  
    Discipline, 44-14-308  
    Inmate complaints, 44-14-312  
    Inmates types of or situations for use of, 44-14-302  
    Notice and explanation to inmate, 44-14-305  
    Notification of shift supervisor, 44-14-303  
    Privileges and rights, 44-14-306  
    Protective custody, 44-14-314  
    Report required, 44-14-304  
    Transfer of, 44-14-318  
    Transfer to more restricted area, 44-14-307  
  Administrative segregation review board, 44-14-309  
    Procedure for review board upon initial placement, 44-14-310  
    Regular review and monitoring, 44-14-311  
  Disciplinary, 44-14-201  
  General lockdown, 44-14-313  
  Minimum standards, 44-14-101  
  Procedure required, 44-14-202  
  Protective custody, 44-14-314  
  Psychological review, 44-14-316  
  Security, 44-14-102  
  Staff selection and rotation, 44-14-315  
  Waiver of rights, 44-14-317

**Corrections, Department of—Cont.**

- Training, 44-4-101 et seq.
  - Annual continuing education requirements, 44-4-106, 44-4-109
  - Completion of course, 44-4-104
  - Definitions, 44-4-101
  - Equivalent training, substitutions, 44-4-102
  - Plan and report, 44-4-109
  - Training centers, 44-4-103
  - Training personnel, qualifications, 44-4-107
  - Training records, 44-4-108
- Work release, 44-8-101 et seq.
  - Accounting for earnings, 44-8-110
  - Clothing, type permitted, 44-8-107
  - Confinement, 44-8-103
  - Contract requirements, 44-8-113
  - Definitions, 44-8-101
  - Eligibility and selection, 44-8-114
  - Employment, non-prison based, 44-8-115
  - Loans, 44-8-110
  - Medical care and services, 44-8-109
  - Participation, 44-8-102
  - Plan agreement required, 44-8-104
  - Prison based, 44-8-116
  - Religious services, attendance, 44-8-108
  - Status change, 44-8-105
  - Supervision, 44-8-112
  - Transportation, 44-8-111
  - Visits and telephone usage, 44-8-106

**Corrections, Dept. of—Div. of Juvenile Services**

See Juvenile Services Division, Department of Corrections

**Corrections Ombudsman Board, Agency 43**

Oath, administering, 43-1-1

**Cosmetics**

Food, drugs and cosmetics, 28-21-1 et seq.

**Cosmetology, Kansas State Board of, Agency 69**

- Beauty shops, 69-6-1 et seq.
  - Care of invalids, 69-6-3
  - Display of certificate, 69-6-1
  - Licenses,
    - Establishment closing, 69-6-7
    - Instructor's, 69-6-6
    - Sale or change of ownership, 69-6-2
    - Sign required, 69-6-5
- Continuing education, 69-14-1 et seq.
  - Cosmetology, approval, 69-14-3
  - Definitions, 69-14-1
  - Dual licensees, 69-14-4
  - Fees, 69-14-5
  - License renewal, 69-14-2
- Fees, 69-11-1 et seq.
  - Licenses, expiration dates, 69-11-2
- Inspections, 69-13-1 et seq.
  - Definitions, 69-13-1
  - Establishments, 69-13-2
  - Generated by a complaint, 69-13-3
  - Refusal to allow inspection, 69-13-4
- Licensing and qualifications, 69-1-1 et seq.
  - Advisory opinion fee, 69-1-10

**Cosmetology, Kansas State Board of—Cont.**

- Licensing and qualifications—Cont.
  - Application, 69-1-1,
  - Civil and criminal records, 69-1-10
  - Examination, appearance at next regular, 69-1-2
  - Failure of examination, 69-1-8
  - Grades required; development of exams, 69-1-4
  - Schools to be notified, 69-1-7
  - Subjects covered, 69-1-3
- Licensing, out-of-state applicants, 69-2-1 et seq.
  - Application, expiration, 69-2-2
  - Requirements, 69-2-1
- Manicurists, 69-8-1 et seq.
  - Application, expiration, 69-8-6
  - Examinations,
    - Passing grade, 69-8-3
    - Required when, 69-8-4
    - Subjects, 69-8-2
- Schools, 69-3-1 et seq.
  - Application procedure, 69-3-1
  - Applications necessary, 69-3-2
  - Correspondence schools not permitted, 69-3-17
  - Curricula and credits, 69-3-8
  - Disenrolled students, 69-3-27
  - Electrology, 69-3-23
  - Enrollment agreement and refund policy, 69-3-28
  - Examination for completion, 69-3-10
  - Facility requirements, 69-3-3
  - Floor space required per student, 69-3-22
  - Instructors, 69-3-4, 69-3-5, 69-3-6
  - Operating as shop, prohibited, 69-3-11
  - Scholarships, 69-3-19
  - Student hours, reporting, 69-3-29
  - Student records, 69-3-7
  - Student services sign, 69-3-9
  - Transfer students, 69-3-26
  - Tuition affidavit, 69-3-19
- Shop apprentices, 69-5-1 et seq.
  - Application procedure, 69-5-14
  - Curriculum and practical requirements, 69-5-6
  - Identification of student, 69-5-16
  - Period of apprenticeship, 69-5-10
  - Physical examination, 69-5-2
  - Student records, 69-5-15
  - Transfer requirements, 69-5-19
  - Work on public, 69-5-13
- Students, 69-4-1 et seq.
  - Additional training, 69-4-12
  - Equipment and uniform, 69-4-2
  - Transfer, 69-4-6, 69-4-11
  - Working on public, 69-4-9
- Tanning facilities, 69-12-1 et seq.
  - Barriers, protective, 69-12-14
  - Booths, stand-up, 69-12-15
  - Cleanliness of facility, general, 69-12-6
  - Closed facilities returned to board, licenses on, 69-12-4
  - Control device, 69-12-12
  - Definitions, 69-12-1
  - Enforcement, 69-12-17
  - Expiration of licenses and renewals, 69-12-3
  - Eyewear, 69-12-13
  - Fees, 69-12-5
  - Injuries, report of, 69-12-9
  - Lamps, 69-12-16

**Cosmetology, Kansas State Board of—Cont.**

- Tanning facilities—Cont.
- Licenses, 69-12-2
  - Exposure schedule, 69-12-10
  - Tanning device access, 69-12-18
  - Tanning device operators, 69-12-7
  - Times, 69-12-11
  - Warnings, 69-12-8
- Tattooing, body piercing, and permanent cosmetics, 69-15-1 et seq.
  - Application completion and deadlines, 69-15-6
  - Application for licensure by examination, 69-15-5
  - Body piercing procedures, 69-15-29
  - Chemical storage, 69-15-24
  - Clean instruments and products storage, 69-15-23
  - Continuing education for license renewal, 69-15-12
  - Continuing education, reporting, 69-15-13
  - Cosmetic tattoo artists or body piercers,
    - Establishment licensing and renewal, 69-15-14
    - Examination for, 69-15-7
    - Practice standards; restrictions, 69-15-15
    - Trainer, 69-15-3
  - Course of study,
    - Approved, 69-15-2
    - Out-of-state equivalent, 69-15-4
  - Definitions, 69-15-1
  - Disposable materials, handling, 69-15-25
  - Examination behavior, 69-15-8
  - Facility standards, 69-15-16
  - Fees, 69-15-30
  - Handwashing and protective gloves, 69-15-21
  - Inspections generated by a complaint, 69-15-11
  - Instrument sterilization,
    - Approved modes, 69-15-20
    - Cleaning methods prior to, 69-15-18
    - Standards, 69-15-19
  - License and inspection certificate, display of, 69-15-10
  - Licenses, issuance and renewal, 69-15-9
  - Linens, 69-15-22
  - Permanent color and tattoo procedures, 69-15-27
  - Permanent color, tattoo, and body piercing facility licensing, 69-15-14
  - Preparation and aftercare of treatment area, 69-15-28
  - Required equipment, 69-15-17
  - Waste receptacles, 69-15-26

**Credit Union Administrator**

- Adjustable rate notes, 104-1-1

**Credit Unions, State Department of, Agency 121**

- Branches, 121-12-1 et seq.
  - Definitions, 121-12-1
- Business recovery-contingency planning, 121-2-1 et seq.
  - Contingency plan, 121-2-1
- Credit union annual audit requirements, 121-10-1 et seq.
  - Definitions, 121-10-1
  - Reporting requirements, 121-10-2
- Credit union deteriorating condition, 121-5-1 et seq.
  - Definitions, 121-5-1
  - Determination of deteriorating condition, 121-5-2
  - Insolvent, meaning, 121-5-4
- Credit union services organization (CUSO), 121-3-1
- Foreign credit unions,
  - Approval, requirements, 121-9-1

**Credit Unions, State Department of—Cont.**

- Incidental powers, 121-7-1
- Low-income/community development credit unions, 121-1-1 et seq.
  - Non-member shares, 121-1-1
- Merger of credit unions, 121-11-1 et seq.
  - Definitions, 121-11-1
  - Process, 121-11-2
- Reporting place of business for credit unions, 121-6-1
  - Definitions, 121-6-1
  - Reporting requirement, 121-6-2
- Trust supervision, 121-4-1 et seq.
  - Audit of trust activities, 121-4-5
  - Authorization, 121-4-2
  - Books and accounts, 121-4-4
  - Collective investment, 121-4-10
  - Custody of investments, 121-4-9
  - Definitions, 121-4-1
  - Fiduciary powers, administration of, 121-4-3
  - Funds awaiting investment or distribution, 121-4-6
  - Investment of funds held as fiduciary, 121-4-7
  - Location of trust documents, 121-4-11
  - Self-dealing, 121-4-8
- Unsafe or unsound practice, 121-8-1

**Crime Victims Compensation Board, Agency 20**

- Assignment to providers, 20-5-1
- Attorney fees, 20-4-1
- Claims, 20-2-1 et seq.
  - Contributory misconduct, 20-2-8
  - Cooperation with the board, 20-2-2
  - Criminally injurious conduct, failure to properly report, 20-2-6
- Decisions,
  - Review, 20-2-5
  - Tentative award, 20-2-4
- Expenses, allowable, 20-2-9
- Law enforcement, cooperation with, 20-2-7
- Mental health counseling award, 20-2-3
- Definitions, 20-1-2, 20-6-1
- Eligibility requirements, 20-8-1 et seq.
  - Existing domestic violence programs, 20-8-3
- General, 20-8-1
  - Local units of government, 20-8-4
  - Staff qualifications, 20-8-2
- Grant application requirements, 20-10-1, 20-10-2
- Grant review and appeals, 20-11-1 et seq.
  - Decision, notification, 20-11-2
  - Proposal review, 20-11-1
- Grantee agencies, 20-13-2 et seq.
  - Annual reports, 20-13-2
  - Funding limits, 20-13-3
- Hearings, 20-3-1 et seq.
  - Conduct of, 20-3-2
  - Notice, 20-3-1
- Notoriety for profit contracts, 20-15-1, 20-15-2

**D****Dairies and Dairy Products**

- Milk and dairy products.
- Department of Agriculture, Agency 4
- Milk examination laboratories, 28-11-1 et seq.

## **Day Care Homes for Children**

Department of Health and Environment, Agency 28

## **Deaf Persons**

State school for the deaf.

Department of Education, Agency 91

## **Death Certificates**

Division of Vital Statistics.

Department of Health and Environment, Agency 28

## **Debentures**

Investment securities.

State Bank Commissioner, Agency 103

## **Dental Board, Kansas, Agency 71**

Advertising,

Prior submission to the board, 71-7-1

Continuing education, 71-4-1, 71-4-2, 71-4-3

Definition of certain terms, 71-1-16

Dental auxiliaries, 71-6-1 et seq.

Acts restricted, 71-6-2

Approved instruction course, 71-6-3

Coronal polishing, 71-6-6

Definitions, 71-6-1

Duty to notify board, 71-6-5

Subgingival scaling, 71-6-4

Dental hygienists, 71-3-1 et seq.

Address, notice to board, 71-3-4

Advertising, 71-3-1, 71-3-2

Authorized duties, 71-3-3

Extended care permits, 71-3-9

Letters to designate registration, 71-3-5

Procedures allowed, 71-3-7

Refresher course, 71-3-8

Dental recordkeeping requirements, 71-1-15

Examinations,

Dental law, 71-1-9

Fee, 71-1-11

National board certificate in lieu of, 71-1-3

Passing grade, 71-1-2

Proration of fees, 71-1-19

Re-examination, 71-1-4

Retention of applicants work, 71-1-1

Time of giving, 71-1-7, 71-1-8

Interne requirements, 71-1-10

Licenses,

Reinstatement of fee, 71-1-20

Suspension, termination, or denial of authority to practice, 71-1-21

Miscellaneous provisions,

Practice of dentistry, 71-11-1

Mobile dental facilities and portable dental

operations, 71-8-1 et seq.

Applicability of other regulations, 71-8-1

Cessation of operations, 71-8-9

Identification of location of services, 71-8-7

Identification of personnel; procedures; display of licenses, 71-8-6

Information for patients, 71-8-8

Office address and telephone number, 71-8-4

Registration fee, 71-8-2

Renewal of registration, 71-8-3

## **Dental Board—Cont.**

Mobile and portable dental operations—Cont.

Written procedures; communication facilities; conformity with requirements, 71-8-5

Nitrous Oxide/Oxygen; unlicensed assistant, 71-1-17

Practice of dental hygiene by a dental hygiene student, 71-10-1 et seq.

Practice of dentistry by a dental student, 71-9-1 et seq.

Sedative and general anesthesia, 71-5-1 et seq.

Applicability of regulations, 71-5-8

Definitions, 71-5-1, 71-5-7

General requirements, 71-5-9

Level I and II permits,

General requirements and procedures, 71-5-5

Revocation, suspension or limitation, 71-5-6

Scope of treatment, 71-5-2

Level I permit requirements, 71-5-3, 71-5-10

Level II permit requirements, 71-5-4, 71-5-11

Level III permit, 71-5-12

Permit, actions, 71-5-13

Specialists,

Examinations,

Application, 71-2-1, 71-2-4

Branches of dentistry, 71-2-2

Examining committee, 71-2-3

Fees, 71-2-6

Processing, 71-2-4

Qualifications, 71-2-5, 71-2-7

Evidence of, 71-2-12

Revocation or suspension of certificate, 71-2-11

Specialist examinations, 71-2-9

Sterilization and infection control, 71-1-18

## **Detective Agencies**

Licensure, 16-3-1 et seq.

## **Discrimination**

Kansas Human Rights Commission, Agency 21

## **Diseases**

Animals,

Animal Health Department, Agency 9

Barbers, 61-1-19, 61-1-20

Communicable, cause of death, 63-3-10

Cosmetologists, 69-7-26

Humans,

Department of Health and Environment, Agency 28

## **Dogs**

Imported into Kansas, 9-7-9

Training dogs, field trials.

Kansas Department of Wildlife and Parks, Agency 115

## **Drive-in Theatres**

Permits and regulations, 36-3-3, 36-3-4, 36-3-5

## **Driver Education**

Training schools, 91-7-1 et seq.

## **Drivers**

Licenses, 92-52-1 et seq.

School bus, 36-13-32

## Drugs

- Controlled substances, 68-20-1 et seq.
  - Notification to board; suspected diversion, theft, or loss of controlled substances, 68-20-15b
- Dangerous, hypnotic, somnifacient or stimulating, 28-28-1, 28-28-2
- Drugs and therapeutic devices, 28-21-200 et seq.
- Food, drugs and cosmetics, 28-21-1 et seq.
- Hospital pharmacy, 28-34-10

## Drugstores

- Board of Pharmacy, Agency 68
- Food and drug establishments, 28-23-1 et seq.

## E

### Education, State Department of, Agency 91

- Accreditation, schools, 91-31-1 et seq.
  - Adult education, 91-31-12e
  - Data submission, 91-31-33
  - Definitions, 91-31-1, 91-31-31
  - Distance learning, 91-31-4a
  - Elementary schools, 91-31-14a
  - G.E.D., 91-31-12f
  - Graduation requirements, 91-31-35
  - High schools, 91-31-12a
  - Independent study, 91-31-12c
  - Interscholastic activities, 91-31-14c
  - Junior high schools, 91-31-13
  - Library media programs, 91-31-10, 91-31-14b
  - Local board of education requirements, 91-31-34
  - Military credit, 91-31-12g
  - On-site visits, 91-31-24
  - Performance and quality criteria, 91-31-32
  - Policies, 91-31-3
  - Procedures, 91-31-2
  - Public disclosure, 91-31-41
  - Recommendation and appeal, 91-31-37
  - Rewards, 91-31-39
  - Sanctions, 91-31-40
  - Schools,
    - Administration, 91-31-6
    - Credit, course, 91-31-12b
    - Guidance, 91-31-8
    - Library media programs, 91-31-10, 91-31-14b
    - Middle junior high, 91-31-14
    - Special education, 91-31-9
    - Staff, 91-31-7
  - Special or innovative programs, 91-31-4
  - Status, 91-31-38
  - Summer school, 91-31-5
  - Technical assistance teams, 91-31-36
  - Unified school districts, 91-31-15
  - Waiver, 91-31-42
  - Work experience, 91-31-12d
- Certificate regulations, 91-1-200 et seq.
  - Career and technical education, 91-1-220
  - Criminal history records check, 91-1-214
  - Definitions, 91-1-200
  - Endorsements, 91-1-202, 91-1-209
  - Extension based upon military service, 91-1-210
  - Foreign and out-of-state applicants, 91-1-204
  - General requirements, 91-1-203, 91-1-208

### Education, State Department of—Cont.

- Certificate regulations—Cont.
  - In-service education,
    - Definitions, 91-1-215
    - Expenditures for program, 91-1-219
    - Professional development council, 91-1-217
    - Professional development points, 91-1-218
    - Promulgation of plans, 91-1-216
  - Professional development plans for license renewal, 91-1-206
  - Renewal of certificates issued before July 1, 2003, 91-1-207
  - Renewal requirements, 91-1-205
  - Restricted license, 91-1-212
  - Review committee, 91-1-211
  - Technical education, 91-1-221
  - Type of licensure, 91-1-201
  - Vocational-technical certificates, 91-1-213
- Certification regulations, 91-1-26 et seq.
  - Administrators,
    - Building administrator programs, 91-1-32, 91-1-128, 91-1-128b
    - Counselor, 91-1-131
    - District school administrator, 91-1-32
    - District schools, 91-1-129a
    - Vocational-technical schools, 91-1-130
  - Advanced study, 91-1-125
- Certificates,
  - Cancellation, revocation, suspension, denial or recall, 91-1-61
  - Certification review committee, 91-1-28
  - Definitions, 91-1-26
  - Exchange certificate, 91-1-27c
  - Renewal based on age, 91-1-56
  - Renewal based on military service, 91-1-150
  - Vocational certificate renewal, 91-1-153
- Certification, areas of,
  - Aerospace education, 91-1-83
  - Agriculture, 91-1-42, 91-1-43, 91-1-82
  - Anthropology and sociology, 91-1-119c
  - Art, 91-1-84a
  - Audiologist, 91-1-137a
  - Bilingual or multicultural, 91-1-85
  - Biology, 91-1-113b
  - Business education, 91-1-86
  - CCVEP (Combination Cooperative Vocational Education Programs), 91-1-51
  - Chemistry, 91-1-114a
  - Computer studies, 91-1-148a
  - Counselor, 91-1-131
  - Data processing, 91-1-46
  - Daytrade personal and public service, 91-1-39
  - Distributive education, 91-1-87
  - Drafting, 91-1-106j
  - Drama, 91-1-121
  - Driver education, 91-1-88
  - Early childhood, 91-1-31
  - Early childhood education, 91-1-89
  - Early childhood, handicapped, 91-1-99
  - Economics, 91-1-119b
  - Electricity and electronics, 91-1-106d
  - Elementary education, 91-1-90
  - Elementary middle level, junior high and secondary, 91-1-30

**Education, State Department of—Cont.**

Certification regulations—Cont.  
 Certification, areas of—Cont.  
 English, 91-1-91, 91-1-91a  
 Second language, 91-1-92  
 Examination, precertification, 91-1-27a, 91-1-27b  
 Foreign exchange teachers, 91-1-57  
 Foreign institutions, evaluating credits, 91-1-145  
 Foreign language, 91-1-101, 91-1-101a, 91-1-101b  
 Geography, 91-1-119d  
 Graphic arts, 91-1-106k  
 Health, 91-1-102a  
 Health occupations, 91-1-50  
 History and government, 91-1-119a  
 Home economics, 91-1-104b, 91-1-104c, 91-1-105  
 Home economics, occupational, 91-1-48  
 Homebound and hospitalized children, 91-1-100  
 Industrial programs,  
 Arts, 91-1-106  
 Comprehensive, 91-1-106  
 Principles of, 91-1-149  
 Production, 91-1-106i  
 Training program, 91-1-40  
 Woods, 91-1-106g  
 Innovative and experimental programs, 91-1-141  
 Inservice education, 91-1-146a et seq.  
 Institutional accreditation, initial procedures, 91-1-68a  
 Instruction, 91-1-75  
 Journalism, 91-1-122  
 Library media, 91-1-107a  
 Mathematics, 91-1-108a, 91-1-108b, 91-1-108c  
 Metals, 91-1-106h  
 Middle level teacher preparation, 91-1-144  
 Music, 91-1-109a  
 Nurse, 91-1-65, 91-1-67, 91-1-111a  
 Occupational-coordination endorsement, 91-1-49  
 Office education, instructor, 91-1-45  
 Officer training, junior reserve, 91-1-63  
 Organization, governing board, 91-1-70  
 Performance-based programs, 91-1-142  
 Physical education, 91-1-110a, 91-1-110c  
 Physics, 91-1-118a  
 Plastics, 91-1-106f  
 Policies and practices, 91-1-71  
 Postsecondary program instructor, 91-1-47  
 Power and energy technology, 91-1-106e  
 Provisional endorsement, 91-1-54  
 Psychologist, school, 91-1-132a  
 Psychology, 91-1-123a  
 Reading specialist, 91-1-140a  
 Requirements, 91-1-27  
 Science, 91-1-112c, 91-1-112d  
 Earth and space, 91-1-115a  
 Physical, 91-1-117a  
 Second field, 91-1-30a  
 Secondary, 91-1-30  
 Social studies, 91-1-119e, 91-1-119f, 91-1-119g  
 Social worker, school, 91-1-138a  
 Special education, 91-1-33, 91-1-34, 91-1-93a  
 Speech communication, 91-1-120  
 Speech education, 91-1-120  
 Speech-language pathologist, 91-1-135a  
 Student participation, 91-1-73  
 Student personnel services, 91-1-72  
 Substitute teaching certificate, 91-1-58, 91-1-60

**Education, State Department of—Cont.**

Certification regulations—Cont.  
 Certification, areas of—Cont.  
 Superseding regulations, 91-1-143  
 Supervisor, 91-1-127a  
 Teacher education, general, 91-1-77 through 91-1-81  
 Teacher education institutions,  
 Accreditation, 91-1-68b, 91-1-68e, 91-1-70a  
 Adoption by reference, 91-1-70b  
 Initial approval, 91-1-68c  
 Renewal, 91-1-68d  
 Teachers. See Certifying school persons.  
 Technical programs, instructor, 91-1-41  
 Technology, principles of, 91-1-149  
 Trade personal and public service, 91-1-39  
 Visiting scholar, 91-1-27d  
 Vocational education, 91-1-35, 91-1-37  
 Vocational education counselors, 91-1-53  
 Vocational programs, adult, 91-1-55  
 Vocational special needs, 91-1-52  
 Institutional accreditation and program approval,  
 Definitions, 91-1-230  
 On-site visits, 91-1-232  
 Teacher education programs, 91-1-231,  
 91-1-235, 91-1-236  
 Community colleges, accrediting, 91-8-1 et seq.  
 Administration, 91-8-16  
 Admission, financial aid, 91-8-17  
 Conduct of employees and students, 91-8-16, 91-8-26  
 Courses, review, 91-8-32  
 Full-time equivalent, 91-8-2  
 Library, 91-8-19  
 Out-district courses, approval, 91-8-31  
 Programs,  
 Approval, 91-8-30  
 Purpose, 91-8-15  
 Review, 91-8-32  
 Community colleges, general, 91-25-1a et seq.  
 Residence,  
 Appeal board, 91-25-3a  
 Determination, 91-25-1a  
 Review, 91-25-2, 91-25-18  
 Review of appeals, 91-25-4a  
 Tuition,  
 Determination, 91-25-1c  
 Out-district, certain students, 91-25-17, 91-25-18  
 Disorganization of unified school districts, 91-21-1  
 Driver education, 91-5-1 et seq.  
 Automobile used as trainer, 91-5-9  
 Definitions, 91-5-1  
 Driving ranges, multiple car, use of, 91-5-11  
 Instruction,  
 Driver education I, 91-5-2  
 Period of instruction, 91-5-6  
 Instruction permits, 91-5-8  
 Instructors, qualifications, 91-5-3  
 Motorcycle instruction, 91-5-14  
 Program approval, 91-5-1a  
 Pupils, eligible, 91-5-7  
 Reimbursement, 91-5-4  
 Reports, 91-5-13  
 Simulators, use of, 91-5-10  
 Drivers' training schools, commercial, 91-7-1 et seq.  
 Accommodations, classroom, 91-7-11  
 Bond required, 91-7-4

**Education, State Department of—Cont.**

- Drivers' training schools, commercial—Cont.
- Conduct of schools, 91-7-6
- Instruction,
  - Behind-the-wheel driving, 91-7-14
  - Classroom, 91-7-13
- Licenses required, 91-7-8
  - Fee, 91-7-1
- Location of school, 91-7-2
- Records, 91-7-3
- Revocation or suspension of license, 91-7-7
- Vehicles, 91-7-5
- Educational excellence grant program,
  - Application, 91-35-2
  - Definitions, 91-35-1
  - Grants reports, 91-35-4
  - Plan, 91-35-3
- Emergency safety interventions, 91-42-1 et seq.
  - Administrative review, 91-42-5
  - Definitions, 91-42-1
  - Dispute resolution, local board, 91-42-3
  - District policy, 91-42-3
  - Exemptions, 91-42-6
  - Filing a complaint, 91-42-4
  - Parent notification, required meeting, 91-42-4
  - Reporting, 91-42-7
  - Standards for use, 91-42-2
  - Training, 91-42-3
- Food service, nonprofit school programs, 91-26-1 et seq.
  - Assistance and donations, 91-26-5
  - Equipment assistance, 91-26-6
  - Reimbursement, 91-26-3
  - Requirements, for participation, 91-26-1
- General educational development tests, 91-10-1 et seq.
  - Eligibility, 91-10-1a
  - Test score requirement, 91-10-2
- Mentor teacher program, 91-41-1 et seq.
  - Definitions, 91-41-1
  - Evaluating applications, 91-41-3
  - General requirements, 91-41-2
  - Teacher qualification, 91-41-4
- Parents as teachers grant, 91-37-1 et seq.
  - Definitions, 91-37-1
  - Parent education program, grant application, 91-37-2
  - Plan, 91-37-3
  - Reports, 91-37-4
- Private schools, 91-18-24 et seq.
  - Accreditation, minimum standards, 91-18-27
  - Certificate of approval, 91-18-29,
  - Representative, registration of, 91-18-34
- Professional practices commission, 91-22-1 et seq.
  - Cases, 91-22-4
  - Complaints, 91-22-5a
    - Answer of respondent, 91-22-9, 91-22-10
    - Form, 91-22-8
  - Contract laws, violation of, 91-22-7
  - Depositions, affidavits, 91-22-18
  - Ex parte communications, 91-22-3
  - Hearings, 91-22-21
    - Conduct of, 91-22-22
    - Decision of commission, 91-22-25
    - Notice, 91-22-20
    - Responsibility of state board, 91-22-26
    - Rules of evidence, 91-22-24
    - Service of order, 91-22-19

**Education, State Department of—Cont.**

- Professional practices commission—Cont.
  - Hearings—Cont.
    - Use of prepared testimony, 91-22-23
  - Intervention, 91-22-12
  - Investigations, prehearing conferences, 91-22-16
  - License, denial, suspension or revocation, 91-22-1a
  - Motions, 91-22-11
  - Praecipes and forms, 91-22-14
  - Procedure, 91-22-2
  - Records and transcripts, 91-22-17
  - Subpoenas, 91-22-13
    - Forms, 91-22-15
  - School bus transportation,
    - Annual inspection of school vehicles, 91-38-5
    - Compliance with chassis and body construction standards, 91-38-4
    - Definitions, 91-38-1
    - Driver's duties and responsibilities, 91-38-7
    - Emergency procedures, 91-38-9
    - General limitations and requirements, 91-38-2
    - Loading and unloading procedures, 91-38-8
    - School transportation driver qualifications, 91-38-6
    - School transportation supervisor duties and responsibilities, 91-38-3
    - Use of urban mass transportation buses, 91-38-10
  - School conduct rules, 91-15-1
- Special education, 91-40-1 et seq.
  - Agency placement in private schools or facilities, 91-40-22
  - Child find, 91-40-7
  - Complaints, filing, 91-40-51
  - Definitions, 91-40-1
  - Educational advocates, 91-40-24
  - Educational placement, 91-40-21
    - Change in placement for disciplinary reasons, 91-40-33
    - During proceedings, 91-40-31
    - Functional behavioral assessments and behavioral intervention plans, 91-40-37
    - Services during suspensions or interim alternative educational placements, 91-40-35
    - Services for children with disabilities, 91-40-36
    - Short-term suspensions and interim placements, 91-40-34
  - Eligibility determination, 91-40-10
  - Evaluations, 91-40-8
    - Procedures, 91-40-9
    - Right to independent educational evaluation, 91-40-12
    - Specific learning disability; intervention, 91-40-11
  - Expedited due process hearings, 91-40-30
  - Free Appropriate Public Education (FAPE), 91-40-2
    - Ancillary FAPE requirements, 91-40-3
    - FAPE for detained or incarcerated children with disabilities, 91-40-5
    - FAPE for exceptional children in certain state institutions, 91-40-4
  - Funds and equipment, use of, 91-40-48
  - Individualized Education Program (IEP),
    - Development and content, 91-40-18
    - Liability, 91-40-19
    - Requirements, 91-40-16
    - Team meetings and participants, 91-40-17

**Education, State Department of—Cont.**

- Special education—Cont.
  - Manifestation determination, 91-40-38
  - Mediation and due process hearings, 91-40-28
  - Parental access to student records, confidentiality, 91-40-50
  - Parents of an exceptional child,
    - Opportunity to examine records and participate in meetings, 91-40-25
    - Notice requirements, 91-40-26
    - Parental consent, 91-40-27
  - Private schools,
    - Allocation and expenditure of federal funds, 91-40-44
    - Child find and count of children enrolled, 91-40-42
    - Consultation, 91-40-42a
    - Mediation and due process rights of children, 91-40-46
    - Placement by parents to obtain FAPE, 91-40-41
    - Services plan or IEP, 91-40-45
    - Services to children enrolled in, 91-40-43
    - Transportation for exceptional children enrolled in, 91-40-47
  - Qualifications of mediators and due process hearing officers, 91-40-29
  - Rights of children not identified as children with disabilities, 91-40-39
  - School district eligibility for funding; facilities, 91-40-52
- Special purpose schools, 91-33-1 et seq.
  - Accrediting, procedures for, 91-33-2
  - Administration, 91-33-4
  - Curriculum, 91-33-6
  - Definitions, 91-33-1
  - Graduation, 91-33-8
  - Library media center, 91-33-7
  - Policies and organization, 91-33-3
  - Staff, 91-33-5
- Student teachers, 91-19-1 et seq.
  - Certification, 91-19-2
  - Contracts, required, 91-19-6
  - Definitions, 91-19-1
- Tax sheltered annuity program, for employees of state schools for the deaf and visually handicapped, 91-29-1 et seq.
  - Application, 91-29-4
  - Beginning date, 91-29-9
  - Contracts, maximum reduction, 91-29-3
    - Completed and signed, 91-29-10
    - Form for reduction of salary, 91-29-12
  - Definitions, 91-29-2
  - Fixed or variable annuities, 91-29-5
  - Maximum reduction, 91-29-3
  - Selection of company by employee, 91-29-7
    - One company exception, 91-29-11
  - Solicitation by companies, 91-29-6
  - Uniform contract form, 91-29-8
- Vocational education, 91-16-1 et seq.
  - Admission procedures, 91-16-17 et seq.
    - Affidavit of minor, 91-16-19
    - Affidavit of person of majority age, 91-16-20
    - Appeal upon denial for admission,
      - Decision of board, 91-16-6, 91-16-7
      - Form, 91-16-2

**Education, State Department of—Cont.**

- Vocational education—Cont.
  - Admission procedures—Cont.
    - Appeal upon denial for admission—Cont.
      - Hearing, 91-16-5
      - Notice, 91-16-3, 91-16-4
      - Right of appeal, when, 91-16-1a
    - Defined, 91-16-1
      - Application procedures, 91-16-17, 91-16-19, 91-16-20
      - Training information program, Kansas, 91-16-30
      - Tuition payment and refund, 91-16-18, 91-16-21
  - Vocational schools, accrediting area, 91-32-1 et seq.
    - Accrediting, procedures for, 91-32-2
    - Administration, 91-32-4
    - Definitions, 91-32-1
    - Library media program, 91-32-9
    - Policies and organization, 91-32-3
    - School objectives, curriculum, 91-32-6
    - Site and building, 91-32-7
    - Staff, 91-32-5
      - Student personnel services, 91-32-8
    - Washburn University, 91-9-11, 91-25-17
    - Youth centers, 91-34-1 et seq.

**Eggs**

- Board of Agriculture, Agency 4

**Election Board, State, Agency 6**

- Election expenses, apportionment among subdivisions, 6-1-1 et seq.
  - Direct expenses, 6-1-1
  - Indirect expenses, 6-1-2

**Elections**

- Governmental Ethics Commission, Agency 19
- Secretary of State, Agency 7

**Embalming, Board of,**

- Board of Mortuary Arts, Agency 63

**Emergency Medical Services Board, Agency 109**

- Ambulance attendants, first responders, and drivers; standards, 109-3-1 et seq.
  - Authorized activities,
    - Advanced emergency medical technician, 109-3-5
    - Emergency medical responder, 109-3-3
    - Emergency medical technician, 109-3-4
- Ambulance service, air, 109-4-1 et seq.
  - Services, classes of, 109-4-1
  - Standards, 109-4-3
- Ambulance services, permits and regulations, 109-2-1 et seq.
  - Air safety program, 109-2-10a
  - Ambulances based outside of Kansas, 109-2-15
    - Air ambulance vehicles, 109-2-11
    - Fixed-wing ambulance aircraft, 109-2-13
    - Permits and licenses, renewals, 109-2-2, 109-2-4
    - Registration fee, 109-2-3
    - Rotor-wing ambulance aircraft, 109-2-12
    - Temporarily certified attendants, 109-2-14
    - Variations, 109-2-9

**Emergency Medical Services Board—Cont.**  
 Ambulance services, permits and regulations—Cont.  
 Operational standards, 109-2-5  
 Service operator, 109-2-1  
 Staffing, ground ambulance, 109-2-7  
 Standards and equipment,  
 air ambulances, 109-2-11  
 ground ambulances,  
 Types of and staffing, 109-2-6  
 Certification,  
 Recognition of non-Kansas credentials, 109-15-2  
 Reinstating attendant certificate after expiration, 109-15-1  
 Certification, temporary,  
 Applicant with non-Kansas credentials, 109-6-1  
 Attendant certification expiration and renewal, 109-6-3  
 Attendant and instructor-coordinator certificate  
 renewal, 109-6-2  
 Continuing education, 109-5-1 et seq.  
 Advanced emergency medical technician (AEMT),  
 109-5-1c  
 Approval for long-term providers, 109-5-3  
 Certification, renewing expired, 109-5-4  
 Documentation, 109-5-2  
 Emergency medical responder (EMR), 109-5-1a  
 Emergency medical technician (EMT), 109-5-1b  
 Instructor-coordinator (I-C), 109-5-1e  
 Paramedic, 109-5-1d  
 Retroactive approval of course, 109-5-5  
 Single-program approval for providers, 109-5-6  
 Training officer, 109-5-1f  
 Transition course approval,  
 Advanced emergency medical technician, 109-5-7c  
 Emergency medical responder (EMR), 109-5-7a  
 Emergency medical technician (EMT), 109-5-7b  
 EMR and EMT train the trainer, 109-5-7d  
 Course approval, 109-11-1 et seq.  
 Advanced emergency medical technician (AEMT),  
 109-11-4a  
 Course of instruction, 109-11-8  
 Crash injury management technician, 109-11-2  
 Defibrillator, 109-11-5  
 Emergency medical responder, 109-11-1a  
 Emergency medical technician, 109-11-3a,  
 109-11-4, 109-11-10  
 Emergency medical technician-basic, 109-11-3  
 First responder, 109-11-1  
 Instructor-coordinator, 109-11-7  
 Instructor qualifications, 109-11-9  
 Mobile intensive care technician, 109-11-6  
 Paramedic, 109-11-6a  
 Curriculum approval, 109-10-1  
 Approved education standards,  
 Advanced emergency medical technician, 109-10-1c  
 Emergency medical responder, 109-10-1a  
 Emergency medical technician, 109-10-1b  
 Instructor-coordinator, 109-10-1e  
 Paramedic, 109-10-1d  
 Training officer I, 109-10-1f  
 Training officer II, 109-10-1g  
 Distance learning, 109-10-7  
 Late enrollment, 109-10-3  
 Long-term accreditation, 109-10-2  
 Television, interactive, 109-10-5  
 Transfers, student, 109-10-4

**Emergency Medical Services Board—Cont.**  
 Defibrillator, automated, 109-12-1 et seq.  
 Protocols, 109-12-2  
 Training program, 109-12-1  
 Definitions, 109-1-1, 109-1-1a  
 Medical director, 109-1-2  
 Do not resuscitate (DNR) identifiers, 109-14-1 et seq.  
 Certification of entities distributing, 109-14-1  
 Examinations, 109-8-1  
 Scheduling certification, 109-8-2  
 Fees, schedule of, 109-7-1  
 Graduated sanctions, 109-16-1  
 Instructor-coordinator, 109-9-1 et seq.  
 Authorized activities, 109-9-2  
 Certification, 109-9-1  
 Initial course of instruction, 109-9-4  
 Standards, 109-9-5  
 Training officers,  
 Authorized activities, 109-13-3  
 Training, 109-13-1

### **Emergency Vehicles**

Kansas Department of Transportation, Agency 36

### **Employee Award Board, Agency 18**

Awards,  
 Services, 18-1-1, 18-1-2  
 Suggestions, 18-2-1 et seq.  
 Acceptable, 18-2-2  
 Determination of cash awards, 18-2-6  
 Eligibility, 18-2-1  
 Non-acceptable, 18-2-3  
 Property rights, 18-2-7  
 Submission, 18-2-4  
 Types, 18-2-5

### **Employment**

Department of Administration, Agency 1  
 Human Rights Commission, Kansas, Agency 21

### **Employment, Division of, Department of Labor, Agency 50**

Definitions, 50-1-2 through 51-1-5  
 Disclosure of information, 50-4-2 et seq.  
 Governmental employment, 50-2-1 et seq.  
 Electronic filing, 50-2-25a et seq.  
 Authorized user, 50-2-25b  
 Contents of transmission, 50-2-25c  
 Date of filing, 50-2-25e  
 Definitions, 50-2-25a  
 Employing unit, identification of, 50-2-25d  
 Employers,  
 Authority to terminate, 50-2-9  
 Classification by industrial activity, 50-2-17  
 Contribution appeal process, 50-2-19  
 Contribution rates of employer, computation of,  
 50-2-21, 50-2-21a  
 Election or termination of status, effective date,  
 50-2-20  
 Interest on overpayments, 50-2-26  
 Interstate cooperation, 50-2-6  
 Paymaster, concurrent employment with common,  
 50-2-22

## **Employment, Div. of , Dept. of Labor—Cont.**

### **Governmental employment—Cont.**

#### **Employers—Cont.**

Payments by, 50-2-11

Reports, 50-2-5, 50-2-12

Sickness or accident payments, 50-2-23

Surety bonds or surety deposit requirements,  
50-2-18

Workers, identification of, 50-2-4

#### **Levy and distraint, 50-2-24a et seq.**

Appraisal of property, 50-2-24g

Authority to release and return property, 50-2-24p

Enforcement of, 50-2-24e

Expense of levy and sale, 50-2-24n

Notice required, 50-2-24a

Proceeds, application of, 50-2-24o

Production of books or records, 50-2-24f

Property, certificate of deed, 50-2-24k

Property, redemption of, 50-2-24j

Property, sale of seized, 50-2-24h

Property, surrender of, 50-2-24d

Salary and wages, on, 50-2-24c

Sale, certificate of, legal effect of, 50-2-24i

Sale of perishable goods, 50-2-24i

Sale, records of, 50-2-24m

Service of, 50-2-24b

Payments, contributions and benefit cost, 50-2-3

Records, employing units, 50-2-2

Remuneration in kind, cash value of, 50-2-1

#### **Unemployment insurance benefits, 50-3-1 et seq.**

Appellate procedure, 50-3-6

Benefit payments, 50-3-5

Bona fide employment and wages paid, affidavit, 50-3-7

Claim,

Continued, intrastate workers, 50-3-3

Initial, intrastate workers, 50-3-2

Employing unit requirements, 50-3-7

Late filing, 50-3-4

Waiver of requirement to register for work, 50-3-2a

## **Employment Security Board of Review, Department of Labor, Agency 48**

Appeal notice, filing of, 48-4-1 et seq.

Appeals, 48-3-1 et seq.

Notice, members, disqualification, 48-3-5

Representation, 48-3-2

Witnesses, 48-3-1

Appellate procedure, 48-1-1 et seq.

Appeal determination, 48-1-6

Conduct of hearing, 48-1-4

Continuance of hearings; withdrawal of appeal,  
48-1-5

Hearing notice, 48-1-2

Referee disqualification, 48-1-3

Board of Review, 48-2-1 et seq.

Creation and organization, 48-2-1

Decision of board, 48-2-5

Evidence, additional, 48-2-4

Filing appeal, 48-2-2

Hearing of appeals, 48-2-3

## **Energy Development Act**

Department of Commerce, Agency 110

## **Energy Office, Kansas, Agency 27**

Energy resources, priorities for allocation and  
curtailment of consumption, 27-1-1 et seq.

Definitions, 27-1-2

Emergency exemption, 27-1-5

Priorities, 27-1-3

Procedures, 27-1-4

Purpose, 27-1-1

Lighting standards, 27-2-1

## **Employment Security Board of Review**

Petroleum allocation appeal procedures, 27-3-1 et seq.

Decision, 27-3-18, 27-3-19, 27-3-21

Definitions, 27-3-2

Filing appeal, 27-3-4

Contents of appeal, 27-3-8

Evaluation of appeal, 27-3-9

Form, 27-3-6

Hearing, 27-3-10, 27-3-11, 27-3-12,

Failure to appear, 27-3-14

Notice, 27-3-7

Purpose and scope, 27-3-1

Reopening, petition for, 27-3-15

Representation during appeals, 27-3-17

Where to file, 27-3-5

Who may file, 27-3-3

Withdrawal of appeal, 27-3-16

Information available, 27-3-20

## **Engineering**

Board of Technical Professions, Agency 66

## **Estate Taxes**

Inheritance taxes,

Department of Revenue, Agency 92

## **Ethics**

Code of ethics,

State Board of Examiners in Optometry, Agency 65

Professional conduct, code of,

Board of Accountancy, Agency 74

Professional practice,

Board of Technical Professions, Agency 66

Governmental Ethics Commission, Agency 19

## **Exceptional Children**

Education, 91-12-1 et seq.

## **Expanded Lottery Act**

Racing and Gaming Commission, Agency 112

## **F**

## **Fair Board, Kansas State, Agency 116**

Cereal malt beverages, 116-1-1 et seq.

Fairgrounds, 116-2-1

Soliciting and advertising, 116-3-2

Definitions, 116-3-1

Tent camping, 116-4-1 et seq.

## **Farm Wineries**

Department of Revenue—Division of Alcoholic Beverage Control, Agency 14

## **Federal Water Impoundment Areas**

Sanitation zones, 28-10-15 et seq.  
Kansas Department of Wildlife and Parks, Agency 115

## **Feedlots**

Agricultural and related wastes control, 28-18-1 et seq.  
Animal Health Department, Agency 9

## **Feeds**

Commercial feeding stuffs,  
Board of Agriculture, Agency 4

## **Fire Insurance**

Insurance Department, Agency 40

## **Fire Marshal, State, Agency 22**

Arson, investigator certification, 22-19-1 et seq.  
Assembly places, 22-13-1 et seq.  
Christmas decorations, 22-21-1  
Cigarette ignition propensity, reduced, 22-25-1 et seq.  
Certification forms and requirements; recertification, 22-25-2  
Definitions, 22-25-1  
Department vehicles, inspection of, 22-22-1  
Educational occupancies, 22-18-2, 22-18-3  
Schools, fire and tornado drills, 22-18-2  
Buildings, construction requirements, 22-18-3  
Explosive materials, 22-4-2 through 22-4-5  
Extinguishing devices, 22-10-1 et seq.  
Automatic, 22-10-16  
Carbon tetrachloride extinguishers, prohibited, 22-10-8  
Certification, 22-10-1  
Certification regulations, applicability, 22-10-2  
Registration certificate, required, 22-10-3  
Fixed extinguishing devices, approval, 22-10-11  
Minimum performance standards,  
RA registration certificates, holders of class, 22-10-18  
RB and RC registration certificates, holders of class, 22-10-19  
Portable extinguishers, 22-10-6, 22-10-15  
Prohibition, 22-10-8  
Sale or lease, 22-10-7  
Service tags, 22-10-9  
Servicing and testing, manufacturer's recommended procedures, 22-10-6  
Fire alarms and early warning devices, 22-17-1, 22-17-2  
Fire investigators, certification of,  
Certification, 22-19-2  
Fire investigation and reporting, 22-19-1  
Notification requirements, 22-19-5  
Recertification, 22-19-3  
Report filing, 22-19-5  
Revocation or suspension, 22-19-4a  
Fire prevention code, 22-1-1  
Codes and standards, adopted, 22-1-3  
Commercial fire suppression and detection firms, filing, 22-1-6

## **Fire Marshal, State—Cont.**

Fire prevention code—Cont.  
Compliance, 22-1-2  
Denial, refusal, suspension or revocation, 22-1-5  
Footprint, 22-1-7  
Variances and exemptions, 22-1-4  
Fireworks, 22-6-1 et seq.  
Adoptions by reference, 22-6-20  
Approved types, 22-6-7  
Bottle rockets, 22-6-16  
Definitions, 22-6-1  
Discharge, prohibited areas, 22-6-9  
Exposure for sale restricted, 22-6-6  
Fire extinguishers, 22-6-4  
Gasoline stations, sale or storage near, 22-6-8  
Illegal, 22-6-12  
Petition by owner, 22-6-14  
Seizure and disposal of, 22-6-13  
Licenses,  
Denial, suspension or revocation, 22-6-27  
Display operator, 22-6-24  
Distributor, 22-6-23  
Hobbyist manufacturer, 22-6-22  
Manufacturing, 22-6-21  
Proximate pyrotechnic operator, 22-6-25  
Manufacture of, 22-6-17  
Permitted types, 22-6-7  
Purchase of display fireworks in another state, 22-6-19  
Records, 22-6-18  
Sale, days permitted, 22-6-5  
Storage, 22-6-2, 22-6-3, 22-6-8, 22-6-26  
Flammable and combustible liquids, 22-7-1 et seq.  
Aboveground tanks, used for refueling vehicles, connection of, 22-7-11  
Applications and checklists, 22-7-6  
Emergency response training, 22-7-10  
Plans, approval of, 22-7-7  
Retroactivity, 22-7-8  
Transfer responsibility, 22-7-9  
Underground tanks, aboveground abandonment of, 22-7-12  
Hazardous materials response, regional, 22-24-1 et seq.  
Adoption by reference, 22-24-3  
Advisory committee, 22-24-18  
Assisting with emergency response activities, 22-24-15  
Composition of teams, 22-24-5  
Cost recovery, 22-24-14  
Definitions, 22-24-1  
Emergency preplanning, 22-24-8  
Emergency response assistance, 22-24-9  
Emergency response criteria and dispatch, 22-24-13  
Equipment for chemical assessment teams, 22-24-12  
Liability, 22-24-16  
Notification of incidents, 22-24-7  
Qualifications of team members, 22-24-4  
Responsibilities of teams, 22-24-6  
Review and evaluation of response, 22-24-10  
Supplies, equipment, and vehicles for response teams, 22-24-11  
Team response areas, 22-24-2  
Workers compensation, 22-24-17  
Health care facilities, fire protection, 22-11-5, 22-11-6, 22-11-8  
Juvenile detention centers, 22-15-7

**Fire Marshal, State—Cont.**

- Liquefied petroleum gases, 22-8-1 et seq.
  - Application and drawings, 22-8-5
  - Approval process, 22-8-9
  - Check list certificate, requirements, 22-8-4
  - Definitions, 22-8-3
  - Inspections, 22-8-8
  - Interruption of LP gas service, 22-8-14
  - Licensing.
    - Classes, 22-8-10
    - Renewal, 22-8-10
    - Requirements, 22-8-10
  - National codes, adoption of, 22-8-13
  - Public LP gas cylinder exchange cabinets, 22-8-17
  - Self-service stations, 22-8-6
  - Training requirements for license,
    - Initial, 22-8-11
    - Refresher, 22-8-12
  - Vehicle inspections, 22-8-7
- Reporting events and casualties, 22-5-1 et seq.
  - Burn wounds, 22-5-6
  - Deaths, 22-5-2
  - Insurance company reports, 22-5-3
  - Reports, 22-5-4, 22-5-5

**Firearms**

Kansas Department of Wildlife and Parks, Agency 115

**Firefighters**

- Firefighters relief associations.
- Insurance Department, Agency 40
- Police, Firemen's Retirement System.
- Public Employees Retirement System, Agency 80

**Fireworks**

State Fire Marshal, Agency 22

**Fish and Game**

Kansas Department of Wildlife and Parks, Agency 115

**Flammable Liquids**

State Fire Marshal, Agency 22

**Flood Control**

State assistance, 98-2-1 et seq.

**Flour**

Enrichment of, 28-22-1 et seq.

**Food**

- Establishments, sanitary rules of, 28-23-1 et seq.
- Food and drink stands, sanitary rules of, 28-23-60 et seq.
- Food, drugs and cosmetics, 28-21-1 et seq.
- Food Safety.
  - Department of Agriculture, Agency 4
  - Frozen food locker plants, 28-23-70 et seq.
    - Lodging establishments, 28-36-70 et seq.
  - School programs, 91-26-1 et seq.
  - Utensils, sterilization, 28-7-1 et seq.
  - Vending facilities.
    - Department of Social and Rehabilitation Services, Agency 30
  - Vending machines, 28-36-10 et seq.

**Fruit**

Butters, jellies, preserves, 28-21-60a et seq.

**Fuels**

- Export fuels, exemption on claims, 92-3-4
- Liquid, transportation of, 92-3-4 et seq.
- Special fuel tax.
  - Department of Revenue, Agency 92

**Funeral Directors and Embalmers**

- Embalming.
  - Board of Mortuary Arts, Agency 63
  - Reports, 28-17-16
  - Sales tax, 92-19-15

**Fur-Bearing Animals**

Kansas Department of Wildlife and Parks, Agency 115

**G****Garbage**

Feeding to animals, 9-5-1 et seq.

**Gas**

Kansas Corporation Commission, Agency 82

**Gasoline**

- Flammable liquids.
- State Fire Marshal, Agency 22

**G.E.D.**

Department of Education, 91-10-1, 91-10-2

**Geology**

Board of Technical Professions, Agency 66

**Governmental Ethics Commission, Agency 19**

- Accounts and records, 19-27-1 et seq.
  - Contributions, 19-27-2
  - Expenditures, other disbursements, 19-23-1, 19-23-2, 19-27-3
  - Maintenance, preservation and inspection, 19-27-4
  - Treasurer, duties, 19-27-1
- Action of Commission subsequent to final report, 19-8-1, 19-8-2
- Advisory opinion, 19-2-2
- Campaign Finance Act, 19-20-2, 19-20-3, 19-20-4, 19-20-5
- Candidates and committees, 19-21-1 et seq.
  - Candidate appointment of treasurer or committee, 19-21-1
  - Candidate committees, 19-21-2
  - Other reporting persons, 19-21-5
  - Out-of-state committees, businesses and organizations, 19-21-6
  - Party committees, 19-21-4
  - Political committees, 19-21-3
- Complaints, 19-5-1 et seq.
  - Amendment and withdrawal, 19-5-3
  - Dismissal, prior to hearing, 19-5-9
  - Evidence, review by respondent, 19-5-5
  - Filing, 19-5-1

**Governmental Ethics Commission—Cont.**

- Complaints—Cont.
  - Form, content, 19-5-2
  - Preservation of records, 19-5-8
  - Probable cause, 19-5-7
  - Service of, 19-5-4
  - Sufficiency of, 19-5-6
- Conflict of interests, state, 19-40-2, 19-40-3, 19-40-3a
  - Contract, 19-40-5
  - Nepotism, 19-40-4
- Contribution limitations, 19-30-4
- Contributions, other receipts, 19-22-1, 19-22-2
- Contributions, receipt of, treasurer's duties, 19-26-1, 19-26-2
- Disclosure and confidential procedures, 19-6-1 et seq.
- Expenditures and other disbursements, 19-23-1, 19-23-2
- General provisions, 19-1-1 et seq.
  - Appointment of acting director, 19-1-4
  - Commission decisions, 19-1-11
  - Construction, 19-1-2
  - Definitions, 19-1-1
  - Pleadings and other documents, 19-1-5
  - Pleadings, copies of, 19-1-6
  - Procedures, alternatives, 19-1-13
  - Representation before commission, 19-1-10
  - Service, 19-1-8
  - Timely filing of reports and other documents, 19-1-9
- In-kind contributions, 19-24-1 et seq.
  - By candidate, 19-24-2
  - Campaign worker expenditures, 19-24-5
  - Endorsements, 19-24-3
  - General overhead, other costs, 19-24-6
  - Value of, 19-24-1
  - Volunteer service, 19-24-4
- Investigations, 19-3-1 et seq.
  - Preliminary inquiry, 19-3-3
  - Reviews and audits, 19-3-2
- Lobbying, 19-60-1 et seq., 19-61-1 et seq.
  - Agency rules and regulations, 19-61-2
  - Legislative matters, 19-61-1
  - Provisions, 19-60-2, 19-60-3
- Lobbyist registration, 19-62-1, 19-62-2
- Maintenance of public records, 19-9-1
- Noncompliance with reporting provisions, 19-4-1 et seq.
  - Campaign finance receipts and expenditures, 19-4-1
  - Civil penalty, 19-4a-1
  - Statements, reports and documents, 19-4-2
- Political events, 19-25-1, 19-25-2
- Proceedings, 19-7-1 et seq.
  - Answer, 19-7-1
  - Commission report and order, 19-7-15
- Hearings,
  - Appeal, 19-7-14
  - Briefs, 19-7-9
  - Depositions, 19-7-6
  - Evidence, 19-7-8
  - Motions, 19-7-7
  - Procedure, 19-7-4
  - Recording and transcript, 19-7-10
  - Subpoena 19-7-5
  - Waiver, 19-7-2
- Pre-hearing conference, 19-7-3
- Proposals by petitioners or parties, 19-7-12
- Recommended report, 19-7-13
- Records and transcripts, 19-7-10
- Rehearing, 19-7-16

**Governmental Ethics Commission—Cont.**

- Proceedings—Cont.
  - Settlement, 19-7-11
- Reporting periods and election periods, 19-28-1, 19-28-2
- Reporting provisions, 19-63-2 et seq.
  - Contents, 19-63-3
  - Errors or omissions, 19-63-4
  - Lobbyist's records, 19-63-6
  - Time, 19-63-2
- Reports, receipts and expenditures, 19-29-1a et seq.
- Representation case disclosure statements, 19-42-1 et seq.
  - Contents, 19-42-3
  - Definitions, 19-42-1
- Statement of substantial interests, 19-41-1 et seq.
  - Definitions, 19-41-1
  - Errors and omissions, 19-41-4
  - Interests disclosed, 19-41-3

**Governmental Standards and Conduct**

Governmental Ethics Commission, Agency 19

**Grain Inspection Department, State, Agency 25**

- Fees, and charges, 25-4-1 et seq.
  - Definitions, 25-4-1
  - License fees, 25-4-4
- Inspection division, railroad manifests, 25-2-4
- Warehousing, 25-1-1 et seq.
  - Composite statement, 25-1-27
  - Dry edible beans, license, 25-1-25
  - Financial institutions, 25-1-28
  - Financial statement required, 25-1-26
  - Forms, approval of, 25-1-19
  - Grain bank grain, 25-1-23
  - Insurance reports, 25-1-3
  - License, 25-1-4
  - License fee, credit for unused portion, 25-1-24
  - Licenses issued beyond one year, 25-1-22
  - Net worth, 25-1-1
  - Reinspection of grain for delivery, 25-1-12
  - Scale tickets, 25-1-20, 25-1-21
- Storage,
  - Liability reports, 25-1-6
  - Space, 25-1-5
  - Unregistered bailment, 25-1-15
- Weighing, 25-3-2 et seq.
  - Car door closing, seals, 25-3-8
  - Certificates of weight, 25-3-4
  - Change of contents, 25-3-10
  - Cleaning and inspection of railroad cars, 25-3-17
  - Cleaning grain, 25-3-12
  - Pits and sinks, cleaning of, 25-3-6
  - Railroad cars, condition, 25-3-16
  - Set backs, weights, 25-3-11
  - Shipping or surge bin for hopper car loading, 25-3-15
  - Transfers of grain, 25-3-13
  - Weighing grain, 25-3-5
  - Weighmaster, authority of, 25-3-2
  - Weights, official, 25-3-3

**Grain Warehouses**

Department of Agriculture, Agency 4

## H

### Handicapped Persons

Adults, community based agencies, 30-41-1 et seq.  
Blind and visually handicapped, 30-12-16 et seq.  
Children, 28-4-401 et seq.  
Libraries, grants, 54-3-1 et seq.

### Hazardous Materials Response

State Fire Marshal, Agency 22

### Healing Arts, State Board of, Agency 100

Acupuncturists, 100-76-1 et seq.  
Business transactions, 100-76-12  
Continuing educations, 100-76-6  
Exempt license, 100-76-4  
Fees, 100-76-1  
Free offers, 100-76-11  
Incompetency, 100-76-8  
Insurance coverage, 100-76-5  
Licensure by examination, 100-76-2  
Patient records, 100-76-9, 100-76-10  
Professional activities description, 100-76-4  
Unprofessional conduct, 100-76-7, 100-76-12  
Waiver of examination and education, 100-76-3  
Advertising, free offers, 100-18a-1  
Applications by examination, 100-6-4  
Foreign students, 100-6-5  
Granting, 100-6-1  
Medicine and surgery, approved school of, 100-6-3  
Qualifications, 100-6-2  
Athletic training, 100-69-1 et seq.  
Application, 100-69-12  
Approved education, 100-69-1  
Approved national certifying organization, 100-69-4  
Clinical experience, 100-69-2  
Examination, 100-69-3  
Expiration of license, 100-69-6  
Fees, 100-69-5  
License renewal; continuing education, 100-69-10  
Practice protocols, 100-69-9  
Reinstatement; canceled and revoked licenses, 100-69-11  
Temporary registration, 100-69-8  
Unprofessional conduct defined, 100-69-7  
Business entities, 100-78-1 et seq.  
Certificate of authorization, 100-78-1  
Expiration date, 100-78-1  
Fees, 100-78-2  
Certificates, 100-39-1  
Certification, revocation or suspension of, 100-42-2  
Committees, appointments, 100-3-1 et seq.  
Contact lenses, fees, 100-75-1  
Dishonorable conduct, 100-22-1, 100-22-2, 100-22-3,  
100-22-4, 100-22-6, 100-22-7, 100-22-8, 100-22-8a  
Examinations,  
Designated examinations for medicine and surgery  
and osteopathic medicine and surgery, 100-7-1  
Limitation on attempts, 100-7-1  
Fees, 100-11-1, 100-11-5, 100-38-1  
Hearings, types of, 100-19-1  
License by endorsement, 100-8-1 et seq.  
Applications, 100-8-2  
Endorsement from this state, 100-8-4  
Issuance, requirement, 100-8-1

### Healing Arts, State Board of—Cont.

License, exempt, 100-10a-1 et seq.  
Activities not divulged, 100-10a-6  
Applications, 100-10a-1  
Conversion, 100-10a-5  
Criteria, 100-10a-4  
Renewal applications, 100-10a-3  
Request for changes, 100-10a-2  
License, renewal, continuing education,  
100-15-1 et seq.  
Continuing education, 100-15-2  
Category 1, using distance-learning media, 100-15-7  
Documentation, 100-15-6  
Requirements, 100-15-5  
Standards; definitions, 100-15-4  
Expiration dates, 100-15-1  
Institutional licensees, 100-15-3  
License, revocation of, grounds for, 100-16-4  
License, visiting professor, 100-9-1 et seq.  
Licenses, 100-6-1 et seq.  
Light-based medical treatment, supervision, 100-27-1  
Medications, 100-21-1 et seq.  
Dispensing physicians, 100-21-1  
Drug labels, 100-21-2  
Medication packaging, 100-21-3  
Record keeping and inventories, 100-21-4  
Storage and security, 100-21-5  
Meetings, 100-5-1 et seq.  
Order of business, 100-5-4  
Special meetings, 100-5-2  
Midwifery, independent practice of, 100-28b-1 et seq.  
Definitions, 100-28b-1  
Duty to consult, refer, transfer, and transport,  
100-28b-16  
Identifiable risks requiring immediate referral and  
transport of patient, 100-28b-17  
Identifiable risks requiring immediate referral and  
transport of newborn, 100-28b, 18  
License expiration and cancellation, 100-28b-5  
Transport and transfer protocol requirements,  
100-28b-15  
Naturopathy, 100-72-1 et seq.  
Application, 100-72-2  
Examinations, 100-72-5  
Fees, 100-72-1  
Naturopathic formulary, 100-72-8  
Professional liability insurance, 100-72-6  
Program approval criteria, 100-72-4  
Unprofessional conduct, defined, 100-72-3  
Written protocol, 100-72-9  
Obesity, treatment, 100-23-1  
Occupational therapy, 100-54-1 et seq.  
Application, 100-54-1  
Assistants; information to board, 100-54-9  
Assistants, supervision of, 100-54-12  
Continuing education; expired, canceled, and  
revoked licenses, 100-54-8  
Continuing education; license renewal, 100-54-7  
Delegation and supervision, 100-54-10  
Education requirements, 100-54-2  
Examinations, 100-54-3  
Fees, 100-54-4  
License; renewal; late renewal, 100-54-6  
Ownership of corporation or company, 100-54-11  
Unprofessional conduct; defined, 100-54-5

**Healing Arts, State Board of—Cont.**

- Office requirements, 100-25-1 et seq.
  - Definitions, 100-25-1
  - General requirements, 100-25-2
  - Office-based surgery and special procedures,
    - General anesthesia or a spinal or epidural block, 100-25-4
  - Requirements for, 100-25-3
  - Standard of care, 100-25-5
- Officers,
  - President, vice-president, duties, 100-2-3, 100-2-4
  - Seal, 100-1-1
- Physical therapists and assistants, 100-35-1 and 100-37-1 et seq.
  - Approval of P.T. programs, 100-35-3
  - Code of ethics, P.T., 100-37-1
  - Code of ethics, P.T.A., 100-37-2
  - Examination, 100-35-7
  - Requirements when trained in another country, 100-35-6
- Physical therapy, 100-29-1 et seq.
  - Applications, 100-29-1
  - Canceled licenses and certificates, 100-29-10
  - Certificates, lost or destroyed, 100-29-6
  - Complaint; hearings and proceedings, 100-29-11
  - Dry needling, 100-29-18 et seq.
    - Board requests for documentation, 100-29-21
    - Education and practice requirements, 100-29-18
    - Informed consent, 100-29-19
    - Recordkeeping, 100-29-20
  - Examination, 100-29-4
  - Examination of written and oral English communication, 100-29-3a
  - Fees, 100-29-7
  - License and certificate renewal,
    - Continuing education, 100-29-9
    - Expiration date; notification of supervision, 100-29-8
  - Permits, temporary, 100-29-5
  - Physical therapist assistants,
    - Notification to board, 100-29-13
    - Number, 100-29-14
    - Supervision, 100-29-16
  - Physical therapists and assistants from nonapproved schools, requirements, 100-29-3
  - Programs, approval of, 100-29-2
  - Professional liability insurance, 100-29-15
  - Unprofessional conduct, 100-29-12
- Physician assistants, 100-28a-1 et seq.
  - Active practice request form; content, 100-28a-9
  - Active practice request form; requirements 100-28a-9a
  - Application, 100-28a-2
  - Continuing education, 100-28a-5
  - Different practice location, 100-28a-14
  - Duty to communicate; emergency medical conditions, 100-28a-11
  - Education and training, 100-28a-3
  - Examination, 100-28a-4
  - Fees, 100-28a-1
  - Licensure; cancellation, 100-28a-15
  - Limitation on number supervised for different practice location, 100-28a-17
  - Ownership of corporation or company, 100-28a-18
  - Prescription-only drugs, 100-28a-13
  - Professional incompetency: defined, 100-28a-7

**Healing Arts, State Board of—Cont.**

- Physician assistants—Cont.
  - Reinstatement; lapsed and revoked licenses, 100-28a-16
  - Scope of practice, 100-28a-6
  - Substitute supervising physician, 100-28a-12
  - Supervising physician, 100-28a-10
  - Unprofessional conduct: defined, 100-28a-8
- Physicians' assistants, 100-60-1 et seq.
- Podiatry, 100-49-1 et seq.
- Radiography and radiologic technologists, 100-73-1 et seq.
  - Application, 100-73-2
  - Continuing education; licensure exemption, 100-73-9
  - Examinations, 100-73-4
  - Fees, 100-73-1
  - License, expiration, 100-73-5
  - License reinstatement, 100-73-8
  - License renewal, 100-73-7
  - Programs, criteria for approval, 100-73-3
  - Unprofessional conduct; defined, 100-73-6
- Records, of the Board, 100-12-1
- Records, patient, 100-24-1, 100-24-2, 100-24-3
- Registration, 100-46-1 through 100-46-3, 100-46-5, 100-47-1
  - Expiration date, 100-46-6
- Renewal fees, 100-40-2
- Respiratory therapy, 100-55-1 et seq.
  - Application, 100-55-1
  - Continuing education, license renewal, 100-55-7
  - Delegation and supervision, 100-55-11
  - Education requirements, 100-55-2
  - Examinations, 100-55-3
  - Fees, 100-55-4
  - Licensure, renewal and reinstatement, 100-55-6
  - Reinstatement; expired and revoked licenses, 100-55-8
  - Special permits, 100-55-9
  - Temporary registrations, 100-55-10
  - Unprofessional conduct, 100-55-5
- Services rendered to individuals in this state, 100-26-1 et seq.
  - Definitions, 100-26-2
  - Professional services, 100-26-3
- Telemedicine,
  - Definitions, 100-77-1
  - Drug prescriptions, 100-77-3
  - Location of services rendered, 100-77-2
- Temporary permits, 100-36-1
- Vacancies, 100-4-1 et seq.

**Health and Environment, Department of, Agency 28**

- Abortion,
  - Reporting of induced terminations of pregnancy, 28-56-1 et seq.
    - Correction in an abortion report, 28-56-9
  - Definitions, 28-56-1
  - General requirements for abortion reports, 28-56-2
  - Late term affidavits, 28-56-8
  - Medical information retained on each abortion performed, 28-56-10
  - Physician's report on number of certifications received, 28-56-7

**Health and Environment, Dept. of—Cont.**

## Abortion—Cont.

## Reporting of induced terminations of pregnancy—Cont.

Reporting requirements for abortions performed at clinical estimate of gestation of at least 22 weeks, 28-56-3

Reporting requirements for abortions performed on minors in the case of a medical emergency, 28-56-6

Reporting requirements for partial birth abortions, 28-56-4

Requirements for reporting failed abortions, 28-56-5

## Aboveground storage tank,

Fees, 28-44-28

Operating permit, 28-44-29

## Adult care home administrators, licensure,

Definitions, 28-38-29, 28-39-164

Examination,

Licensing, 28-38-18

Fees, 28-38-30

License,

Application, 28-38-20

Change and replacement or renewal, 28-38-28

Qualification, 28-38-19

Reciprocity, 28-38-22

Renewal and reinstatement, 28-38-23

Temporary, 28-38-21

## Adult care homes,

Administration, 28-39-163, 28-39-239

Admission, transfer and discharge rights, 28-39-148, 28-39-230

## Adult care home administrators,

Examination,

Boarding care homes, 28-39-400 et seq.

One and two bedroom homes,

Administration, 28-39-133 et seq.

Dietary, 28-39-136

Management, 28-39-134

Sanitation and safety, 28-39-137

Resident care, 28-39-135

Personal care homes, 28-39-300 et seq.

## Assisted living and residential care,

Administration, 28-39-240

Admission, transfer and discharge, 28-39-242

Community governance, 28-39-241

Construction, general requirements, 28-39-254

Details and finishes, 28-39-256

Dietary services, 28-39-252

Disaster and emergency preparedness, 28-39-251

Health care services, 28-39-246

Infection control, 28-39-253

Medication management in facilities, 28-39-247

## Assisted living and residential care—Cont.

Negotiated service agreement, 28-39-244

Resident functional capacity screen, 28-39-243

Resident records, 28-39-250

Services, 28-39-245

Staff development, 28-39-248

Staff qualifications, 28-39-249

Support service areas, 28-39-255

## Day care facilities,

Admission, transfer, and discharge, 28-39-277

Community governance, 28-39-276

Construction; general requirements, 28-39-289

**Health and Environment, Dept. of—Cont.**

## Adult care homes—Cont.

## Day care facilities—Cont.

Details and finishes, 28-39-291

Dietary services, 28-39-287

Disaster and emergency preparedness, 28-39-286

Health care services, 28-39-281

Infection control, 28-39-288

Medication management, 28-39-282

Negotiated service agreement, 28-39-279

Resident functional capacity screen, 28-39-278

Resident records, 28-39-285

Services, 28-39-280

Staff development, 28-39-283

Staff qualifications, 28-39-284

Support service areas, 28-39-290

Definitions, 28-39-144, 28-39-228

## Home health aide,

Allied health training endorsement, 28-39-173

Course instructors, 28-39-172

Examinations, state, 28-39-174

Training program, 28-39-171

## Home-plus facilities,

Administration, 28-39-425

Admission, transfer, and discharge, 28-39-426

Construction; general requirements, 28-39-437

Dietary services, 28-39-431

Disaster and emergency preparedness, 28-39-432

Health care services, 28-39-430

Infection control, 28-39-433

Medication management, 28-39-436

Negotiated service agreement, 28-39-428

Resident functional capacity screen, 28-39-427

Resident records, 28-39-434

Services, 28-39-429

Staff qualifications, 28-39-435

Infection Control, 28-39-161, 28-39-238

Licensure, 28-39-145, 28-39-145a, 28-39-168, 28-39-169a, 28-39-169b, 28-39-169c, 28-39-227

Medication aide, 28-39-169

Continuing education, 28-39-170

## Nurse aide,

Allied health training endorsement, 28-39-167

Course instructor, 28-39-166

Examination, state, 28-39-168

Training program, 28-39-165

## Nursing facility physical environment,

Construction and site requirements, 28-39-162

Details and finishes, 28-39-162b

General requirements, 28-39-162a

Mechanical and electrical requirements, 28-39-162c

Pharmacy services, 28-39-156

Quality of care, 28-39-152, 28-39-234

Quality of life, 28-39-153, 28-39-232

Receivership, 28-39-146

## Resident,

Assessment, 28-39-151, 28-39-233

Behavior and facility practices, 28-39-150, 28-39-231

Funds and possessions, protection of, 28-39-149

Rights, 28-39-147, 28-39-229

## Health and Environment, Dept. of—Cont.

- Adult care homes—Cont.
  - Services,
    - Dental, 28-39-159
    - Dietary, 28-39-158, 28-39-236
    - Nursing, 28-39-154, 28-39-235
    - Other resident, 28-39-160
    - Physician, 28-39-155, 28-39-237
    - Specialized rehabilitation, 28-39-157
- Agent orange, claims by veterans, 28-1-21
- A.D.C., See Department of Social and Rehabilitation Services, Agency 30
- Air quality standards, 28-19-7 et seq.
  - Air, ambient,
    - Ceilings, 28-19-17d
    - Increments, 28-19-17c
  - Air quality,
    - Analysis, 28-19-17j, 28-19-17l
    - Compressed air energy storage, 28-19-325
    - Control technology,
      - Innovative, 28-19-17q
      - Review, 28-19-17g
    - Definitions, 28-19-17b
    - Deterioration of, prevention of, 28-19-17, 28-19-350
    - Federal regulations, incorporation by reference of, 28-19-17a, 28-19-800, 28-19-801
    - Models, 28-19-17i
    - Permits,
      - Revocation and suspension, 28-19-17n
      - Source information, 28-19-17k
    - Public participation, 28-19-17o
    - Source impact,
      - Analysis, 28-19-17e, 28-19-17h
      - Federal class I areas, 28-19-17m
      - Obligation, 28-19-17p
    - Sources, major stationary and modifications, review of, 28-19-17f
  - Circumvention of regulations, 28-19-10
  - Compliance, time schedule for, 28-19-9
  - Definitions, 28-19-7, 28-19-16a, 28-19-17b, 28-19-86
  - Emissions,
    - Actual, calculation of, 28-19-20
    - Fee, annual, 28-19-202
    - Measurement of, 28-19-12
    - New source limits, 28-19-16f
    - Nitrogen oxides, 28-19-713 et seq.
    - Opacity limits, 28-19-650
    - Permits required, 28-19-14
  - Enforcement discretion, 28-19-11
  - Enjoyment of life and property, interference with, 28-19-13
  - Hazardous air pollutants, emission standards, 28-19-150 through 28-19-162, 28-19-750 through 28-19-753
  - Hospital/medical/infectious waste incinerators, 28-19-729, 28-19-729a through 28-19-729h
  - Idle reduction, 28-19-712 et seq.
  - Incinerator emissions, 28-19-40
    - Exceptions, 28-19-43
    - Performance testing, 28-19-42
    - Restriction, 28-19-41
  - Indirect heating equipment emissions, 28-19-30
    - Exemptions, 28-19-32
    - Limitations, 28-19-31

## Health and Environment, Dept. of—Cont.

- Air quality standards—Cont.
  - Measurement, emissions, 28-19-12
  - Mercury, emissions, 28-19-728, 28-19-728a through 28-19-728f
  - Municipal solid waste landfills, existing, 28-19-721 et seq.
    - Applicability, permits, 28-19-722
    - Collection and control systems, 28-19-725
    - Compliance, time for, 28-19-727
    - Definitions, 28-19-721
    - NMOC test methods and procedures, 28-19-724
    - Record-keeping and reporting, 28-19-726
    - Reporting, initial and periodic, 28-19-723
  - New source performance standards, 28-19-85 et seq., 28-19-578
    - Ammonium sulfate manufacture, 28-19-133
    - Applicability, 28-19-83
    - Asphalt concrete plants, 28-19-103
    - Asphalt processing and roofing manufacture, 28-19-138
    - Automobile and light truck surface coating operations, 28-19-131
    - Beverage can coating industry, 28-19-140
    - Bulk gasoline terminals, 28-19-141
    - Circumvention, 28-19-92, 28-19-161
    - Coal preparation plants, 28-19-119
    - Compliance with standards and maintenance requirements, 28-19-91
    - Definitions, 28-19-84
    - Determination of construction or modification, 28-19-87
    - Dry cleaners, petroleum, 28-19-153
    - Electric utility steam generating units, 28-19-98a
    - Ferroalloy production facilities, 28-19-120
    - Flexible vinyl and urethane uses, 28-19-149
    - Fossil-fuel-fired steam generators, 28-19-98
    - Glass manufacturing plants, 28-19-123
    - Grain elevators, 28-19-124
    - Graphic arts industry, 28-19-134
    - Incinerators, 28-19-99
    - Incorporations by reference, 28-19-96
    - Industrial surface coating, 28-19-136
    - Lead-acid battery manufacturing plants, 28-19-129
    - Leaks, natural gas processing plant equipment, 28-19-154
    - Lime manufacturing plants, 28-19-128
    - Metal coil surface coating, 28-19-137
    - Metal furniture, surface coating, 28-19-125
    - Metallic mineral processing plants, 28-19-130
    - Modification, 28-19-94
    - Monitoring requirements, 28-19-93
    - Nitric acid plants, 28-19-101
    - Notification and record keeping, 28-19-89
    - Performance tests, 28-19-90
    - Petroleum liquids storage vessels, 28-19-105, 28-19-105a
    - Petroleum refineries, 28-19-104
    - Portland cement plants, 28-19-100
    - Pressure tape and label coating operations, 28-19-135
    - Primary emissions, 28-19-108
    - Reconstruction, 28-19-95
    - Reference methods and performance specifications, 28-19-86

**Health and Environment, Dept. of—Cont.**

Air quality standards—Cont.

New source performance standards—Cont.

Review of plans, 28-19-88

Secondary brass and bronze ingot plants,  
28-19-107

Secondary lead smelters, 28-19-106

Sewage treatment plants, 28-19-109

Stationary gas turbines, 28-19-127

Steel plants, 28-19-108a, 28-19-121, 28-19-121a

Sulfuric acid plants, 28-19-102

Synthetic fiber production, 28-19-151

Units and abbreviations, 28-19-85

Volatile organic compound leaks, 28-19-139,  
28-19-150

Wool-fiberglass insulation manufacturing,  
28-19-159

Nonattainment areas, 28-19-16 et seq.

Compliance with laws and regulations,

Other sources owned by applicant, 28-19-16h

State, federal and local laws, 28-19-16m

Construction, time limit under permit, 28-19-161

Definitions, 28-19-16a

Emissions,

Creditable reductions, 28-19-16c

Existing, relaxing limitations, 28-19-16e

Fugitive emission exemption, 28-19-16d

New source limits, 28-19-16f

National standards, attainment and maintenance,  
28-19-16g

Operating requirements, 28-19-16i

Permits,

New source, 28-19-16, 28-19-16b

Notice requirements, 28-19-16k

Revocation and suspension, 28-19-16j

Opacity requirements, 28-19-50

Open burning,

Agricultural, 28-19-648

Definitions, 28-19-7 et seq.

Exemptions, 28-19-47, 28-19-647

Prohibition, 28-19-45, 28-19-645

Responsibility, 28-19-46, 28-19-646

Restrictions, 28-19-645a

Permits, 28-19-14

Construction, 28-19-300 through 28-19-304

General, 28-19-400 through 28-19-404

Operating, 28-19-500 through 28-19-502

Class I, 28-19-510 through 28-19-518

Class II, 28-19-540 through 28-19-563

Class III, 28-19-575 through 28-19-578

Pollution emergencies, 28-19-55

Criteria justifying alert, warning or emergency,  
28-19-56

Emergency episode plans, 28-19-58

Emission reduction requirements, 28-19-57

Processing operation emissions,

Carbon monoxide emissions, 28-19-24

Hydrocarbon emissions, 28-19-23

Particulate emission limitations, 28-19-20,  
28-19-21

Sulfur compound emissions, 28-19-22

Sulfuric acid mist, 28-19-26

Provisions,

Definitions, 28-19-200, 28-19-200a, 28-19-201

General, 28-19-204, 28-19-212

**Health and Environment, Dept. of—Cont.**

Air quality standards—Cont.

Provisions—Cont.

Nitrogen oxides; allocations, 28-19-274

Special, 28-19-275

Reporting, 28-19-8

Schedule, time for compliance, 28-19-9

Source monitoring fees, 28-19-80 et seq.

Basis for determining, 28-19-82

Environmental impact monitoring, 28-19-81

Stack height requirements, 28-19-18 et seq.

Credit, stack height, 28-19-18a

Definitions, 28-19-18b

Emission monitoring, 28-19-19

Engineering practice, determination, 28-19-18c

Fluid modeling, 28-19-18d

Notice requirements, 28-19-18f

Volatile organic compound emissions,

Automobile and light duty truck surface coating,  
28-19-63

Bulk gasoline terminals, 28-19-64

Chemical processing facilities, 28-19-77

Commercial bakery ovens, 28-19-717

Cutback asphalt, 28-19-69

Definitions, 28-19-61

Fuel volatility, 28-19-79, 28-19-719

Gasoline dispensing facilities, 28-19-72

Metal cleaning, 28-19-75, 28-19-714

National ambient air quality standard (NAAQS),  
attainment, 28-19-72 through 28-19-75

Petroleum liquid storage tanks, 28-19-65

External floating roof tanks, 28-19-66

Petroleum refineries, 28-19-67

Leaks, 28-19-68

Printing operations, 28-19-71

Lithography, 28-19-76

Surface coating, 28-19-73, 28-19-74

Testing procedures, 28-19-62

Vapor collection systems, 28-19-70

Amygdalin, Laetrile, 28-21-250 et seq.

Animal and related waste control, 28-18-1 et seq.

Animal waste management systems,

Design and construction of, 28-18-12

Operation of, 28-18-13

Certification; terms and conditions, 28-18-9

Confined feeding facilities; federal requirements,  
28-18-11

Definitions, 28-18-1

Filing of applications and payment of fees, 28-18-4

Inspections, 28-18-14

Permits,

Development of a draft permit, 28-18-6

Monitoring and reporting, 28-18-10

Public notice of permit actions and public  
hearings, 28-18-7

Terms and conditions, 28-18-8

Registration and application requirements, 28-18-2

Separation distance requirements, 28-18-3

Transfer of a permit or certification, 28-18-5

Variance of specific requirements, 28-18-15

Apartment houses, 28-37-10 et seq.

Asbestos control, 28-50-1 et seq.

Certification examinations, 28-50-7

Demolition projects, 28-50-13

Encapsulation projects, 28-50-10

**Health and Environment, Dept. of—Cont.**

- Asbestos control—Cont.
  - Removal projects,
    - Notification requirements, 28-50-8
    - Waste disposal, 28-50-14
  - Training course approval, 28-50-6
  - Work practices in occupied spaces, 28-50-9
  - Worker certification, 28-50-5
- Bakeries, 28-23-20 et seq.
  - Animals or fowl, 28-23-34
  - Approval by board, 28-23-36
  - Bakery product, defined, 28-23-21
  - Building, condition, 28-23-22
  - Defined, 28-23-20
  - Floors, walls and ceiling, 28-23-23
  - Implements, cleanliness, 28-23-28
  - Material used, 28-23-31
  - Personnel,
    - Cleanliness, 28-23-26
    - Clothing, 28-23-27
    - Contagious diseases, 28-23-25
    - Duties, 28-23-24
    - Spitting, 28-23-33
  - Products properly wrapped, 28-23-32
  - Receptacles, cleanliness, 28-23-29
  - Waste material, 28-23-30
  - Water supply, 28-23-35
- Bakery products,
  - Bread, rolls, buns, 28-21-40a
  - Enriched, 28-21-41a
  - Enrichment of flour and bread, 28-22-6 et seq.
    - Claims for effects, 28-22-8
    - Labeling, 28-22-6
    - Limited, 28-22-7
  - Milk bread, rolls, buns, 28-21-42a
  - Raisin bread, rolls, buns, 28-21-43a
  - Whole wheat bread, rolls, buns, 28-21-44a
- Barbers, sanitary regulations for, 28-25-1 et seq.
- Beef products, miscellaneous, 28-21-82
- Beverages, soda water beverages, 28-23-41 et seq.
- Boarding homes for children and youth, 28-4-268 et seq.
  - Administration, 28-4-271
  - Admission policies, 28-4-273
  - Definitions, 28-4-268
  - Environmental standards, 28-4-277
  - Food service, 28-4-278
  - Health care, 28-4-275
  - Licensing, 28-4-269, 28-4-270
  - Maternity care, 28-4-279
  - Mental health policies, 28-4-276
  - Records, 28-4-272
  - Services, 28-4-274
  - Services to mothers and infants, 28-4-280
- Breaded products, 28-21-85
- Breath testing for law enforcement purposes, 28-32-1 et seq.
- Cancer registry,
  - Confidential data for follow-up patient studies, 28-70-4
  - Definitions, 28-70-1
  - Reporting requirements, 28-70-2
  - Use and access, 28-70-3
- Certificate of need,
  - Application, 28-42-5
    - Conference, 28-42-4
    - Notification before applying, 28-42-3

**Health and Environment, Dept. of—Cont.**

- Certificate of need—Cont.
  - Construction, commencement of, 28-42-12
  - Definitions, 28-42-1
  - Extension of certificate, 28-42-13
  - Health maintenance organizations, exemptions, 28-42-10
  - Progress reports, 28-42-11
  - Public hearing requirements, 28-42-6
  - Review by state agency, 28-42-7
    - Reconsideration of decision, 28-42-9
  - Revocation of certificate, 28-42-16
  - Substantial compliance, 28-42-15
  - Transferability of certificate, 28-42-14
- Charitable health care, 28-53-1 et seq.
  - Agreements, 28-53-2
  - Definitions, 28-53-1
  - Medically indigent, eligibility criteria, 28-53-3
  - Records and reports, 28-53-4
  - Referrals, 28-53-5
- Chest photofluorographic installations, 28-35-246
- Child care, generally,
  - Background check requests, 28-4-94
  - Background checks, 28-4-125
  - Defined, 28-4-122, 28-4-442
  - Emergencies, 28-4-127
  - Facilities, parental access to, 28-4-123
  - Fee for fingerprint-based background checks, 28-4-95
  - Field trips, parental permission, 28-4-124
  - Health, 16 years of age and older, 28-4-126
  - Newborn, screening, 28-4-501 et seq.
  - Parental access to facilities, 28-4-123
  - Pets, 28-4-131
  - Practices, 28-4-132
  - Reporting critical incidents, 28-4-133
  - Safety procedures, 28-4-128
  - Swimming and wading activities, 28-4-129
  - Transportation, 28-4-130
- Child care centers and preschools,
  - Administration, 28-4-426
  - Capacity, 28-4-421
  - Child care centers,
    - Food service, 28-4-439
    - Outside area, 28-4-437
    - Physical plant, 28-4-436
    - Programs, 28-4-438
  - Definitions, 28-4-420
  - Family day care homes for children, 28-4-113 et seq.
  - Handicapped, facilities and accommodations, 28-4-435
  - Health, 28-4-430
  - Infants and toddlers, programs, 28-4-440
  - Licensing,
    - Fees, 28-4-92
    - Online information dissemination system, 28-4-93
    - Procedures, 28-4-422
  - Physical plant, 28-4-423
  - Preschools, 28-4-434
  - Programs and equipment, 28-4-427
  - Safety, 28-4-431
  - School age children, programs, 28-4-441
  - Staff, 28-4-428, 28-4-428a, 28-4-429
- Child care homes,
  - Sewage disposal, 28-4-55
  - Water supplies, 28-4-50

**Health and Environment, Dept. of—Cont.**

- Child placing agencies,
  - Administration, 28-4-172
  - Adoptive services, 28-4-176
  - Case records, 28-4-179
  - Day care referral, 28-4-185 et seq.
  - Definitions, 28-4-170
  - Facilities, 28-4-173
  - Family foster care home, 28-4-175
  - Licensing, procedure, 28-4-171
  - Personnel, 28-4-172
  - Residential group care, 28-4-177
  - Social services available by agency, 28-4-174
  - Young parents, services for, 28-4-178
- Children, preschool, reporting conditions, 28-4-525 et seq.
- Controlled substances, general provisions, 28-33-12
- Credentialing of health care groups, 28-60-1 et seq.
  - Definitions, 28-60-1
  - Federal regulations, adopted by reference, 28-60-9
  - Filing of the credentialing application, 28-60-3
  - Notice of intent, 28-60-2
  - Selection of a technical committee, 28-60-5
  - Technical committee meetings, 28-60-6
  - Withdrawing a credentialing application, 28-60-4
- Crippled children's program,
  - Applicants and recipients, responsibilities, 28-4-401
  - Definitions, 28-4-400
  - Eligibility, 28-4-406
  - Financial eligibility, 28-4-403
  - Priorities system, 28-4-407
  - Providers of service, 28-4-405
    - Payment, 28-4-405a
    - Termination, 28-4-405b
  - Services, 28-4-404
  - Services, out-of-state, 28-4-408
- Cup, common drinking, 28-6-1, 28-23-14
- Cyanide metal polishes, 28-27-31
- Day care homes. *See* Family day care homes.
- Day care referral agencies,
  - Definitions, 28-4-185
  - Health policies, 28-4-188
  - Licensing, 28-4-186
    - Fees, 28-4-92
  - Organization, 28-4-187
  - Personnel, 28-4-187
  - Transportation, 28-4-189
- Defoliants, claims by veterans, 28-1-21
- Dental intra-oral radiographic installations, 28-35-247
- Detention centers for children and youth,
  - Accident prevention, 28-4-357
  - Administration, 28-4-353
  - Admission policies, 28-4-354
  - Buildings and grounds, 28-4-359
  - Compliance with regulations, 28-4-360
  - Definitions, 28-4-350
  - Discipline, 28-4-355
  - Education, 28-4-355
  - Environmental standards, 28-4-359
  - Finances, 28-4-353
  - Health care policies, 28-4-356
  - Licensing,
    - Application procedures, 28-4-351
    - Display, 28-4-360
    - Fees, 28-4-92
    - Revocation, 28-4-360

**Health and Environment, Dept. of—Cont.**

- Detention centers for children and youth—Cont.
  - Licensing—Cont.
    - Terms, 28-4-352
  - Management, behavioral, 28-4-355b
  - Personnel policies, 28-4-353
  - Pets, 28-4-358
  - Records, 28-4-353, 28-4-353b
  - Recreation, 28-4-355
  - Rights, 28-4-355a
  - Services, 28-4-355
  - Staff requirements and qualifications, 28-4-353
    - Development, 28-4-353a
  - Visitation rights, 28-4-355
- Dietitians, licensing of, 28-59-1 et seq.
  - Address or name change, 28-59-8
  - Application, 28-59-1
  - Fees, 28-59-7
  - License,
    - Reinstatement, 28-59-5a
    - Renewal, 28-59-5
    - Out-of-state applicant, 28-59-2
  - Requirements,
    - Education and experience, 28-59-3
    - Examination, 28-59-4
  - Unprofessional conduct, 28-59-6
- Diseases,
  - Acquired immune deficiency syndrome (AIDS),
    - reporting of, 28-1-22, 28-1-26
  - Contact tracing,
    - Communication with contacts, 28-1-42
    - Contact data, 28-1-42
    - Contact tracers, 28-1-41
    - Sunset provision, 28-1-44
    - Surrender of destruction of contact data, 28-1-43
  - Definitions, 28-1-1, 28-1-30, 28-1-40
  - Diarrhea, newborns, 28-1-10
  - HIV screening guidelines, 28-1-27
  - Hospital reporting requirements, 28-1-4
  - Immunizations, 28-1-20
  - Industrial diseases, reportable, 28-1-3
  - Infectious or contagious, reporting requirements for, 28-1-2
  - Laboratory reports, 28-1-18
  - Occupational exposures, management of, 28-1-23
  - Psittacosis, 28-1-15
  - Quarantine, 28-1-5, 28-1-6
    - Foodhandlers, 28-1-7
    - Tests for release, 28-1-12
  - Rabies control, 28-1-13, 28-1-14
  - Reporting of HIV infection and AIDS, 28-1-22,
    - 28-1-26
  - Staphylococcal diseases, newborns, 28-1-9
  - Tuberculosis prevention and control plan, 28-1-31,
    - 28-1-32
  - Tuberculosis in medical facilities, 28-1-19
  - Typhoid carriers, 28-1-7
- Disposal wells and surface ponds, 28-13-1 et seq.
- Drugs and therapeutic devices,
  - Directions for use, 28-21-206
  - Forms of required statements, 28-21-203
  - Habit-forming drugs, 28-21-204
  - Hypnotic or somnifacient drugs, 28-28-1, 28-28-2
  - Labeling, 28-21-201, 28-21-202
  - Misbranding, 28-21-201
  - Name, 28-21-200

**Health and Environment, Dept. of—Cont.**

- Drugs and therapeutic devices—Cont.
  - Statement of ingredients, 28-21-205
  - Stimulants, 28-28-2
- Drycleaner Environmental Response Act, Kansas,
  - 28-68-1 et seq.
  - Application for ranking of contaminated drycleaning site, 28-68-5
  - Corrective action,
    - Determining completion of, 28-68-9
    - Reimbursement of costs, 28-68-7
  - Deductible payment, 28-68-6
  - Definitions, 28-68-1
  - Performance standards, 28-68-3
  - Prioritization of fund expenditure, 28-68-8
  - Registration of facilities, 28-68-2
  - Removal of drycleaning solvents and wastes from closed facilities, 28-68-4
- Embalming fluids, sale, 28-20-1
- Emergency planning and right-to-know, 28-65-1 et seq.
- Enrichment of bread, labeling, 28-22-6
- Environmental Use Controls Program, 28-73-1 et seq.
  - Application, 28-73-2
  - Definitions, 28-73-1
  - Duration of environmental use controls, 28-73-6
  - Environmental use control agreements, 28-73-3
  - Financial assurance, 28-73-5
  - Long-term care agreements for category 3 property, 28-73-4
  - Restrictions, prohibitions, and zoning requirements, 28-73-7
- Eyes of newborn, treatment, 28-4-73
- Family day care homes for children,
  - Animals, birds or fish, 28-4-131
  - Applicant; licensee, 28-4-114
    - Certificate of registration, 28-4-120
    - Child abuse, 28-4-118
    - Child care, 28-4-116, 28-4-132
    - Children, maximum numbers, 28-4-114
    - Criminal history and child abuse registry information, 28-4-125
    - Definitions, 28-4-113, 28-4-350, 28-4-442
    - Emergencies, 28-4-127
    - Facility, requirements, 28-4-115
    - Health care policies for children under 16, 28-4-117
    - Health of persons 16 or older, 28-4-126
    - Licenses, application and qualification, 28-4-114
    - Medication administration, 28-4-118
    - Napping and sleeping, 28-4-116a
    - Parental permission for children to leave premises, 28-4-124
    - Professional development training, 28-4-114a
    - Regulations, exceptions to, 28-4-119b
    - Safety procedures, 28-4-128
    - Supervision, 28-4-115a
    - Swimming and wading activities, 28-4-129
    - Transportation, 28-4-130
- Family foster homes,
  - Child abuse, reporting, 28-4-317
  - Foster family, 28-4-313
    - Care of children, 28-4-314
    - Home, 28-4-315
  - Health care policies, 28-4-316
  - Illness, 28-4-317

**Health and Environment, Dept. of—Cont.**

- Family foster homes—Cont.
  - Licensing, definitions, 28-4-311
  - Required, 28-4-312
    - Exceptions, 28-4-312
    - Refusal or withdrawal, 28-4-312
- Feedlots, agricultural and related wastes control, 28-18-1 et seq.
- Fees, home nursing service, 28-8-1
- Flour and related products,
  - Enrichment of flour,
    - Certificate of intent, 28-22-4, 28-22-5
    - Claims for effects, 28-22-3
    - Labeling, 28-22-1, 28-22-2
  - Wheat flour and related products,
    - Bromated flour, 28-21-22a
      - Enriched, 28-21-23a
      - Whole wheat flour, 28-21-29a
    - Coarse ground wheat, 28-21-31a
    - Cracked wheat, 28-21-32a
    - Crushed wheat, 28-21-31a
    - Definitions, 28-21-20a
    - Durum flour, 28-21-24a
    - Enriched flour, 28-21-21a
    - Farina, 28-21-33a, 28-21-34a
    - Graham flour, 28-21-28a
    - Phosphated flour, 28-21-27a
    - Self-rising flour, 28-21-25a, 28-21-26a
    - Semolina, 28-21-35a
    - Whole durum wheat flour, 28-21-30a
    - Whole wheat flour, 28-21-28a
- Fluoroscopic installations, 28-35-243
- Food and drink stands,
  - Counters, tables, 28-23-69
  - Employees, health, 28-23-61
  - Food protected, 28-23-64
  - Garbage disposal, 28-23-62
  - Griddles and stoves, 28-23-63
  - Sanitary conditions, 28-23-60
  - Straws protected, 28-23-66
  - Utensils sterilized, 28-23-65
- Food and drinking utensils, public,
  - After sterilization, 28-7-7
  - Compartment,
    - First, 28-7-3
    - Number necessary, 28-7-2
    - Second, 28-7-4
  - Dishwasher, mechanical, 28-7-5
  - Hot water supply, 28-7-6
  - Paper plates and cups, 28-7-8
  - Sterilization, 28-7-1
  - Violation of regulations, 28-7-9
- Food and drug establishments,
  - Buildings, 28-23-4
    - Condition, 28-23-11
    - Responsibility for, 28-23-13
  - Cleanliness, 28-23-1
  - Drinking cup, common, prohibited, 28-23-14
  - Food to be covered, 28-23-10
  - Hazardous foods, 28-23-16
  - Personnel,
    - Cleanliness, 28-23-7
    - Health, 28-23-12
  - Screens, 28-23-5
  - Sidewalk or street display of food, 28-23-9

**Health and Environment, Dept. of—Cont.**

- Food and drug establishments—Cont.
  - Sleeping in rooms, 28-23-8
  - Spoilage of materials, 28-23-3
  - Toilets, 28-23-6
  - Towel, common, prohibited, 28-23-15
  - Vehicles, 28-23-2
- Food, drugs and cosmetics,
  - Bread,
    - Bakery products, 28-21-40a et seq.
    - Enrichment, labeling, 28-22-6, 28-22-7, 28-22-8
  - Dressings for food, 28-21-70a et seq.
  - Drugs and therapeutic devices, 28-21-200 et seq.
  - Experts, difference of opinion, 28-21-2
  - Fruit butter, 28-21-60a
  - Guaranty, 28-21-3
    - Definition, 28-21-4
    - Forms, suggested, 28-21-4
  - Jellies, 28-21-61a
    - Artificially sweetened fruit jelly, 28-21-63
  - Labeling, 28-21-1
    - Food,
      - Artificial additives, 28-21-11
      - Conformity to definitions, 28-21-8
      - Designation of ingredients, 28-21-9
      - Misbranding, 28-21-5
      - Required statements, 28-21-6, 28-21-7
      - Special dietary uses, 28-21-10
    - Laetrile, 28-21-250 et seq.
    - Macaroni, 28-21-50a et seq.
    - Meat products, miscellaneous, 28-21-82 et seq.
    - Milk and milk products, 28-21-90 et seq.
    - Noodles, 28-21-55a et seq.
    - Preserves, jams, 28-21-62a
      - Artificially sweetened, 28-21-64
- Food processing plants,
  - Fees, 28-36-60
- Food service establishments,
  - Care of food, 28-36-21
  - Compliance and enforcement, 28-36-108
  - Definitions, 28-36-20, 28-36-70, 28-36-101
  - Equipment and utensils, 28-36-23, 28-36-104
    - Cleaning, sanitization and storage, 28-36-24
  - Floors, 28-36-26
  - Food, 28-36-21, 28-36-103
  - Garbage and refuse, 28-36-25
  - Insect and rodent control, 28-36-25
  - Inspections, reports, 28-36-29
  - Lavatory facilities, 28-36-25
  - Licenses,
    - Fees,
      - Food services, 28-36-30
      - Mobile units, 28-36-1
    - Suspension or revocation, 28-36-29
  - Lighting, 28-36-26
  - Lodging establishments, 28-36-70 et seq.
    - Definitions, 28-36-70
    - Dishware and utensils, 28-36-78
    - Electrical systems, 28-36-87
    - Exterior premises, 28-36-83
    - Food service and food safety, 28-36-72
    - General requirements, 28-36-74
    - Guest and public safety, 28-36-76
    - Guest rooms, 28-36-77

**Health and Environment, Dept. of—Cont.**

- Food service establishments—Cont.
  - Lodging establishments—Cont.
    - Heating, ventilation, and air-conditioning (HVAC), 28-36-89
    - Housekeeping and laundry facilities; maintenance supplies and equipment, 28-36-79
    - Ice and ice dispensing, 28-36-82
    - Imminent health hazard, 28-36-73
    - Licensure; plans and specifications; variances, 28-36-71
    - Personnel; health, cleanliness, and clothing, 28-36-75
    - Plumbing systems, 28-36-88
    - Poisonous or toxic materials, 28-36-80
    - Public indoor areas, 28-36-81
    - Sewage systems, 28-36-86
    - Swimming pools, RWFs, and hot tubs, 28-36-84
    - Water supply systems, 28-36-85
  - Management and personnel, 28-36-102
  - Mobile food establishments, pushcarts, and temporary food establishments, 28-36-109
  - Mobile units, 28-36-27
    - License fees, 28-36-1
  - Personnel,
    - Cleanliness, 28-36-22
    - Clothing, 28-36-22
    - Health, 28-36-22
  - Physical facilities, 28-36-26, 28-36-106
  - Plan review, 28-36-29
  - Plumbing, 28-36-25
  - Poisonous or toxic materials, 28-36-107
  - Sewage, 28-36-25
  - Temporary food service establishments, 28-36-28
  - Toilet facilities, 28-36-25
  - Ventilation, 28-36-26
  - Violations, correction, 28-36-29
  - Waiver of regulations, 28-36-29
  - Walls and ceilings, 28-36-26
  - Water, plumbing and waste, 28-36-105
  - Water supply, 28-36-25
- Food stores, retail,
    - Fees, 28-36-120
  - Food stores, retail, sanitation code,
    - Code, incorporation by reference, 28-23-81, 28-23-89
    - Employees, 28-23-83
    - Equipment and utensils, 28-23-85
    - Food supplies, protection, storage, preparation, display, 28-23-82
    - Garbage and refuse, 28-23-86
    - Insect and rodent control, 28-23-86
    - Inspections, remedial procedures, 28-23-88
    - Materials and equipment installation, 28-23-84
    - Physical facilities, 28-23-87
    - Toxic materials, 28-23-87
    - Water supply, sewage, plumbing, toilet and handwashing facilities, 28-23-86
  - Food vending machines and companies,
    - Adulterated food, sale, examination and condemnation of, 28-36-11
    - Application fee, 28-36-32
    - Approval of machine, 28-36-17
    - Commissaries, outside jurisdiction of regulatory authority, 28-36-16

**Health and Environment, Dept. of—Cont.**

- Food vending machines and companies—Cont.
  - Definitions, 28-36-10
  - Disease control, 28-36-14
  - Infection, procedure when suspected, 28-36-15
  - Inspection, 28-36-12
  - Misbranded food, sale, examination and condemnation, 28-36-11
  - Procedure when infection is suspected, 28-36-15
  - Regulations, enforcement, 28-36-18
  - Regulatory authority, commissaries outside jurisdiction of, 28-36-16
- Foster homes. See Family foster homes.
- Frozen food locker plants,
  - Definition, 28-23-70
  - Human food only to be stored, 28-23-77
  - Inspection by plant operator, 28-23-75
  - Packaging for storage, 28-23-76
  - Personal uncleanliness, 28-23-74
  - Place for processing, 28-23-79
  - Products frozen before storage, 28-23-78
  - Temperature requirements, 28-23-80
  - Toilet facilities, 28-23-73
  - Tools and equipment, sterilizing, 28-23-71, 28-23-72
- Fruit butter, 28-21-60a
- Fruit jelly, 28-21-61a
- General provisions, 28-33-12
- Group boarding homes. Boarding homes for children and youth, 28-4-268 et seq.
- Hazardous household articles, 28-27-1 et seq.
  - Cyanide metal polishes, prohibited, 28-27-31
  - Definitions, 28-27-1
  - Insecticide vaporizing devices, 28-27-30
  - Labeling, 28-27-2
    - Prominence of information, 28-27-3
  - Paints, varnishes, 28-27-10 et seq.
  - Practical equivalent of wording, 28-27-5
  - Small packages, exemption, 28-27-4
  - Toys, 28-27-20 et seq.
- Hazardous waste management, 28-31-1 et seq.
  - General provisions and definitions, 28-31-260, 28-31-260a, 28-31-260b
  - Generators of hazardous waste, 28-31-262, 28-31-262a
  - Hazardous waste facilities operating under a standardized permit, 28-31-267, 28-31-267a
  - Hazardous waste permits, 28-31-270, 28-31-270a
  - Hazardous waste treatment, storage, and disposal facilities, 28-31-264, 28-31-264a
  - Identification and listing of hazardous waste, 28-31-261, 28-31-261a
  - Interim status hazardous waste treatment, storage, and disposal facilities, 28-31-265, 28-31-265a
  - Land disposal restrictions; adoption and modification of federal regulations, 28-31-268
  - Permitting, procedures for, 28-31-124 et seq.
  - Specific hazardous wastes and specific types of facilities, 28-31-266
  - Substitution of state terms for federal terms, 28-31-100 et seq.
  - Transporters of hazardous waste, 28-31-263, 28-31-263a
  - Treatment fees, off-site, 28-31-10a
  - Universal waste; adoption and modification of federal regulations, 28-31-273

**Health and Environment, Dept. of—Cont.**

- Hazardous waste management—Cont.
  - Used oil, 28-31-279, 28-31-279a
- Health care database, 28-67-1 et seq.
  - Confidentiality of, 28-67-6
  - Contractors, eligible, 28-67-10
  - Cooperative agreements, 28-67-11
  - Data validation, 28-67-12
  - Definitions, 28-67-1
  - Electronic access to public use data, 28-67-5
  - Fees established, 28-67-7
  - Health care data,
    - Collection and submission, 28-67-3
    - Release and rerelease, 28-67-4
  - Information collected, 28-67-2
  - Record security, 28-67-8
  - System security, 28-67-9
- Health care groups, credentialing, 28-60-1 et seq.
- Health information,
  - Authorization form, 28-75-100
- Hearings,
  - Conduct, 28-3-6, 28-3-7
  - Deviation from procedure, 28-3-5
- Hemophilia program,
  - Applicant information, 28-4-411
  - Definitions, 28-4-410
  - Eligibility,
    - Condition for treatment, 28-4-415
    - Financial, 28-4-413
  - Payment, 28-4-414
  - Priorities, 28-4-416
- HIV testing, approval of laboratories, 28-33-11
- Home health agencies,
  - Allied health training endorsement, 28-51-115
  - Clinical records, 28-51-110
  - Definitions, 28-51-100
  - Health aide course instructors, 28-51-114
  - Health aide test eligibility, 28-51-116
  - Health aide training program, 28-51-112, 28-51-113
  - Licensing procedure, 28-51-101
    - Fees, 28-51-102
  - Organization, administration, 28-51-103
  - Patient's bill of rights, 28-51-111
  - Services, 28-51-104 through 28-51-109
- Home nursing service, fees, 28-8-1
- Hospitals,
  - Abortion facility licensure,
    - Abortion procedure, 28-34-138
    - Ancillary services, 28-34-136
    - Application process, 28-34-127
    - Definitions, 28-34-126
    - Equipment; supplies; drugs and medications, 28-34-135
    - Facility environmental standards, 28-34-133
    - Follow-up contact and care, 28-34-141
    - Health and safety requirements, 28-34-134
    - Operation of the facility, 28-34-131
    - Patient screening and evaluation, 28-34-137
    - Records, 28-34-144
    - Recovery procedures; discharge, 28-34-139
    - Renewals; amendments, 28-34-130
    - Reporting requirements, 28-34-143
    - Risk management, 28-34-142
    - Staff requirements, 28-34-132
    - Terms of a license, 28-34-129

**Health and Environment, Dept. of—Cont.**

Hospitals—Cont.

- Abortion facility licensure—Cont.
  - Transfers, 28-34-140
- Administrative services, 28-34-84
- Alcoholism treatment, 28-34-27
- Ambulatory surgical centers,
  - Ancillary services, 28-34-59a
  - Anesthesia services, 28-34-56a
  - Assessment and care of patients, 28-34-52b
  - Construction standards, 28-34-62a
  - Definitions, 28-34-50
  - Food services, 28-34-60a
  - Governing authority, 28-34-53
  - Human resources, 28-34-55a
  - Infection control, 28-34-58a
  - Licensing procedure, 28-34-51
  - Medical staff, 28-34-54
  - Patient rights, 28-34-52a
  - Personnel, 28-34-55, 28-34-56
  - Physical environment, 28-34-61a
  - Records, medical, 28-34-57
  - Requirements, 28-34-52
  - Risk management plan, 28-52-1
  - Sanitation and housekeeping, 28-34-61
  - Services, 28-34-59, 28-34-60
  - Sterilizing and supply, 28-34-58
  - Supplies, 28-34-58
- Anesthesia services, 28-34-17a
- Certificates of need, 28-42-1 et seq.
- Construction standards, 28-34-32b
- Coronary care units, 28-34-28
- Definitions, 28-34-1a
- Departments, miscellaneous, 28-34-30
- Dietary department, 28-34-14
- Drug room, 28-34-10
- Emergency services, 28-34-16a
- Equipment and supplies, 28-34-13
- Governing authority, 28-34-5a
- Intensive or coronary care, 28-34-28
- Laboratory, 28-34-11
- Laundry, 28-34-15
- Licensing procedure, 28-34-2
- Long-term care, 28-34-29a
- Medical records, 28-34-9a
- Medical staff, 28-34-6a
- Nurseries, occupancy limit posted, 28-4-72
- Nursing personnel, 28-34-7
- Obstetrical and newborn services, 28-34-18a
- Occupational therapy department, 28-34-25
- Outpatient and short-term procedure services, 28-34-20a
- Patient rights, 28-34-3b
- Pediatric department, 28-34-19
- Personnel, 28-34-7
- Pharmacy, 28-34-10a
- Physical therapy department, 28-34-22
- Psychiatric department, 28-34-21
- Radiology department, 28-34-12
- Records, medical, 28-34-9
- Recuperation centers,
  - Construction, 28-34-94a
  - Definitions, 28-34-75
  - Departments, additional, 28-34-92
  - Dietary department, 28-34-88

**Health and Environment, Dept. of—Cont.**

Hospitals—Cont.

- Recuperation centers—Cont.
  - Drug room, 28-34-84
  - Emergency department, 28-34-90
  - Governing authority, 28-34-79
  - Laboratory, 28-34-85
  - Laundry, 28-34-89
  - Licensing procedure, 28-34-76
  - Medical records department, 28-34-83
  - Personnel, 28-34-82
    - Nursing, 28-34-81
  - Pharmacy or drug room, 28-34-84
  - Physical therapy department, 28-34-91
  - Radiology department, 28-34-86
  - Sanitation and housekeeping, 28-34-93
  - Staff, medical, 28-34-80
  - Sterilizing and supply, 28-34-87
  - Supply, 28-34-87
  - Visiting rules and regulations, 28-34-78
- Requirements, 28-34-3a
- Respiratory therapy, 28-34-23
- Risk management plan, 28-52-1
- Sanitation and housekeeping, 28-34-31
- Social services department, 28-34-24
- Sterilizers and autoclaves, 28-34-13
- Supplies and equipment, 28-34-13
- Surgical services, 28-34-17b
- Tuberculosis treatment, 28-34-26
- Visitation policies, 28-34-4a

Hydrocarbon storage,

- Brine ponds,
  - Application and permit, 28-45-22, 28-45-23
  - Closure requirements, 28-45-30
  - Design, construction, and maintenance, 28-45-28
  - Financial assurance for closure, 28-45-27
  - Groundwater monitoring, 28-45-29
  - Public notice, 28-45-24
  - Renewal, transfer, modification of permit, 28-45-25
  - Signatories for permit applications, 28-45-26
- Costs and fees, 28-45-11, 28-45-21
- Definitions, 28-45-2, 28-45-2a
- Facility closure, 28-45-11a
- Plan for drilling and operation, approval required, 28-45-9, 28-45-12
- Record requirements, 28-45-18
- Regulations, waiver of, 28-45-10

Storage wells,

- Abandonment, 28-45-8
- Conversion and reentry, 28-45-4a
- Existing wells, 28-45-6, 28-45-19
- Monitoring requirements, 28-45-7, 28-45-7a, 28-45-15, 28-45-16, 28-45-17
- New wells, 28-45-5, 28-45-10a, 28-45-14
- Permit, required, 28-45-3, 28-45-3a, 28-45-4, 28-45-5a, 28-45-6a, 28-45-8a, 28-45-9a, 28-45-22
- Plugging procedures, 28-45-8, 28-45-20
- Safety and security, 28-45-13

Industrial fluids, disposal, storage,

- Definitions, 28-13-2
- Disposal wells,
  - Permit, 28-13-10, 28-13-11
- Permits, orders, authorized signatures, 28-13-8

**Health and Environment, Dept. of—Cont.**

- Industrial fluids, disposal, storage—Cont.
- Scope of regulation, 28-13-1
- Surface ponds,
  - Abandonment, 28-13-9
  - Permits, 28-13-5 to 28-13-7
  - Revocation, 28-13-9
- Underground reservoirs,
  - Plans, 28-13-3
  - Records, 28-13-4
- Infants, newborn, screening, 28-4-501 et seq.
- Intermediate care facilities for the mentally retarded,
  - Construction requirements, 28-39-225
  - Physical environment, 28-39-225
- Jams, 28-21-62a
- Laboratories,
  - Controlled substances, general provisions, 28-33-12
  - Milk, examination, 28-11-1 et seq.
  - Reporting and submission requirements, 28-1-18
  - Syphilis tests, 28-33-1 et seq.
- Laetrile, 28-21-250 et seq.
  - Buildings or facilities, 28-21-253
  - Complaint files, 28-21-264
  - Components used, 28-21-256
  - Cost, 28-21-268
  - Definitions, 28-21-250
  - Equipment, 28-21-254
  - Expiration date on label, 28-21-260
  - Laboratory controls, 28-21-258
  - Packaging and labeling, 28-21-261
    - Expiration date, 28-21-260
    - Special requirements, 28-21-266
  - Personnel, 28-21-252
  - Price control, 28-21-268
  - Product containers, 28-21-257
  - Production and control procedures, 28-21-255
- Records,
  - Complaint files, 28-21-264
  - Control records, 28-21-262
  - Distribution records, 28-21-263
- Reference laboratory control, 28-21-265
- Registration of manufacturers,
  - Application, 28-21-267
  - Renewal, 28-21-267
  - Revocation or suspension, 28-21-267
- Samples, 28-21-265
- Stability of products, 28-21-259
- Lead poisoning prevention program,
  - Accreditation, licensure, and certification requirements, 28-72-2
  - Application for the certification of project designers, 28-72-9
  - Application process and licensure renewal requirements for lead activity firms, 28-72-10
  - Application process and licensure requirements for renovation firms, 28-72-10a
  - Application process and requirements for certification,
    - Elevated blood level investigator, 28-72-6a
    - Lead abatement supervisors, 28-72-8
    - Lead abatement workers, 28-72-7
    - Lead inspectors, 28-72-5
    - Renovators, 28-72-7a
    - Risk assessors, 28-72-6

**Health and Environment, Dept. of—Cont.**

- Lead poisoning prevention program—Cont.
  - Application process and requirements for reapplication after certificate expiration, 28-72-12
  - Curriculum requirements for training providers, 28-72-4a
  - Definitions, 28-72-1, 28-72-1a, 28-72-1c, 28-72-1d, 28-72-1e, 28-72-1g, 28-72-1h, 28-72-1i, 28-72-1k, 28-72-1l, 28-72-1m, 28-72-1n, 28-72-1o, 28-72-1p, 28-72-1r, 28-72-1s, 28-72-1t, 28-72-1v, 28-72-1x
  - Enforcement, 28-72-22
  - Fees, 28-72-3
  - Pre-renovation education rule,
    - Applicability, 28-72-52
    - Definitions, 28-72-51
    - Information distribution requirements, 28-72-53
    - Recordkeeping requirements, 28-72-54
  - Renewal of lead occupation certificates, 28-72-11
  - Training provider accreditation, 28-72-4
    - Reciprocity, 28-72-4b
    - Refresher training course, 28-72-4c
  - Work practice standards,
    - Collection and laboratory analysis of samples, 28-72-19
    - Composite dust sampling prohibited, 28-72-20
    - Elevated blood lead level investigation risk assessments, 28-72-17
    - General standards, 28-72-13
    - Inspection, 28-72-14
    - Lead abatement, 28-72-18
      - Encapsulation, 28-72-18c
      - Enclosure, 28-72-18b
      - Removal, 28-72-18d
      - Replacement, 28-72-18a
    - Lead hazard screen, 28-72-15
    - Postabatement clearance procedures, 28-72-18e
    - Quarterly reports; recordkeeping, 28-72-21
    - Risk assessment, 28-72-16
- License fees,
  - Centers and homes for children and youth, 28-4-92
  - Food service establishments, 28-36-30
  - Food vending machines and companies, 28-36-32
  - Lodging establishments, 28-36-31
  - Mobile units food service, 28-36-1
- Local boards of health, ordinances, 28-1-1
- Local environmental protection grant program, 28-66-1 et seq.
  - Definitions, 28-66-1
  - Grants,
    - Base, 28-66-2
    - Target, 28-66-3
  - Local environmental protection plan, 28-66-4
- Lodging,
  - Gas heaters, open, 28-37-13
  - Rooms over garages, 28-37-11
  - Stairways, handrails, 28-37-12
  - Sweeping, 28-37-10
  - Water heaters, gas fired, 28-37-14
- Lodging establishments,
  - Application fee, 28-36-31
  - Bedding, 28-36-48
  - Definitions, 28-36-33
  - Drinking glasses, 28-36-38

**Health and Environment, Dept. of—Cont.**

- Lodging establishments—Cont.
  - Driving surfaces, 28-36-34
  - Electrical wiring, 28-36-44
  - Floors, walls, ceilings, 28-36-35
  - Furnishings, 28-36-36
  - Housekeeping facilities and equipment, 28-36-42
  - Ice dispensing, 28-36-39
  - Insect control, 28-36-41
  - Laundry facilities, 28-36-43
  - Lighting, 28-36-37
  - Personnel, 28-36-45
  - Plumbing, 38-36-44
  - Rodent control, 28-36-41
  - Sewage, 28-36-47
  - Soap and towels, 28-36-49
  - Toilet rooms, 28-36-40
  - Vestibules, 28-36-40
  - Walkways, 28-36-34
  - Water supply, 28-36-46
- Lungs in food products, 28-26-90a
- Macaroni,
  - Definitions, 28-21-50a
  - Enriched, 28-21-58a
  - Milk macaroni products, 28-21-51a
  - Soy macaroni products, 28-21-53a
  - Vegetable macaroni products, 28-21-54a
  - Wheat macaroni products, 28-21-53a
  - Whole wheat macaroni products, 28-21-52a
- Maternal and child health,
  - Attendant care facilities, 28-4-285 et seq.
    - Administration, personnel and records, 28-4-288
    - Admission policies and procedures, 28-4-289
    - Definitions, 28-4-285
    - Health care policies, 28-4-291
    - Licensing procedures, 28-4-286
    - Physical plant, 28-4-293
    - Program, 28-4-290
    - Safety procedures, 28-4-292
    - Terms of license, 28-4-287
    - Transportation, 28-4-294
  - Birth centers, 28-4-1300 et seq.
    - Administration, 28-4-1305
    - Applicant and licensee requirements, 28-4-1301
    - Application procedures, 28-4-1302
    - Clinical services and patient care, 28-4-1310
    - Clinical staff member qualifications; employee schedules; training, 28-4-1306
    - Definitions, 28-4-1300
    - Environmental standards, 28-4-1313
    - Food service, 28-4-1317
    - Furnishings, equipment, and supplies, 28-4-1314
    - Health related requirements, 28-4-1312
    - Laundry, 28-4-1318
    - Maintenance, 28-4-1315
    - Quality assurance, 28-4-1309
    - Records, 28-4-1307
    - Reporting requirements, 28-4-1308
    - Safety, 28-4-1316
    - Temporary permit or license,
      - Amended license; exceptions; notification; renewal, 28-4-1304

**Health and Environment, Dept. of—Cont.**

- Maternal and child health—Cont.
  - Birth centers—Cont.
    - Temporary permit or license—Cont.
      - Terms of a temporary permit or a license, 28-4-1303
    - Transfers, 28-4-1311
  - Building requirements, 28-4-377
  - Child advocates, 28-4-568
  - Child find activities, 28-4-551
  - Complaints, resolution of, 28-4-569
    - Status of a child during proceedings, 28-4-570
  - Confidentiality and access rights, 28-4-571
  - Definitions, 28-4-550
  - Diagnosis and monitoring, 28-4-510
  - Drop-in programs,
    - Attendance policy; supervision, 28-4-704
    - Background checks, 28-4-705
    - Definitions, 28-4-700
    - Inspections; investigations, 28-4-702
    - Licensure, 28-4-701
    - Recordkeeping, 28-4-703
  - Early intervention services, 28-4-562
    - Eligibility for, 28-4-554
    - Family-directed, 28-4-555
  - Evaluation and assessment activities, 28-4-553
  - Family foster homes for children, licensing, 28-4-800 et seq.
    - Animals, 28-4-825
    - Background checks, 28-4-805
    - Behavior management practices; prohibited punishment; physical restraint; notification requirements, 28-4-815
    - Caregiver qualifications; supervision, 28-4-811
    - Case plan, 28-4-810
    - Child growth and development, 28-4-813
    - Definitions, 28-4-800
    - Environmental requirements, general, 28-4-820
    - Family life, 28-4-814
    - Health care, 28-4-819
    - License required, 28-4-801
    - License requirements, 28-4-802
    - Licensing procedure, 28-4-803
    - Nutrition; food handling and storage, 28-4-817
    - Outside premises, 28-4-823
    - Placement information, 28-4-809
    - Recordkeeping requirements; confidentiality, 28-4-808
    - Reporting requirements for infectious or contagious disease; positive tuberculin test; critical incidents; abuse and neglect, 28-4-807
    - Respite care, 28-4-812
    - Safety procedures; emergency plan; drills, 28-4-822
    - Sleeping arrangements, 28-4-821
    - Storage and administration of medication, 28-4-818
    - Swimming pools, wading pools, and hot tubs; off-premises swimming and wading activities, 28-4-824
    - Terms of license; validity of temporary permit or license; renewal of license; amendments; exceptions; withdrawal of application or request to close, 28-4-804
    - Training, 28-4-806
    - Transportation, 28-4-816

**Health and Environment, Dept. of—Cont.**

- Maternal and child health—Cont.
  - Family service coordination, 28-4-556
  - Financial assistance, 28-4-514
  - Funding, 28-4-566
  - Grant program application and procedures, 28-4-1400
  - Health policies,
    - Pre-employment health assessment, 28-4-376
    - Tuberculin test, X-ray, 28-4-376
  - Hearing screening act, newborn infant, 28-4-600
    - et seq.
    - Definitions, 28-4-600
    - Exceptions, 28-4-609
    - Inability to pay, 28-4-613
    - Initial hearing screening test, 28-4-601
    - Location of screening, 28-4-602
    - Qualifications and training of support personnel, 28-4-608
    - Reporting to the department, 28-4-605
    - Responsibilities,
      - Audiologic assessment after discharge, 28-4-612
      - Audiologist; staff or consulting, 28-4-606
      - Hearing screening after discharge, 28-4-611
      - Medical care facility's administrator, 28-4-603
      - Medical care facility's hearing screening, 28-4-604
      - Primary medical care provider, 28-4-610
      - Support personnel, 28-4-607
  - Individualized family service plan (IFSP), 28-4-557
    - Content, 28-4-558
    - Development meetings, 28-4-559
    - Interim, 28-4-560
  - Local tiny-k program responsibilities, 28-4-565
  - Maternity centers,
    - Administration of center, 28-4-373
    - Admission and discharge policy, 28-4-374
    - Definitions, 28-4-370 et seq.
    - Labor and delivery room services and equipment, 28-4-375
    - Licensing, 28-4-371, 28-4-372
    - Regulations, compliance, 28-4-379
    - Risk management plan, 28-52-1
  - Newborn infants, screening of, 28-4-501 et seq.
    - Definitions, 28-4-520
    - Reporting abnormal conditions and congenital abnormalities, 28-4-521
    - Specimen collections, timing of, 28-4-503
  - Payments, system of, 28-4-573
  - Personnel requirements, 28-4-564
  - Procedural safeguards, 28-4-567
  - Psychiatric residential treatment facilities, 28-4-1201 et seq.
    - Administration, 28-4-1206
    - Admission requirements, 28-4-1210
    - Application procedures, 28-4-1202
    - Background checks, 28-4-1205
    - Capacity, 28-4-1203
    - Definitions, 28-4-1200
    - Emergency plan, 28-4-1214
    - Environmental standards, 28-4-1215
    - Food services, 28-4-1216
    - Health and safety requirements for the use of seclusion rooms, 28-4-1212
    - Health care, 28-4-1211

**Health and Environment, Dept. of—Cont.**

- Maternal and child health—Cont.
  - Psychiatric residential treatment facilities—Cont.
    - Laundry, 28-4-1217
    - Library; recreation; work, 28-4-1213
    - License requirements, 28-4-1201
    - Licensure; renewal; notifications; exceptions; amendments, 28-4-1204
    - Notification and reporting requirements, 28-4-1209
    - Records, 28-4-1208
    - Staff requirements, 28-4-1207
    - Transportation, 28-4-1218
  - Records and amendments to records, 28-4-572
  - School age programs, 28-4-576 et seq.
    - Access to the premises; safety of off-premises activities, 28-4-583
    - Administration; training; recordkeeping, 28-4-582
    - Animals on the premises, 28-4-595
    - Applicant requirements, 28-4-579
    - Application procedures; advertising, 28-4-580
    - Background checks, 28-4-584
    - Behavior management, 28-4-589
    - Building and outdoor premises, 28-4-585
    - Day reporting program, 28-4-596
    - Definitions, 28-4-576
    - Food preparation, service, safety, and nutrition, 28-4-591
    - Health-related requirements, 28-4-590
    - Inspections; surveys; investigations, 28-4-581
    - Licensure, 28-4-578
    - Outdoor summer camps and mobile summer programs, 28-4-586
    - Program plan, program of activities, and use of space, 28-4-588
    - Reporting requirements, 28-4-592
    - Safety and emergency procedures, 28-4-592
    - Staff member qualifications, 28-4-587
    - Staff professional development training, 28-4-587
    - Staffing requirements, 28-4-587
    - Swimming, wading, and water activities, 28-4-594
    - Temporary permit or license, 28-4-577
    - Transportation, program-sponsored, 28-4-593
  - Screening activities, 28-4-552
  - Secure residential treatment facilities,
    - Administration, 28-4-333
    - Admission and release policies, 28-4-335
    - Behavior management, 28-4-338
    - Definitions, 28-4-330
    - Emergency, safety, security, and control, 28-4-340
    - Environmental standards, 28-4-343
    - Health care policies, 28-4-341
    - Licensing procedures, 28-4-331
    - Mental health policies, 28-4-342
    - Program and services, 28-4-336
    - Records, 28-4-337
    - Rights of youth, 28-4-339
    - Staff development, 28-4-334
    - Terms of license, 28-4-332
  - Service providers, 28-4-563
  - Staff secure facilities,
    - Administration, 28-4-1254
    - Admission and release of residents, 28-4-1258

**Health and Environment, Dept. of—Cont.**

- Maternal and child health—Cont.
  - Staff secure facilities—Cont.
    - Animals, 28-4-1269
    - Applicant, permittee, and licensee requirements, 28-4-1251
    - Background checks, 28-4-1253
    - Behavior management, 28-4-1262
    - Case management, 28-4-1260
    - Definitions, 28-4-1250
    - Emergency plan; safety, security, and control, 28-4-1264
    - Environmental requirements, 28-4-1265
    - Food services, 28-4-1266
    - Health care, 28-4-1259
    - Laundry, 28-4-1267
    - Notification and reporting requirements, 28-4-1257
    - Program, 28-4-1261
    - Records, 28-4-1256
    - Staff member requirements, 28-4-1255
    - Staff member schedule; supervision of residents, 28-4-1263
    - Terms of a temporary permit or license, 28-4-1252
    - Transportation, 28-4-1268
    - Transitions, 28-4-561
    - Transportation, 28-4-378
      - Insurance, 28-4-378
- Maternity homes and clinics,
  - Residential centers for children and youth, 28-4-92
  - Vital statistics reports, 28-17-13
- Mausoleums,
  - Embalming, 28-9-4
  - License to manufacture, 28-9-6
  - Permit, 28-9-1
    - Application, 28-9-2
    - Revocation, 28-9-8
    - Triplicate, 28-9-3
  - Replacement or repair, 28-9-7
  - Structure design, 28-9-5
- Meat,
  - Imported, labeling,
    - Carcass, 28-26-81
    - Card or sign, 28-26-80
    - Guarantees, 28-26-87
    - Packages, 28-26-83
      - Wholesale, 28-26-86
    - Primal cuts, 28-26-82
    - Products in which meat is principal ingredient, 28-26-85
    - Quarters, 28-26-81
      - Ready for consumption, 28-26-84
      - Side, 28-26-81
  - Meat food products, 28-21-83
  - Medical care facilities, 28-52-1
    - Incident reporting, 28-52-2
    - Risk management committee, 28-52-3
    - Risk management plan, 28-52-1
    - Standard-of-care determinations, 28-52-4
  - Mentally retarded, intermediate care facilities, 28-39-225
  - Metal polishes, cyanide, 28-27-31
  - Milk and milk products,
    - Buttermilk, 28-21-102
      - Cartons and containers, 28-21-109
      - Concentrated milk, 28-21-96a

**Health and Environment, Dept. of—Cont.**

- Milk and milk products—Cont.
  - Cottage cheese, 28-21-106, 28-21-107
  - Cream, 28-21-91a, 28-21-91b
  - Cultured buttermilk, 28-21-103
  - Cultured milk, 28-21-104
  - Definitions, 28-21-108
  - Examination by laboratories, 28-11-1 et seq.
  - Half and half, 28-21-93a
  - Labels, 28-21-109 through 28-21-112
  - Lowfat milk, 28-21-99a
  - Milk, 28-21-90a
  - Misbranding, 28-21-109 et seq.
  - Skim milk, 28-21-98a
  - Sour cream, 28-21-92a
  - Vitamin D milk, 28-21-105
  - Whipping cream, 28-21-94a
- Motels. See Lodging establishments.
- Newborn infants, eye treatment, 28-4-73
  - Screening, 28-4-501 et seq.
- Noodles,
  - Definitions, 28-21-55a
  - Enriched, 28-21-59a
  - Soy noodle products, 28-21-56a
  - Vegetable noodle products, 28-21-57a
  - Wheat noodle products, 28-21-56a
- Nuclear waste. See Radioactive material.
- Nurseries, occupancy limits, 28-4-72
- Oil and gas wells, production,
  - Disposal, 28-13-1 et seq.
    - Kansas Corporation Commission, Agency 82
  - Salt water, use in road construction and maintenance, 28-47-1 et seq.
  - Underground injection, storage or disposal, 28-13-1 et seq., 28-46-1 et seq., 28-46-42
  - Waste disposal, 28-41-1 et seq.
- Paints, varnishes, similar products,
  - Clear liquids, 28-27-11
  - Flash point, definitions, 28-27-12
  - Harmful solvents, 28-27-16
  - Lead, 28-27-15
  - Marking, 28-27-11
  - Metal compounds, toxic, 28-27-10, 28-27-14
  - Odorless solvents, 28-27-13
- Pathogenic micro-organisms, 28-12-1
- PCB facilities construction, 28-55-1 et seq.
- Pork products, miscellaneous, 28-21-84
- Poultry, imported, labeling, 28-26-80 et seq.
- Preschool, child care centers and preschools, 28-1-20, 28-4-420 et seq.
- Preschool children, reporting conditions of, 28-4-525 et seq.
- Preserves, 28-21-62a
- Psittacosis control, 28-1-15
- Rabies,
  - Animals bitten, quarantine, 28-1-13
  - Wildlife animals, 28-1-14
- Radiation,
  - Appendix,
    - A, determination of A1, A2, and B 28-35-221b
    - B, radiation shielding required for plan reviews, 28-35-253
    - C, operator's booth, design requirements, 28-35-254

**Health and Environment, Dept. of—Cont.**

## Radiation—Cont.

## Appendix—Cont.

- D, healing arts screening, information for proposal to conduct, 28-35-255
- Communications, 28-35-136
- Concentrations, exempt, 28-35-197a, 28-35-197b, 28-35-198a
- Definitions, 28-35-135, 28-35-135a through 28-35-135i, 28-35-135k through 28-35-135y
- Deliberate misconduct, 28-35-148
- Equipment, 28-35-145, 28-35-146
- Exempt concentrations, 28-35-197a, 28-35-197b, 28-35-198a
- Exemption from regulation, 28-35-192 through 28-35-192h
- General requirements, 28-35-700
- Industrial devices, 28-35-192h
- Industrial radiographic operations, 28-35-273 et seq.
- Inspections, 28-35-138, 28-35-331 et seq.
  - Consultation with workers during inspection, 28-35-336
- Informal review, 28-35-338
  - Irradiators, 28-35-375
  - Licensee's presence during inspection, 28-35-335
  - Not warranted, 28-35-338
  - Requests by workers for inspection, 28-35-337
- Irradiators, 28-35-375
- License and registration fees, 28-35-145 through 28-35-147a
- Licensing of sources,
  - Amendment of licenses, 28-35-187a, 28-35-188a
  - Conditions imposed, 28-35-183a, 28-35-184a
  - Design requirements for operators booth, 28-35-169
  - Emergency plan criteria, 28-35-193b
  - Expiration of licenses, 28-35-185a
  - Persons licensed, 28-35-175a
  - Possession limits, 28-35-200a
  - Pre-licensing inspections, 28-35-193a
  - Reciprocal recognition, 28-35-194a
  - Renewal of licenses, 28-35-186a, 28-35-188a
  - Reporting requirements, 28-35-184b
  - Schedule B, 28-35-197b
  - Schedule F, 28-35-201
  - Schedule G, 28-35-203
  - Schedule H, 28-35-202
  - Shielding, 28-35-167, 28-35-168
  - Suspension, revocation of licenses, 28-35-191a
  - Termination of license, 28-35-205, 28-35-205a, 28-35-205b, 28-35-206
- Types of licenses, 28-35-176a
  - General licenses, 28-35-177a through 28-35-178i
  - Specific licenses, 28-35-179a through 28-35-181t
  - Specific licenses, broadscope, 28-35-182a through 28-35-182e
- Medical uses of radioactive material, 28-35-199a
- Notices, instructions and reports to workers, 28-35-331 et seq.
- Notification and reports to individuals, 28-35-230c, 28-35-230d, 28-35-230e, 28-35-334
  - Dose, records of, 28-35-227i

**Health and Environment, Dept. of—Cont.**

## Radiation—Cont.

- Notification and reports to individuals—Cont.
  - Records of results, 28-35-227h
- Nuclear waste, transport notice, 28-35-189a
- Particle accelerators,
  - Controls and interlock systems, 28-35-315
  - Human use, 28-35-311
  - Installations, use of experts, 28-35-314
  - Interlock systems, 28-35-315
  - Operating procedures, 28-35-317
- Registrants,
  - Duties, 28-35-312
  - Limitations, 28-35-313
- Registration requirements, 28-35-309, 28-35-310
- Requirements,
  - Monitoring, 28-35-318
  - Shielding and safety design, 28-35-314
  - Safety requirements, 28-35-308 et seq.
  - Ventilation systems, 28-35-319
  - Warning devices, 28-35-316
- Posting of notices, 28-35-332
- Protection, standards for,
  - Access control devices, 28-35-220a
  - Airborne radioactive material, determination of external dose, 28-35-212c
  - Application of new regulations, 28-35-211c
  - Bioassays, 28-35-218a
  - Caution signs and labels, 28-35-219a
  - Controlled areas, exposure in, 28-35-213a, 28-35-227k
  - Effluents, release to uncontrolled areas, 28-35-215a
  - Embryo/fetus, dose, 28-35-213b
  - Excessive levels, reports of, 28-35-230a
  - Exposure in controlled areas, 28-35-213a, 28-35-212b
  - General monitoring requirements, 28-35-217b
  - General provisions, 28-35-227b
- Protection, standards for—Cont.
  - Installations, vacating, 28-35-231a
  - Internal exposure, determination of, 28-35-212d
  - Labels and signs, 28-35-219a
  - Leak tests, 28-35-216a, 28-35-227e
  - Notification of incidents, 28-35-229a
  - Occupational dose limits, 28-35-212a
    - Prior, determination of, 28-35-212e, 28-35-227f
  - Overexposure, reports of, 28-35-230a
  - Packages, picking up, transporting, receiving, and opening procedures, 28-35-221a
  - Personnel monitoring, 28-35-217a
  - Persons covered, 28-35-211a
  - Radiation protection programs, 28-35-211d, 28-35-227c
  - Reporting and recording, misadministrations, 28-35-230b
  - Respirators, protection factors, 28-35-212g
  - Signs and labels, 28-35-219a
  - Special exposures, planned, 28-35-212f, 28-35-227g, 28-35-230c
  - Surveys, records, 28-35-227d
  - Theft or loss, reports of, 28-35-228a
  - Uncontrolled areas,
    - Compliance, 28-35-214b

**Health and Environment, Dept. of—Cont.**

## Radiation—Cont.

## Uncontrolled areas—Cont.

## Wireline and subsurface tracer studies—Cont.

Permissible levels, 28-35-214a

Security of sources, 28-35-222a

## Vacating installations, 28-35-231a

## Waste control,

Alternatives, 28-35-225a

Characteristics, 28-35-223c

Classification, 28-35-223b

General requirements, 28-35-223a

Incineration, 28-35-226a

Labeling, 28-35-223d

Sanitary sewers, 28-35-224a

Transfer for disposal, 28-35-231b, 28-35-231c

## Water and air concentrations, 28-35-233a

## Wireline and subsurface tracer studies,

Appendix A, training courses for logging supervisors, 28-35-363

Apply to, 28-35-341

Documents and records required,

Maintained at field stations, 28-35-360

Temporary jobsites, 28-35-361

Handling tools, 28-35-356

Inventory, in-person, 28-35-347

Labeling, 28-35-350

Notification of incidents, abandonment, and lost sources, 28-35-362

Operating and emergency procedures, 28-35-353

Particle accelerators, 28-35-358

Personnel monitoring, 28-35-354

Preoperational and use requirements, 28-35-342

Radiation surveys, 28-35-359

Instruments, 28-35-345

Repair, opening or modification, 28-35-351

## Sealed sources,

Leak testing of, 28-35-346

Used in downhole operations, criteria, 28-35-349

Security, 28-35-355

Storage precautions, 28-35-343

Subsurface tracer studies, 28-35-357

Training requirements, 28-35-352

Transport precautions, 28-35-344

Utilization records, 28-35-348

## Radioactive material,

Disposal, 28-35-225b

Emergencies, contingency planning, 28-35-400 through 28-35-411

Exempt concentrations, 28-35-192a through 28-35-192g

Medical uses, 28-35-199a

Nuclear waste, transport, notice, 28-35-189a

Packaging and transportation, 28-35-500 through 28-35-505

Possession limits, 28-35-200a

Transfer of material, 28-35-190a

Transportation, 28-35-195a, 28-35-196a, 28-35-196b

Radioactive material other than source, license, 28-35-178

Radioactive sources, use, 28-35-261 et seq.

Interstitial applications, 28-35-262

**Health and Environment, Dept. of—Cont.**

## Radiation—Cont.

## Radioactive sources, use—Cont.

Intracavitary applications, 28-35-262

Regulations, purpose and scope, 28-35-133, 28-35-144, 28-35-261

Superficial application, 28-35-262

Teletherapy, 28-35-263

## Radiographic installations, 28-35-244

Dental, 28-35-247

## Radiographic operations, industrial,

Applicability, 28-35-274

Emergency procedures, 28-35-283

Enclosed radiography, requirements and exemptions, 28-35-288

Leak testing, 28-35-279

Licensees, limitations, 28-35-282

Limitations, 28-35-282

Limits on levels of radiation, 28-35-275

Locking of sources, 28-35-276

Operating procedures, 28-35-283

Performance requirements for radiography equipment, 28-35-291

Personnel monitoring control, 28-35-284

Posting, 28-35-286

Quarterly inventory, 28-35-280

Radiation survey instruments, 28-35-278

Radiation surveys, 28-35-287

Radiographers, training, 28-35-289

Repair of sealed sources, 28-35-279

Reports of incidents, lost or stolen sources, 28-35-290

Sealed sources, testing, 28-35-279

Security, 28-35-285

## Storage,

Containers, 28-35-275

Precautions, 28-35-277

Training, radiographers, minimum subjects, 28-35-289

Utilization logs, 28-35-281

## Radon measurement, mitigation, and laboratory analysis, 28-35-600 et seq.

Certification, renewal of, 28-35-608

Continuing education, 28-35-605

Definitions, 28-35-600

Fees, 28-35-602

General provisions, 28-35-601

## Radon measurement,

Radon measurement business, 28-35-606

Requirements for technician, 28-35-603

## Radon mitigation,

Radon mitigation business, 28-35-607

Requirements for technician, 28-35-604

## Records, 28-35-137

## Registration of devices, 28-35-152 et seq.

Approval not implied, 28-35-159

Change reports, 28-35-158

Discontinuance of use, 28-35-161

Disposal of items, 28-35-165

Excluded items, 28-35-162

Excluded possessors, 28-35-163

Forms, 28-35-155

Initial, 28-35-153

Out-of-state registrable items, 28-35-164

Possessors, 28-35-152

Renewal, 28-35-154

**Health and Environment, Dept. of—Cont.**

- Radiation—Cont.
  - Registration of devices—Cont.
    - Separate installations, 28-35-156
    - Special registration, 28-35-157
    - Vendor notification, 28-35-160
  - Reports of theft or loss of sources, 28-35-228a
  - Requirements, additional, 28-35-141
  - Safety requirements,
    - Particle accelerators, 28-35-308 et seq.
    - X-ray equipment, 28-35-296
  - Shoe fitting machines, fluoroscopic, 28-35-166
  - Tests and surveys, 28-35-139
  - Tests for special form licensed material, 28-35-144
  - Therapeutic radiation machines, 28-35-450
  - Waste control,
    - Alternatives, 28-35-225a
    - Characteristics, 28-35-223c
    - Classification, 28-35-223b
    - General requirements, 28-35-223a
    - Incineration, 28-35-226a
    - Labeling, 28-35-223d
    - Sanitary sewers, 28-35-224a
  - Waste disposal,
    - Records, 28-35-227j
  - X-ray use, 28-35-241 et seq.
    - X-ray equipment, 28-35-296 et seq.
    - X-ray film developing, 28-35-252
- Reptiles, sale of, prohibited, 28-1-25
- Reservoirs, sanitation zones,
  - Boundaries,
    - Big Hill reservoir, 28-10-38
    - Cedar Bluff reservoir, 28-10-15
    - Cheney reservoir, 28-10-16
    - Clinton reservoir, 28-10-34
    - Council Grove reservoir, 28-10-17
    - El Dorado reservoir, 28-10-37
    - Elk City reservoir, 28-10-18
    - Fall River reservoir, 28-10-19
    - Fort Scott reservoir, 28-10-36
    - Glen Elder reservoir, 28-10-20
    - Grove reservoir, 28-10-40
    - Hillsdale reservoir, 28-10-39
    - John Redmond reservoir, 28-10-21
    - Kanopolis reservoir, 28-10-22
    - Kirwin reservoir, 28-10-23
    - Lovewell reservoir, 28-10-24
    - Marion reservoir, 28-10-33
    - Melvorn reservoir, 28-10-35
    - Milford reservoir, 28-10-25
    - Norton reservoir, 28-10-26
    - Onaga reservoir, 28-10-41
    - Perry reservoir, 28-10-32
    - Pomona reservoir, 28-10-27
    - Toronto reservoir, 28-10-28
    - Tuttle Creek reservoir, 28-10-29
    - Webster reservoir, 28-10-30
    - Wilson reservoir, 28-10-31
  - Exceptions for undue hardship, 28-10-77
  - General provisions, 28-10-75 et seq.
  - Inspection of construction, 28-10-84
  - Lands, exemption from regulations, 28-10-76
  - Procedures, appeal and hearing, 28-10-78
  - Requirements,
    - Construction, 28-10-81

**Health and Environment, Dept. of—Cont.**

- Reservoirs, sanitation zones—Cont.
  - Requirements—Cont.
    - Sale of land, 28-10-82
    - Subdivision of land, 28-10-80
  - Sanitation officer, duties, 28-10-83
  - Sanitation plans,
    - Examination fee, 28-10-84
    - Preparation, 28-10-85
    - Submission and approval, 28-10-79
  - Standards,
    - Refuse, 28-10-88
      - Collection, 28-10-107
      - Disposal, 28-10-108
      - Storage, 28-10-106
    - Sewage systems, 28-10-87
      - Holding tanks, 28-10-105
      - Single family dwellings, 28-10-104
      - Two or more families or lots or the general public, 28-10-103
    - Water supply, 28-10-86
      - Single family dwellings, Storage tank, 28-10-102
      - Two or more properties or families and or the general public, 28-10-100
      - Well, 28-10-101
  - Residential centers for children and youth,
    - License fees, 28-4-92
  - Right-to-Know Act, 28-65-3
  - Risk Management Program, 28-74-1 et seq.
    - Application, 28-74-2
    - Definitions, 28-74-1
    - Risk management plan, 28-74-3
    - Risk management plan agreement, 28-74-4
  - Salad dressings,
    - Definitions, 28-21-72a
    - French dressings, 28-21-71a
    - Mayonnaise, 28-21-70a
  - Salt solution mining wells, 28-43-1
    - Abandonment, 28-43-8
    - Appeals, 28-43-10
    - Construction of new wells, 28-43-5
    - Definitions, 28-43-2
    - Monitoring requirements, 28-43-7
    - Operation,
      - Existing wells, 28-43-6
      - Fees, 28-43-11
      - New wells, 28-43-5
    - Permits, 28-43-3, 28-43-4
    - Plugging procedures, 28-43-8
    - Waiver of specific requirements, 28-43-9
  - Salt water use in road construction and maintenance, 28-47-1 et seq.
  - Sanitary regulations for cosmetologists, 28-24-1 et seq.
    - Cleaning and disinfecting,
      - Electrical instruments, 28-24-11
      - Nonelectrical instruments and equipment, 28-24-10
    - Communicable diseases or conditions, 28-24-3
    - Definitions, 28-24-1
    - Electrolysis, 28-24-12
    - Enforcement, 28-24-16
    - Linens and capes, 28-24-4
    - Pedicure equipment, 28-24-9
    - Personal cleanliness, 28-24-2

**Health and Environment, Dept. of—Cont.**

- Sanitary regulations for cosmetologists—Cont.
    - Physical facilities, 28-24-13
    - Products and containers, 28-24-6
    - Prohibitions, 28-24-14
    - Rules and licenses posted, 28-24-15
    - Single-use items, 28-24-8
    - Surfaces and treatment tables, 28-24-5
    - Waxing, 28-24-7
  - Sanitary regulations for tanning facilities, 28-24a-1 et seq.
    - Definitions, 28-24a-1
    - Facility standards and practices, 28-24a-2
  - Services, attendant care,
    - Administration, personnel and records, 28-4-288
    - Admission policies and procedures, 28-4-289
    - Definitions, 28-4-285
    - Health care policies, 28-4-291
    - Licensing procedures, 28-4-286
    - Physical plant, 28-4-293
    - Program, 28-4-290
    - Safety procedures, 28-4-292
    - Terms of license, 28-4-287
    - Transportation, 28-4-294
  - Sewage disposal,
    - Child care homes, 28-4-55
    - Discharge into wells, pits or subsurface excavations, prohibited, 28-5-5
    - Discharge permits,
      - Deviation from plans, 28-16-7
      - Engineer's report, 28-16-5
      - Information required, 28-16-1
      - Plans, 28-16-3
      - Specifications, 28-16-4
      - Submission of information, 28-16-2
      - Treatment plant, information required, 28-16-6
    - Domestic wastes, discharge, 28-5-6
    - Drains, 28-5-3
    - Emergency or accidental discharge into waters, 28-16-27
    - Feedlots, 28-18-1 et seq.
    - Private sewer systems, 28-5-7
    - Public health nuisances, 28-5-4
    - Seepage pits, 28-5-2
      - Construction, 28-5-8
    - Septic tank effluent, discharge, 28-5-7
  - Sewage permit fees,
    - Definitions, 28-16-56c
    - Scheduled, 28-16-56d
  - Sewer service charges,
    - Series B bonds, 28-16-65
    - Series D bonds, 28-16-67
    - Sewerage systems, definitions, inspections and prohibitions, 28-16-55
  - Variance from requirements, 28-5-9
  - Wastewater disposal systems, location of, 28-5-2
  - Water pollution control, 28-16-1 et seq.
  - Water pollution control projects, 28-16-50 et seq.
- Soda water,
- Buildings, 28-23-43, 28-23-44
  - Containers, cleanliness, 28-23-49
  - Crowns and stoppers, 28-23-48
  - Defined, 28-23-41
  - Labeling, 28-23-54

**Health and Environment, Dept. of—Cont.**

- Soda water—Cont.
  - Manufacture,
    - Buildings, requirements, 28-23-43
    - Premises, 28-23-44
  - Materials, cleanliness, 28-23-52
  - Personnel, cleanliness, 28-23-55
  - Saccharin, use, 28-23-53
  - Sirup and extract room, 28-23-46
  - Washing of bottles, 28-23-45, 28-23-47
  - Water used, 28-23-50
  - Wells and springs, 28-23-51
- Solid waste management standards,
  - Action, corrective, 28-29-114
  - Administrative procedures,
    - Closure, financial assurances, 28-29-17a
    - Requirements, 28-29-121
  - Definitions, 28-29-3
  - Disposal sites and processing facilities,
    - Closure, 28-29-12
    - Use after, 28-29-20
    - Inspections, 28-29-16
    - Insurance, 28-29-18
    - Laboratory certification, 28-29-20a
    - Site monitoring, 28-29-19
  - Financial assurance, 28-29-2101 et seq.
  - Hazardous waste facilities,
    - Closure, 28-29-12
    - Insurance, 28-29-18
    - Laboratory certification, 28-29-20a
    - Site monitoring, 28-29-19
  - Inspections, 28-29-16
  - Insurance, 28-29-18
  - Laboratory certification, 28-29-20a
  - Municipal, criteria for, 28-29-98
  - Permits and fees, 28-29-6
    - Conditions, 28-29-7
    - Denial or revocation, 28-29-10
    - Modifications, 28-29-8
    - Public notice, 28-29-6a
    - Renewal, 28-29-84
    - State solid waste tonnage fees, 28-29-85
    - Suspension, 28-29-9
  - Post-closure operation and maintenance, 28-29-17b
  - Registration, evaluation, improvement plans and permits, 28-29-6
  - Scope and content, 28-29-1
  - Site monitoring, 28-29-19
  - Variances from requirements, 28-29-2
- Applicability, 28-29-100
- Collection and transportation, 28-29-22
- Composting,
  - Manure composting, 28-29-25c
  - Small yard composting sites, 28-29-25a
  - Solid waste composting, 28-29-25f
  - Source-separated organic waste composting, 28-29-25e
  - Yard waste composting facilities, 28-29-25b
- Construction and demolition landfills, 28-29-300 et seq.
  - Closure and postclosure care, 28-29-321
  - Definitions, 28-29-300
  - Design, 28-29-304

**Health and Environment, Dept. of—Cont.**

- Solid waste management standards—Cont.
- Construction and demolition landfills—Cont.
  - Hazardous and explosive gases, control of
    - Additional design, operating, and postclosure requirements, 28-29-332
  - Applicability of additional requirements, 28-29-330
  - Documentation of conditions used to determine applicability, 28-29-331
  - Response, assessment monitoring, and corrective action, 28-29-333
- Location restricting, 28-29-302
- Operations, 28-29-308
- Permits, 28-29-325
- Definitions, 28-29-101
- Disposal areas and processing facilities, 28-29-23, 28-29-24, 28-29-25
  - Insurance, 28-29-2201
  - Use after closure, 28-29-20
- Groundwater monitoring system,
  - Applicability and design, 28-29-111
  - Detection and assessment, 28-29-113
  - Sampling and data analysis, 28-29-112
- Household hazardous waste, 28-29-1100 et seq.
  - Facility closure, 28-29-1106
  - Facility design, 28-29-1101
  - Facility operations, 28-29-1102
  - Mobile collection units, 28-29-1103
  - Permits, 28-29-1107
  - Reporting and recordkeeping, 28-29-1105
  - Satellite facilities, 28-29-1104
- Land-spreading, 28-29-1600 et seq.
  - Application, 28-29-1602
  - Conditions for disposal, 28-29-1604
  - Definitions and adoptions, 28-29-1600
  - Determination of land-spreading rates, 28-29-1606
  - General requirements, 28-29-1601
  - Operating and management requirements, 28-29-1607
  - Reporting and recordkeeping, 28-29-1608
  - Sampling and analysis of drilling waste, 28-29-1605
  - Sampling and analysis of soils, 28-29-1603
- Landfills, construction and demolition, 28-29-24
  - Small, 28-29-103
- Livestock composting, 28-29-25d
- Location restrictions, 28-29-102
- Management plans, 28-29-75 et seq.
  - Approval, 28-29-79, 28-29-81
  - Contents of plan, 28-29-80
  - Preparation and adoption, 28-29-75, 28-29-77
  - Regional boundary identification, 28-29-83
  - Review and adoption, 28-29-78, 28-29-80, 28-29-81
  - Revision, 28-29-82
  - Solid waste management committee, 28-29-76
- Medical services waste, 28-29-27
- Modification of obsolete references and text, 28-29-1a
- Standards,
  - Design, 28-29-104
  - Operating, 28-29-108
- Storage of solid waste, 28-29-21

**Health and Environment, Dept. of—Cont.**

- Solid waste management standards—Cont.
- Transfer station, 28-29-23a
- Uncontaminated soil, 28-29-501
- Used oil, 28-29-26
- Waste tires, 28-29-28 et seq.
  - Beneficial use, 28-29-29a
    - Permit required, 28-29-32
    - Standards, 28-29-33
  - Definitions, 28-29-28
- Grant,
  - Application, 28-29-35
  - Award, 28-29-36
  - Management grants, 28-29-34
  - Permit fees, 28-29-2011
  - Processing and disposal standards, 28-29-29
- Processing facilities, collection centers and mobile processors,
  - Permits, 28-29-30
  - Pest control requirements, 28-29-29b
  - Requirements, 28-29-31a
  - Storage, 28-29-31
- Transporter,
  - Permits, 28-29-32
  - Requirements, 28-29-33
  - Value of used tires, establishing, 28-29-28a
- Speech language pathologists and audiologists, licensure of, 28-61-1 et seq.
  - Assistants, 28-61-8
  - Change of name or address, 28-61-10
  - Conduct, unprofessional, 28-61-11
  - Definitions, 28-61-1
  - Fees, 28-61-9
  - License,
    - Application for, 28-61-3
    - Issued by another state, application for person with, 28-61-6
    - Reinstatement of, 28-61-7
    - Renewal, 28-61-5
    - Temporary, application for, 28-61-4
  - Licensure, qualifications for, 28-61-2
- Spill reporting,
  - Action required, 28-48-2
  - Definitions, 28-48-1
- Staphylococcal infection, 28-1-16, 28-1-17
- Storage containers, radiation operations, 28-35-275
- Swine and related waste control, 28-18a-1 et seq.
  - Certification; terms and conditions, 28-18a-9
  - Confined feeding facilities; federal requirements, 28-18a-11
  - Dead swine handling plan, 28-18a-17
  - Definitions, 28-18a-1
  - Denial, suspension, revocation or termination of a permit or certification for swine facilities, 28-18a-20
  - Emergency response plan for swine, 28-18a-16
  - Filing of applications and payment of fees, 28-18a-4
  - Financial assurance for swine facility closure, 28-18a-23
  - Financial assurance for swine waste-retention lagoon or pond closure, 28-18a-24
  - Inspections, 28-18a-21
  - Manure management plan for swine, 28-18a-13
  - Nutrient utilization plan for swine, 28-18a-14

**Health and Environment, Dept. of—Cont.**

- Swine and related waste control—Cont.
  - Odor control plan for swine, 28-18a-15
  - Permits,
    - Development of a draft permit, 28-18a-6
    - Monitoring and reporting, 28-18a-10
    - Public notice of permit actions and public hearings, 28-18a-7
    - Terms and conditions, 28-18a-8
  - Registration and application requirements, 28-18a-2
  - Separation distance requirements, 28-18a-3
  - Swine facility closure requirements, 28-18a-22
  - Swine facility operator certification,
    - Eligibility, 28-18a-27
    - Examinations, 28-18a-28
    - Fees, 28-18a-31
    - Issuance of certificate of competency, 28-18a-30
    - Noncertified operators, 28-18a-29
    - Requirements, 28-18a-26
  - Swine waste management and pollution control systems,
    - Design and construction of, 28-18a-12
    - Groundwater monitoring for swine facilities, 28-18a-18
    - Operation of, 28-18a-19
    - Swine waste-retention lagoons or ponds in sensitive groundwater areas, 28-18a-32
  - Transfer of a permit or certification, 28-18a-5
  - Variance of specific requirements, 28-18a-25
- Syphilis tests, 28-33-1
- Teletherapy radiation, 28-35-263
- Therapeutic X-ray installations, 28-35-249
- Therapy systems with energies MeV and above, x-ray and electron, 28-35-250a
- Towel, common, 28-6-2, 28-23-15
- Toys,
  - Bubble-forming materials, 28-27-23
  - Fluids, toxic, 28-27-22
  - Fuels for toys and models, 28-27-24
  - Paints, toxic, 28-27-20
  - Pigments, solvents, 28-27-25
  - Plastic, toxic, 28-27-21
- Trauma system program, 28-54-1 et seq.
  - Definitions, 28-54-1
  - Designation,
    - Application, 28-54-3
    - Application for change, 28-54-4
  - Certificate of designation,
    - Misrepresentation of, 28-54-7
    - Renewal, 28-54-5
    - Voluntary termination of, 28-54-6
  - Standards for, 28-54-2
- Traumatic head injury facilities, 28-49-1 through 28-49-8
- Tuberculosis, admission and discharge, medical care facilities, 28-1-19
- Turtles, sale of, 28-1-25
- Underground crude oil storage wells and associated brine ponds, 28-45b-1 et seq.
  - Brine pond closure requirements, 28-45b-28
  - Brine pond permit application; permit renewal, 28-45b-21
  - Definitions, 28-45b-1
  - Design and construction of storage wells, 28-45b-12

**Health and Environment, Dept. of—Cont.**

- Underground crude oil storage wells—Cont.
  - Design, construction, and maintenance of brine ponds, 28-45b-26
  - Emergency response plan and safety and security measures, 28-45b-11
  - Financial assurance for brine pond closure, 28-45b-25
  - Financial assurance for closure of underground crude oil storage facility, 28-45b-9
  - Groundwater monitoring, 28-45b-15
  - Groundwater monitoring for brine ponds, 28-45b-27
  - Modification and transfer of a brine pond permit; variance, 28-45b-23
  - Modification and transfer of a permit, 28-45b-6
  - Monitoring, 28-45b-13
  - Operations and maintenance plan, 28-45b-10
  - Permit required for a brine pond, 28-45b-20
  - Permit required for facilities and storage wells; variances, 28-45b-2
  - Permit required for facility and associated storage wells, 28-45b-4
  - Plugging and plugging-monitoring requirements, 28-45b-18
  - Public notice, 28-45b-5
  - Public notice for a brine pond, 28-45b-22
  - Record requirements and retention, 28-45b-16
  - Signatories for brine pond permit applications and reports, 28-45b-24
  - Signatories for permit applications and reports, 28-45b-7
  - Siting requirements for new storage wells and facilities, 28-45b-8
  - Testing and inspections, 28-45b-14
  - Underground crude oil storage fees, 28-45b-19
  - Well conversions and reentry, 28-45b-3
  - Well workovers, 28-45b-17
- Underground injection control,
  - Analyses, performed by laboratory, 28-46-43
  - Sampling techniques, 28-46-44
- Aquifers, exempted, 28-46-40
- Authorization by rule, 28-46-26
- Class I wells,
  - Monitoring and reporting requirements, 28-46-30
- Class III salt solution mining wells,
  - Groundwater monitoring, 28-46-30b
  - Monitoring and reporting requirements, 28-46-30a
  - Operation, 28-46-29a
- Class V wells,
  - Inventory and assessment, 28-46-38
  - Motor vehicle waste disposal wells and large-capacity cesspools, closure, 28-46-34a
  - Prohibited, 28-46-26a
- Classification, 28-46-3
- Compliance schedules, 28-46-11
- Confidentiality claims, 28-46-23
- Definitions, 28-46-2, 28-46-2a
- Design and construction requirements, 28-46-29
- Drinking water, 28-46-4, 28-46-27
- Fact sheets, 28-46-8
- Federal regulations adopted, 28-46-1 et seq.
- General requirements, 28-46-1

**Health and Environment, Dept. of—Cont.**

## Underground injection control—Cont.

- Hazardous waste,
  - Drinking water, vicinity of, 28-46-4
  - Injection requirements for wells, 28-46-24
- Information sharing, 28-46-41
- Injection pressure, 28-46-28
- Inspection by state, 28-46-35
- Mechanical integrity testing, 28-46-33
- Oil and gas related wells, exemption, 28-46-42
- Permits, 28-46-5, 28-46-6, 28-46-7, 28-46-9, 28-46-13
  - Area permits, 28-46-18
  - Corrective action, 28-46-20
  - Emergency permits, 28-46-19
  - Modification, reissuance, 28-46-15, 28-46-17
  - Public notice, hearing, 28-46-21
  - Signatories, 28-46-22
  - Term of permits, 28-46-10
  - Termination, 28-46-16
  - Transfer, 28-46-14
- Plugging and abandonment, 28-46-34
- Reporting requirements, 28-46-12, 28-46-30
- Review, area of, 28-46-32
- Salt solution mining well operations, fees, 28-46-45
- Secretary's duties, 28-46-31, 28-46-32
- Testing, mechanical integrity, 28-46-33
- Unauthorized injection, 28-46-25
- Waiver of requirements, 28-46-36
- Well requirements, 28-46-24
- Underground natural gas storage wells in bedded salt, 28-45a-1 et seq.
  - Definitions, 28-45a-1
  - Design and construction, 28-45a-12
    - Permits,
      - Application, 28-45a-4
      - Modification and transfer, 28-45a-6
      - Required, 28-45a-2
      - Signatories for applications and reports, 28-45a-7
  - Fees, 28-45a-19
  - Financial assurance for closure, 28-45a-9
  - Groundwater monitoring, 28-45a-15
  - Monitoring, 28-45a-13
  - Operations and maintenance plan, 28-45a-10
  - Plugging requirements, 28-45a-18
  - Public notice, 28-45a-5
  - Record requirements and retention, 28-45a-16
  - Safety and security, 28-45a-11
  - Siting requirements for new wells, 28-45a-8
  - Testing and inspections, 28-45a-14
  - Well conversions and reentry, 28-45a-3
  - Well workovers, 28-45a-17
- Underground storage tank systems, 28-44-12 et seq.
  - Application, installation or modification, 28-44-15
  - Contractor licensing, 28-44-20
  - Definitions, 28-44-14
  - Design, construction, installation, modification, and notification, 28-44-16
  - Financial responsibility, 28-44-27
  - General provisions, 28-44-12
  - Installer and remover licensing, 28-44-21
  - Nonregulated, registration of, 28-44-18
  - Operating requirements, 28-44-19
  - Operator training and requirements, 28-44-30

**Health and Environment, Dept. of—Cont.**

## Underground storage tank systems—Cont.

- Out-of-service UST systems and closure, 28-44-26
- Program scope, 28-44-13
- Release detection, 28-44-23
- Release reporting, investigation, confirmation, 28-44-24
- Release response and corrective action for UST systems, 28-44-25
- Registration and operating permit, 28-44-17
- Tester licensing, 28-44-22
- UST systems with field-constructed tanks and air-port hydrant fuel distribution systems, 28-44-31
- Vaporizing devices, insecticide, 28-27-30
- Veterinary medicine radiographic installation, 28-35-251
- Vital statistics,
  - Birth certificate, delayed, 28-17-8
    - Application, 28-17-9
    - Filing fee, 28-17-12
    - Requirements, 28-17-10
    - Supporting documents, 28-17-11
  - Births, registration compulsory, 28-17-5
  - Certificates and records,
    - Completion, 28-17-20
    - Correction, 28-17-20
  - Definitions, 28-17-1
  - Divorce or annulment, report, 28-17-18
  - Enforcement of act, 28-17-22
  - Fees for copies, abstracts, and searches, 28-17-6
  - Funeral directors reports, 28-17-16
  - Hospitals, reports required, 28-17-13
  - Information, dissemination, 28-17-21
  - Institutions, reports required, 28-17-14
  - Local registrars, 28-17-4
  - Maternity homes and clinics, 28-17-13
  - State registrar to prescribe forms, 28-17-15
- Voluntary cleanup and property redevelopment program,
  - Applicant, 28-71-2
  - Application process, 28-71-4
  - Classification determination, 28-71-5
  - Definitions, 28-71-1
  - Eligibility determination, 28-71-3
  - Environmental site assessments, 28-71-8
  - Initial deposit and reimbursement, 28-71-7
  - "No further action" determination, 28-71-10
  - Public notification and participation, 28-71-12
  - Remedial standards and remedial actions, 28-71-11
  - Voluntary agreement, 28-71-6
  - Work plans and reports, 28-71-9
- Wastewater management,
  - Committee activities, 28-16-78
  - Definitions, 28-16-76
  - Exemptions, 28-16-77
  - Funding, 28-16-82
  - Grants, 28-16-82
  - Plan preparation, 28-16-79, 28-16-80
- Wastewater pretreatment and discharge programs,
  - Confidentiality, open records act, 28-16-96
  - Definitions, 28-16-85
  - Entities regulated, 28-16-83
  - Information, open records act, 28-16-96
  - Local laws, effect on, 28-16-86

**Health and Environment, Dept. of—Cont.**

Wastewater pretreatment and discharge programs—Cont.

National standards, 28-16-87, 28-16-88, 28-16-89

Net gross calculations, 28-16-97

Objectives, 28-16-84

Publicly owned treatment works (POTW) programs,  
28-16-90, 28-16-91

Approval procedures, 28-16-92, 28-16-93

Reporting requirements, 28-16-94

Upset provisions, 28-16-98

Variances, 28-16-95

Wastewaters,

Applications, 28-16-59

Definitions, 26-16-58

Effluent standards, 28-16-57a

Permits, 28-16-60

Monitoring, 28-16-63

Public notice, 28-16-61

Terms and conditions, 28-16-62

Purpose and scope, 28-16-57

Water and wastewater operator certification,

Eligibility, 28-16-31

Examinations, 28-16-32

Fees, 28-16-35

Issuance and renewal of certificate of competency,  
28-16-34

Requirements, 28-16-30

Treatment facility, responsibility for, 28-16-33

Water pollution control, 28-16-1 et seq.

Critical water quality management area, 28-16-70,  
28-16-71

Definitions, 28-16-69, 28-16-110

General permits, 28-16-150 et seq.

Municipal, commercial, and industrial wastewater  
lagoon requirements, 28-16-160 et seq.

Definitions, 28-16-160

Industrial lagoons; general provisions,  
28-16-162

Minimum standards of design, construction, and  
maintenance, 28-16-169

Monitoring wells, 28-16-171

Municipal and commercial lagoons; general  
provisions, 28-16-161

Municipal, commercial, and industrial soil liners;  
postconstruction testing, 28-16-165

Municipal, commercial, and industrial wastewater  
lagoons; closure requirements, 28-16-173

Municipal, commercial, and industrial wastewater  
treatment system lagoons; soil liner design,  
28-16-164

Plan and specification approval; permit issuance,  
28-16-172

Postconstruction testing of municipal, commercial,  
and industrial impermeable synthetic  
membrane liners, 28-16-168

Required hydrogeologic information for new or  
modified municipal, commercial, or  
industrial wastewater lagoons, 28-16-163

Requirements for impermeable synthetic  
membrane liners in municipal or commercial  
wastewater treatment system lagoons,  
28-16-166

Requirements for impermeable synthetic  
membrane liners in industrial wastewater  
treatment system lagoons, 28-16-167

**Health and Environment, Dept. of—Cont.**

Water pollution control—Cont.

Municipal, commercial, and industrial wastewater  
lagoon requirements—Cont.

Variance from specific requirements, 28-16-174

Water, oil, or gas wells, 28-16-170

Sewage discharge, emergency or accidental,  
28-16-27

Surface water,

Administration of standards, 28-16-28f

Classification and designation, 28-16-28d

General provisions, 28-16-28c

Protection criteria, 28-16-28e

Quality standards, 28-16-28b

Register, 28-16-28g

Variance register, 28-16-28h

Water pollution control projects, state grants to  
municipalities,

Applications for grants, 28-16-51

Definitions, 28-16-50

Limitations, 28-16-52

Payments, 28-16-54

Priorities, 28-16-53

Sewage permit fees, 28-16-56a, 28-16-56b

Water pollution control, revolving loan fund program,  
28-16-110 et seq.

Alternate technologies, 28-16-120

Alternate wastewater treatment, 28-16-122

Application, 28-16-111

Benefits, double, 28-16-117

Capital improvement plan, 28-16-124

Dedicated loan repayment source, 28-16-115

Definitions, 28-16-110

Disposal alternative, 28-16-120

Double benefits, 28-16-117

Eligibility, 28-16-118, 28-16-119

Environmental review, 28-16-137

Fair labor standards, 28-16-132

Federal compliance, 28-16-139

Financial capability, 28-16-135

Fund use eligibility, 28-16-112

Infiltration and inflow, 28-16-121

Interest rate, 28-16-113

Loan payment, failure to repay on schedule,  
28-16-116

Minority and or women's business enterprise,  
28-16-133

Non-point source pollution control, 28-16-126

Procurement, 28-16-131

Project accounts, 28-16-138

Project eligibility, 28-16-118, 28-16-119

Projects, certification, 28-16-130

Types to submit, 28-16-134

Public participation, 28-16-136

Recreation opportunities, open space, 28-16-123

Repayment of loans, 28-16-114

Sewer use ordinance, 28-16-127

User charge system, 28-16-128

Value engineering, 28-16-129

Water quality management plan, 28-16-125

Water, primary drinking, 28-15a-1 et seq

Coliform rule, requirements for the revised total, 28-15a-851

Consumer confidence reports,

Content of, 28-15a-153

Effective dates for required, 28-15a-152

**Health and Environment, Dept. of—Cont.**

- Water, primary drinking—Cont.
- Consumer confidence reports—Cont.
  - Report delivery and recordkeeping, 28-15a-155
  - Required additional health information, 28-15a-154
  - Requirements for, 28-15a-151
- Control of lead and copper,
  - Analytical methods for, 28-15a-89
  - Applicability of corrosion control treatment steps, 28-15a-81
  - Corrosion control treatment, 28-15a-82
  - Monitoring requirements for lead and copper in source water, 28-15a-88
  - Monitoring requirements for lead and copper in tap water, 28-15a-86
  - Monitoring requirements for water quality parameters, 28-15a-87
  - Recordkeeping requirements for, 28-15a-91
  - Reporting requirements for, 28-15a-90
  - Requirements for, 28-15a-80
  - Requirements for lead service line replacement, 28-15a-84
  - Requirements for public education and supplemental monitoring, 28-15a-85
  - Requirements for source water treatment, 28-15a-83
- Cryptosporidium, enhanced treatment for, 28-15a-700
- Disinfectant residuals, disinfection by-products and by-product precursors, 28-15a-130
  - Analytical requirements, 28-15a-131
  - Compliance requirements, 28-15a-133
  - Monitoring requirements, 28-15a-132
  - Reporting and recordkeeping requirements, 28-15a-134
- Treatment techniques for control of disinfection byproduct precursors, 28-15a-135
- Electronic reporting requirements, 28-15a-32
- Enhanced filtration and disinfection for systems serving fewer than 10,000 people,
  - Combined filter effluent requirements,
    - Alternative filtration demonstration for Subpart H systems, 28-15a-552
    - Limits for strengthened turbidity in Subpart H systems, 28-15a-551
    - Requirements for turbidity in Subpart H systems, 28-15a-550
    - Special provisions in Subpart H systems, 28-15a-553
- Disinfection benchmark,
  - Calculation of disinfection benchmark for Subpart H systems, 28-15a-543
  - Consultation regarding significant change to disinfection practice for Subpart H systems, 28-15a-542
  - Primary disinfectants other than chlorine for Subpart H systems, 28-15a-544
  - Significant changes to disinfection practice in Subpart H systems, 28-15a-541
  - Subpart H systems, 28-15a-540
- Disinfection profile,
  - Calculation of inactivation ratio for Subpart H systems, 28-15a-534
  - Collection of disinfection profile data for Subpart H systems, 28-15a-533
  - Criteria for avoiding disinfection profiling in Subpart H systems, 28-15a-531

**Health and Environment, Dept. of—Cont.**

- Water, primary drinking—Cont.
- Enhanced filtration and disinfection for systems serving fewer than 10,000 people—Cont.
- Disinfection profile—Cont.
  - Disinfection profiling for Subpart H systems, 28-15a-530
  - Effective dates for required disinfection profiling in Subpart H systems, 28-15a-532
  - Inactivation ratio for viruses in Subpart H systems, 28-15a-535
  - Retention of disinfection profile data for Subpart H systems, 28-15a-536
- General requirements,
  - Applicability of general requirements in Subpart H systems, 28-15a-501
  - Compliance criteria in Subpart H systems, 28-15a-503
  - Effective dates of requirements in Subpart H systems, 28-15a-502
  - Subpart H systems, 28-15a-500
- Groundwater rule requirements, 28-15a-400
- Individual filter turbidity requirements,
  - Contingency requirements for monitoring of Subpart H systems, 28-15a-561
  - Follow-up actions to monitoring for Subpart H systems, 28-15a-563
  - Special provision for alternative turbidity exceedance levels in Subpart H systems, 28-15a-564
  - Special provisions for continuous monitoring of combined filter effluent turbidity in Subpart H systems, 28-15a-562
  - Subpart H systems, 28-15a-560
- Reporting and recordkeeping requirements,
  - Recordkeeping requirements for Subpart H systems, 28-15a-571
  - Reporting requirements for Subpart H systems, 28-15a-570
- Enhanced filtration and disinfection for systems serving 10,000 or more people,
  - Disinfection profiling and benchmarking for Subpart H systems, 28-15a-172
  - Enhanced filtration requirements for Subpart H systems, 28-15a-173
  - Enhanced filtration sampling requirements for Subpart H systems, 28-15a-174
  - Reporting and recordkeeping requirements for Subpart H systems, 28-15a-175
  - Requirements for Subpart H systems, 28-15a-170
- Filtration and disinfection,
  - Analytical and monitoring requirements, 28-15a-74
  - Disinfection, 28-15a-72
  - Filter recycling requirements, 28-15a-76
  - Filtration, 28-15a-73
  - Reporting and recordkeeping requirements, 28-15a-75
  - Requirements for, 28-15a-70
- General,
  - Coverage; conditions for exclusion, 28-15a-3
  - Definitions; replaced terms, 28-15a-2
  - Effective dates, 28-15a-6
  - Variations and exemptions for small systems, 28-15a-4

**Health and Environment, Dept. of—Cont.**

- Water, primary drinking—Cont.
  - Maximum contaminant levels,
    - Inorganic chemicals, 28-15a-11
  - Maximum contaminant levels and maximum residual disinfectant levels,
    - Disinfection by-products, 28-15a-64
    - Effective dates for, 28-15a-60
    - Inorganic contaminants, 28-15a-62
    - Maximum residual disinfectant levels, 28-15a-65
    - Microbiological contaminants, 28-15a-63
    - Organic contaminants, 28-15a-61
    - Radionuclides, 28-15a-66
  - Monitoring and analytical requirements,
    - Alternate analytical techniques and testing methods, 28-15a-27
    - Analytical methods for measuring radioactivity, 28-15a-25
    - Approved laboratories, 28-15a-28
    - Coliform sampling, 28-15a-21
    - Frequency of monitoring for radioactivity, 28-15a-26
    - Inorganic chemical sampling and analytical requirements, 28-15a-23
    - Monitoring of consecutive public water supply systems, 28-15a-29
    - Sampling and analyzing organic chemicals, 28-15a-24
  - Public notification of drinking water violations,
    - Content of public notice, 28-15a-205
    - Notice by department on behalf of the public water supply system, 28-15a-210
    - Notice to new billing units or new customers, 28-15a-206
    - Requirements for public notification, 28-15a-201
    - Special notice of availability of results of unregulated contaminant monitoring, 28-15a-207
    - Special notice for exceedance of the secondary maximum contaminant level (SMCL) for fluoride, 28-15a-208
    - Special notice for nitrate exceedances above MCL by non-community water supply systems (NCWSS), 28-15a-209
    - Tier 1 public notice: form, manner, and frequency of notice, 28-15a-202
    - Tier 2 public notice: form, manner, and frequency of notice, 28-15a-203
    - Tier 3 public notice: form, manner, and frequency of notice, 28-15a-204
  - Reporting and recordkeeping,
    - General record maintenance, 28-15a-33
    - General reporting requirements, 28-15a-31
  - Special monitoring regulations and prohibition on lead use,
    - Prohibition on use of lead pipes, solder, and flux, 28-15a-43
    - Special monitoring for corrosivity characteristics, 28-15a-42
    - Special monitoring for sodium, 28-15a-41
  - Stage 2 disinfection by-products rule,
    - Disinfection by-products requirements, 28-15a-620
    - Initial distribution system evaluations, 28-15a-600
  - Treatment techniques,
    - Acrylamide and epichlorohydrin, 28-15a-111

**Health and Environment, Dept. of—Cont.**

- Water primary drinking—Cont.
  - Treatment techniques—Cont.
    - General requirements for, 28-15a-110
  - Use of non-centralized treatment devices,
    - Requirements for public water supply systems using point-of-entry or point-of-use devices, 28-15a-100
    - Use of bottled water, 28-15a-101
- Water supplies,
  - Child care homes, 28-4-50
  - Definitions, 28-15-11
  - Disinfection, drinking water, 28-15-19
  - Domestic, laboratories, 28-15-35
    - Accreditation and approval, 28-15-35, 28-15-36, 28-15-36a, 28-15-37
  - Exemptions and variances, 28-15-20
  - Laboratory tests, monitoring, 28-15-14
  - Lead and copper general requirements, 28-15-22
  - Operation and maintenance, 28-15-18
  - Public,
    - Analysis of samples, fees, 28-14-1, 28-14-2
    - Application, 28-15-25
    - Chemical quality, 28-15-25
    - Definitions, 28-15-25
    - Disinfection, 28-15-25
    - Groundwater supplies, 28-14-2
    - Laboratory tests, 28-15-25
    - Notice requirements, 28-15-15a
    - Operation and maintenance requirements, 28-15-25
    - Permit requirements, 28-15-25
    - Permits, 28-15-16
    - Water supply fee fund, 28-15-12
  - Public water supply loan fund, 28-15-50 et seq.
    - Dedicated loan repayment source, 28-15-54
    - Definitions, 28-15-50
    - Environmental review, 28-15-64
    - Equivalency projects, 28-15-57
    - Failure to repay loan on schedule, 28-15-55
    - Financial capability, 28-15-62
    - Fund use eligibility, 28-15-51
    - Interest rate, 28-15-52
    - Procurement, 28-15-60
    - Project accounts, 28-15-65
    - Project certification, 28-15-59
    - Project documents, 28-15-61
    - Project eligibility, 28-15-56
    - Public participation, 28-15-63
    - Repayment of loans, 28-15-53
    - User charge system, 28-15-58
  - Siting, 28-15-17
  - Siting requirements, 28-15-25
  - Standards, 28-15-13
  - Submission of samples, 28-14-1
    - Fees, 28-14-2
  - Surface water treatment rule, 28-15-21
- Water supply systems and wastewater treatment facilities, classification, 28-16-36
- Water wells, 28-30-1 et seq.
  - Abandonment, 28-30-7
  - Construction regulations, 28-30-5, 28-30-6
  - Contractor's license, 28-30-3
  - Contractor's license; construction and abandonment,
    - Administrative appeal to the board, 28-30-206
    - Annular space grouting procedures, 28-30-203

**Health and Environment, Dept. of—Cont.**

## Water wells—Cont.

## Contractor's license; construction and abandonment—Cont.

Definitions, 28-30-200

Disinfection of an abandoned water well or borehole, 28-30-205

Inactive well; application; construction and extension, 28-30-204

Plugging operations, abandoned water well or borehole, 28-30-202

Plugging operations; notification; report, 28-30-201

Variance; extension of time, 28-30-207

## X-ray equipment, 28-35-296 through 28-35-300

Area, 28-35-298

Equipment, 28-35-297

Operating, 28-35-299

Personnel, 28-35-300

## X-rays, use of,

Definitions, 28-35-135

Dental intra-oral radiographic installations, 28-35-247

Dental radiographic installations, 28-35-248

Film developing, 28-35-252

Fluoroscopic installations, 28-35-243

General provisions, 28-35-242 et seq.

Radiographic installations, 28-35-244

Dental, 28-35-247

Veterinary, 28-35-251

Regulations, purpose and scope, 28-35-241

Safety requirements for equipment, 28-35-296 et seq.

Therapeutic installations, 28-35-249

60 kvp and below, 28-35-250

**Health Care Data Governing Board, Kansas, Agency 120**

## Client assessment, referral and evaluation (CARE) program, 120-1-1 et seq.

Data collection form, 120-1-1, 120-1-2

**Health Care Finance, Division of Kansas Department of Health and Environment**

## Adult Care Home Program,

Central office costs, 129-10-27

Cost reports, 129-10-17

Costs allowed with limitations, 129-10-23b

Definitions for intermediate care facility for mentally retarded (ICF-MR), 129-10-200

Financial data, 129-10-15b

ICF-MR reimbursement, 129-10-210

Interest expense, 129-10-26

Nonreimbursable costs, 129-10-23a

Nursing facility quality care assessment program, 129-10-31

Per diem rates of reimbursement, 129-10-18

Effective dates, 129-10-19

Real and personal property fee, 129-10-25

Reimbursement, 129-10-15a

## Appeals, fair hearings and TAF/GA disqualification hearings,

Notice of intended action, 129-7-65

## Children's health insurance program (KanCare),

Act on own behalf, 129-14-25

Applicable income, 129-14-36

Application process, 129-14-20

Assistance plan, 129-14-33

**Health Care Finance, Div. of Kansas Department of Health and Environment—Cont.**

## Children's health insurance program—Cont.

Citizenship and alienage, 129-14-27

Cooperation, 129-14-28

Definitions, 129-14-2

Discontinuance of assistance, 129-14-40

Financial eligibility, 129-14-34

Income, treatment of, 129-14-35

Insurance coverage, 129-14-31

Overpayments, 129-14-37

Premium payment requirement, 129-14-32

Presumptive eligibility, 129-14-51, 129-14-52

Providers, 129-14-3

Public institution, 129-14-30

Reenrollment process, 129-14-21

Residence, 129-14-26

Responsibilities of applicants and recipients, 129-14-23

Rights of applicants and recipients, 129-14-22

Scope of services, 129-14-50

## Definitions, 129-1-1

## General,

Fees for providing copies, 129-2-2

Interpretation, uniformity, 129-2-1

## Managed care provider,

External independent third-party review, 129-9-9

## Medicaid (medical assistance) program,

Applicability, 129-5-11

## Claims,

Bona fide dispute, 129-5-15

Date deemed to be paid, 129-5-18

Date deemed to be received, 129-5-13

Electronic and paper, 129-5-12

Interest on unpaid, 129-5-19

Partially paid, 129-5-16

Resubmitted, 129-5-17

## Definitions, 129-5-10

## Federally qualified health center services,

Cost reimbursement principles, 129-5-118b

Reimbursement, 129-5-118a

Scope, 129-5-118

## Filing limitations for medical claims, 129-5-65

Notice of denial or need for additional information, 129-5-14

## Processing additional information, 129-5-14

Retroactive eligibility, 129-5-21

Retroactive rate, program, and policy changes and clarifications, 129-5-20

Suspension of time periods, 129-5-14

Prior authorization, 129-5-1

Scope of services,

129-5-78, 129-5-88, 129-5-108

## Medical assistance program, clients' eligibility,

Affordable care act (ACA),

Implementation of provisions specific to the ACA, 129-6-30

## Applicants and recipients,

Act on own behalf, 129-6-52

Applicable income, 129-6-111

Application process, 129-6-35

Assignment of rights to support or other third-party payments, 129-6-63

Assistance planning for MAGI-based coverage groups, 129-6-41

**Health Care Finance, Div. of Kansas Department of Health and Environment—Cont.**

Medical assistance program, clients' eligibility—Cont.  
Applicants and recipients—Cont.  
Assistance planning for MAGI-excepted coverage groups, 129-6-42  
Automatic eligibles, 129-6-65  
Continuous eligibility for children and certain adult eligibles, 129-6-96  
Cooperation, 129-6-56  
Correction and discontinuance of medical assistance, 129-6-140  
Definitions; covered groups, 129-6-34  
Determined eligibles,  
Disabled individuals with earned income, 129-6-88  
General eligibility factors, 129-6-50  
Income standards, 129-6-103  
Individuals with breast or cervical cancer, 129-6-89  
Poverty-level, low-income, and expanded low-income medicare beneficiaries, 129-6-86  
Poverty-level, working disabled individuals, 129-6-87  
Youth formerly in foster care, 129-6-91  
Eligibility before the month of application, 129-6-120  
Emergency medical services for certain noncitizens, 129-6-97  
Estate recovery, 129-6-150  
Financial eligibility for MAGI-based coverage groups, 129-6-53  
Financial eligibility for MAGI-excepted coverage groups, 129-6-54  
General eligibility requirements, 129-6-51  
Income, 129-6-110  
Income exempt as applicable income for MAGI-excepted groups, 129-6-113  
Income exempt from consideration for MAGI-excepted groups, 129-6-112  
Medicaid determined eligibles,  
Aged, blind, or disabled (ABD), 129-6-85  
Children, 129-6-74  
Children in foster care, 129-6-80  
Children living in certain facilities, 129-6-81  
Home and community based services (HCBS), 129-6-82  
Poverty-level children, 129-6-72  
Poverty-level pregnant women, 129-6-71  
Pregnant women, 129-6-73  
Program of all-inclusive care for the elderly (PACE), 129-6-83  
Qualifying families, 129-6-70  
Work opportunities reward Kansans (WORK), 129-6-84  
Non-medicare determined eligibles,  
Medikan program, 129-6-95  
Persons living in nursing facilities for mental health, 129-6-94  
Presumptive eligibility, 129-6-151, 129-6-152, 129-6-153  
Public institutions, 129-6-60  
Redetermination of eligibility process, 129-6-36  
Residence, citizenship, and alienage, 129-6-55

**Health Care Finance, Div. of Kansas Department of Health and Environment—Cont.**

Medical assistance program, clients' eligibility—Cont.  
Applicants and recipients—Cont.  
Resources, consideration of,  
Personal property, 129-6-109  
Property exemption, 129-6-107  
Real property, 129-6-108  
Real property, personal property, and income, 129-6-106  
Responsibilities of applicants and recipients, 129-6-39  
Rights of applicants and recipients, 129-6-38  
Transfer of assets, 129-6-57

**Health Insurance**

Accident and health insurance.  
Insurance Department, Agency 40

**Health Maintenance Organization (HMO)**

Certificate of need, 28-42-1 et seq.

**Health Policy Authority, Kansas, Agency 129**

See Health Care Finance, Division of Kansas Department of Health and Environment

**Healthwave Children's Health Insurance Program**

See KanCare Children's Health Insurance Program

**Hearing Instruments, Kansas State Board of Examiners in Fitting and Dispensing of, Agency 67**

Audiometric equipment, calibration, 67-7-4  
Complaints, 67-8-3, 67-8-4  
Educational requirements, 67-4-6 et seq.  
Certificates of, 67-4-7  
Courses, notice of, 67-4-6  
Local organization, approval of, 67-4-10  
Temporary applicants, 67-4-13  
Examinations, 67-2-4  
License,  
Application, 67-1-5, 67-1-6, 67-1-7  
Civil and criminal records, 67-1-8  
Fees, 67-5-5  
Identification card, 67-6-4  
Renewal, 67-5-3, 67-5-4  
Suspension or revocation, 67-9-5, 67-9-6  
Temporary, 67-3-2, 67-3-3, 67-3-5  
Office conditions, 67-6-4  
Unethical conduct, 67-6-2

**Highway Patrol, Kansas, Agency 37**

**Historical Society, Kansas State, Agency 118**

Deaccessioning Act, 118-1-1 et seq.  
Historic properties and their environs, review of projects affecting, 118-3-1 et seq.  
Definitions, 118-3-1  
Executive review of project, 118-3-13  
Initiating an investigation, 118-3-10  
Investigations without notice, 118-3-7

## **Historical Society, Kansas State—Cont.**

Historic properties and their environs—Cont.

Notice,

Content of, 118-3-4

Projects directly undertaken or supported by a governmental entity, 118-3-2

Projects involving issuance of entitlement for use to any person by a governmental entity, 118-3-3

Required before project may proceed, 118-3-6

Revisions or modifications, 118-3-5

Official response, 118-3-9

“Project does encroach” response, 118-3-11

“Project does not encroach” response, 118-3-12

Reconsideration of, 118-3-14

Standards and guidelines utilized by the state

historic preservation officer, 118-3-8

Transfer of authority,

Agreement, 118-3-16

Provisions for, 118-3-15

Human remains and associated burial goods, removal of, 118-2-1

Land survey reference reports, 118-4-1 et seq.

Rehabilitation tax credit program, state, 118-5-1 et seq.

Application, 118-5-4

Certifications, 118-5-3

Definitions, 118-5-1

Fees, 118-5-10

Local government authorized as reviewing entity, 118-5-2

Qualified historic structure,

Standards for certifying, 118-5-5, 118-5-6

Qualified rehabilitation plan, requirements for certifying, 118-5-7

Rehabilitation project phases, 118-5-8

Review, 118-5-9

## **Home Inspectors Registration Board, Kansas, Agency 130**

Code of ethics and standards of practice,

Code of ethics, 130-4-1

Standards of practice, 130-4-2

Continuing education,

Approval of providers, 130-5-2

Education programs,

Approval of providers, 130-3-1

Fees, 130-2-1 et seq.

Fees, 130-2-1

Registration, renewal and examination, 130-1-1 et seq.

Examination, 130-1-3

Registration, 130-1-1

Registration expiration; renewal, 130-1-4

Registration renewal, 130-1-2

Reinstatement of registration, 130-1-5

## **Homestead Tax Relief**

Department of Revenue, Agency 92

## **Hospitals**

Department of Health and Environment, Agency 28

Department of Social and Rehabilitation Services, Agency 30

State Fire Marshal, Agency 22

## **Hotels**

Department of Health and Environment, Agency 28

## **Housing Resources Corporation, Agency 127**

Dwellings constructed with public assistance, 127-1-1 et seq.

Waiver from accessibility standards, 127-1-1

Kansas manufactured housing installation, 127-2-1 et seq.

Definitions, 127-2-1

Installation standards, 127-2-2

Liability insurance requirement, 127-2-3

## **Human Resources, Department of,**

See Department of Labor, Agency 49

## **Human Resources, Department of, Division of Employment**

See Employment, Division of, Department of Labor, Agency 50

## **Human Resources, Department of, Division of Workers Compensation**

See Workers Compensation, Division of, Department of Labor, Agency 51

## **Human Rights Commission, Kansas, Agency 21**

Age discrimination, guidelines, 21-80-1 et seq.

Advertising, 21-80-2

Differentiations based on other factors, 21-80-5

Exemption for,

Executive or high policy making employees, 21-80-9

Firefighters and law enforcement officers, 21-80-10

Unlimited tenure contract employees, 21-80-8

Involuntary retirement, prohibition of, 21-80-7

Occupational qualifications, 21-80-4

Pre-employment inquiries, 21-80-3

Seniority systems, 21-80-6

Unlawful employment practices, 21-80-1

Appearances, 21-40-13

Class B private clubs, 21-46-1 et seq.

Nonprofit associations or corporations, 21-46-2

Students, 21-46-3

Complaints, 21-41-1 et seq.

Amendments, 21-41-6

Contents, 21-41-3

Discontinuance, 21-41-9

Dismissal or suspension, 21-41-10

Before hearing, 21-41-8

Filing, 21-41-1

Manner, 21-41-5

Time, 21-41-4

Forms, 21-41-2

Service, 21-41-11

Withdrawal, 21-41-7

Compliance, 21-44-1 et seq.

Membership club references, 21-44-5

Posting, 21-44-3

Records, 21-44-4

Reports, 21-44-2

**Human Rights Commission, Kansas—Cont.**

- Conference and conciliation, 21-43-1 et seq.
  - Conciliation, 21-43-3
  - Nondisclosure of facts, 21-43-6
  - Objections, 21-43-4
  - Settlements, 21-43-5
  - Time limitation, 21-43-2
- Consolidation of proceedings, 21-45-3
- Contract compliance, 21-50-1 et seq.
  - Contractor, applicability, 21-50-1
  - Definitions, 21-50-2
  - Exemptions, 21-50-6
  - Listing of contractors, 21-50-5
  - Recruiting, 21-50-7
  - Review, 21-50-3
- Discrimination because of disability, 21-34-1 et seq.
  - Alcohol and drugs, regulation of, 21-34-7
  - Definitions, 21-34-1
    - Exceptions to definitions of disability, 21-34-20
  - Direct threat,
    - Criteria for determination, 21-34-13
    - Qualification standard, 21-34-15
  - Drug test, information from, 21-34-10
  - Drug testing, 21-34-8
  - Drugs and alcohol, illegal use of; policies and procedures, 21-34-11
  - Essential function; criteria for determination, 21-34-14
  - Food handling jobs, infectious and communicable diseases, 21-34-16
  - Insurance, health and life; other benefit plans, 21-34-21
  - Medical examinations and inquiries,
    - Acceptable, 21-34-6
    - Employment entrance; exception, 21-34-4
    - General prohibition, 21-34-2
    - Pre-employment, 21-34-3
    - Prohibited, 21-34-5
  - Smoking, regulation of, 21-34-12
  - Substantially limit,
    - Criteria for determination, 21-34-17
    - Definition, 21-34-18
  - Transportation employees, 21-34-9
  - Undue hardship, definition; criteria for determination, 21-34-19
- Discrimination, national origin or ancestry, 21-31-1 et seq.
  - BFOQ exemption, 21-31-1
  - Covert and overt discrimination, 21-31-2
  - National security, protection of, 21-31-4
  - Noncitizens, protection of, 21-31-3
- Discriminatory housing practices, 21-60-1 et seq.
  - Advertisements, statements and notices, 21-60-6
  - Blockbusting, 21-60-8
  - Complaints, 21-60-22
  - Conciliation and conciliation agreements, 21-60-23
  - Definitions, 21-60-1
  - Design and construction requirements, 21-60-17
  - Familial status, 21-60-2
  - Housing,
    - 55 or over, 21-60-20
    - 62 or over, 21-60-19
  - Loans and other financial assistance,
    - Brokerage services, provision of, 21-60-9
    - Provision of, 21-60-10
    - Purchasing of loans, 21-60-11

**Human Rights Commission, Kansas—Cont.**

- Discriminatory housing practices—Cont.
  - Loans and other financial assistance—Cont.
    - Terms and conditions for making available, 21-60-12
    - Terms, conditions and privileges, services and facilities, 21-60-4
  - Modifications of existing premises, 21-60-16
  - Permissible inquiries under K.S.A. 44-1016(h), 21-60-15
  - Prohibited interference, coercion or intimidation, 21-60-21
  - Prohibitions because of disability, definitions, 21-60-14
  - Real property, representations on the availability of, 21-60-7
  - Sale and rental,
    - Prohibited conduct, 21-60-5
    - Refusal to negotiate for, 21-60-3
    - Unlawful practices in the selling, brokering or appraising of residential real property, 21-60-13
  - State and federal elderly housing programs, 21-60-18
- Employee selection and recruitment, 21-30-2 et seq.
  - Affirmative action, 21-30-14
  - Employer's obligation, 21-30-18
  - Pre-employment inquiries and practices, 21-30-17
  - Recruiting by word of mouth, 21-30-15
  - Recruitment and referral agencies, 21-30-19
  - Relatives, friends or neighbors, 21-30-16
  - Selection techniques other than tests, 21-30-13
  - Temporary employment, 21-30-20
- Tests,
  - Continued use, 21-30-9
  - Defined, 21-30-2
  - Discrimination, 21-30-3
  - Disparate treatment, 21-30-11
  - Employment agencies and services, 21-30-10
  - Retesting, 21-30-12
  - Validity,
    - Assumption of, 21-30-8
    - Evidence of, 21-30-4
    - Minimum standards, 21-30-5
    - Presentation of evidence, 21-30-6
    - Studies on, 21-30-7
- Hearings, 21-45-1 et seq.
  - Answers, 21-45-2
  - Briefs, 21-45-15, 21-45-18
  - Calendar, 21-45-5, 21-45-6
  - Conduct, 21-45-8
  - Conferences, 21-45-7
  - Consolidation, 21-45-3
  - Depositions, 21-45-10
  - Evidence, 21-45-13
  - Interrogatories, 21-45-11
  - Motions, 21-45-12
  - Notice, 21-45-1, 21-45-14
  - Orders, 21-45-21, 21-45-22
  - Presiding officer, 21-45-17
  - Record, 21-45-23
    - Reopening, 21-45-25
  - Rehearing, 21-45-24
  - Reports, proposed, 21-45-18
  - Subpoenas, 21-45-9
  - Transcript, 21-45-16
  - Waiver, 21-45-4

## **Human Rights Commission, Kansas—Cont.**

- Investigation, 21-42-1 et seq.
- Amendments, 21-42-6
- Investigating commissioner, assignment, 21-42-3
- Notice, 21-42-4
- Probable cause, notice, 21-42-7
- Records, preservation, 21-42-5
- Postings, 21-44-3
- Public accommodations, nondiscrimination on the basis of disability by, 21-70-1 et seq.
  - Accessible features, maintenance of, 21-70-10
  - Accessible or special goods, 21-70-28
  - Activities; denial of participation, 21-70-3
  - Administrative methods, 21-70-5
  - Alterations, 21-70-35
    - Area containing a primary function, 21-70-37
    - Elevator exemption, 21-70-43
    - Historic preservation, 21-70-44
  - Association, 21-70-6
  - Auxiliary aids and services, 21-70-16
    - Alternatives to, 21-70-19
    - Closed caption decoders, 21-70-18
    - Telecommunication devices for the deaf (TDD's), 21-70-17
  - Certification of state laws or local building codes, 21-70-54
  - Charges, 21-70-12
  - Definitions, 21-70-1
  - Devices and services, personal, 21-70-49
  - Direct threat, 21-70-9
  - Examinations and courses, 21-70-31
  - Illegal use of drugs, 21-70-50, 21-70-51
    - Drug testing, 21-70-52
  - Insurance, 21-70-48
  - Integrated settings, 21-70-4
  - Landlord and tenant responsibilities, 21-70-2
  - New construction and alterations,
    - Path of travel, 21-70-36
      - Definition of, 21-70-39
      - Disproportionality, 21-70-40
        - Duty to provide accessible features in the event of, 21-70-41
      - Landlord or tenant, 21-70-38
      - Series of smaller alterations, 21-70-42
    - Standards for, 21-70-45
  - New construction; exception for structural impracticability, 21-70-34
  - Policies, practices, or procedures, modifications in, 21-70-13
  - Private residences, places of public accommodation located in, 21-70-8
  - Readily achievable, definition of; determination, 21-70-20
  - Relationship to other law, 21-70-53
  - Removal of barriers, 21-70-21
    - Alternatives to, 21-70-27
    - Obligations, limitation on, 21-70-26
    - Portable ramps, 21-70-24
    - Priorities, 21-70-22
    - Relationship to alteration requirements, 21-70-23
    - Selling or serving space, 21-70-25
  - Retaliation or coercion, 21-70-7
  - Safety, 21-70-11
  - Seating in assembly areas,
    - Existing facilities, 21-70-29

## **Human Rights Commission, Kansas—Cont.**

- Public accommodations, nondiscrimination—Cont.
  - Seating in assembly areas—Cont.
    - New construction and alterations, 21-70-30
  - Service animals, 21-70-14
  - Smoking, 21-70-47
  - Transportation provided by public accommodations, 21-70-33
  - Undue burden; definition and determination, 21-70-15
- Records, 21-40-2 et seq.
  - Certification of documents, 21-40-18
  - Commencement of proceedings, 21-40-9
  - Communications and filings, 21-40-7
  - Construction of rules, 21-40-2
  - Death or disability, 21-40-6
  - Docket, 21-40-10
  - Effective date, 21-40-12, 21-40-15
  - Executive director, 21-40-5
  - Inspection of nonpublic records, 21-40-19
  - Intervention, 21-40-17
  - Issuance, 21-40-14
  - Majority vote required, 21-40-16
  - Pleadings, copies, 21-40-8
  - Rules, availability, 21-40-20
  - Rules of order, 21-40-3
  - Service, 21-40-11
- Religious discrimination, guidelines, 21-33-1
- Sex discrimination, guidelines, 21-32-1 et seq.
  - Advertising, 21-32-8
  - Affirmative action, 21-32-7
  - Fringe benefits, defined, 21-32-2
  - Married women, 21-32-4
  - Pre-employment inquiries, 21-32-5
  - Pregnancy and childbirth, 21-32-6
  - Progression and seniority systems, 21-32-2

## **Human Trafficking**

- Identification and prevention
  - Training course approval for providers, 16-17-1

## **I**

### **Ice Cream**

- Milk and dairy products.
- Board of Agriculture, Agency 4

### **Income Tax**

- Department of Revenue, Agency 92

### **Indigents' Defense Services, State Board of, Agency 105**

- Attorneys, 105-3-1 et seq.
  - Appointment of, 105-3-10
  - Appointments in capital cases, 105-3-12
  - Continued representation, 105-3-8
  - Sentencing, duties following, 105-3-9
    - Conflict cases, 105-3-11
    - Eligibility, 105-3-2
    - Panel, 105-3-1, 105-3-5, 105-3-6
    - Pre-court appearances, 105-3-7
    - Responsibility for cases, 105-3-4
    - Rotation, 105-3-3
- Claims, 105-9-1 et seq.
  - Approval, 105-9-2

## **Indigents' Defense Services, State Board of—Cont.**

### **Claims—Cont.**

- Attorneys, 105-9-3
- Proration, 105-9-5
- Time limitations, 105-9-1
- Compensation, 105-5-1 et seq.
  - Appellate courts, limitations, 105-5-3
  - Approval for, 105-5-1
  - Exceptional cases, 105-5-8
    - Determining, factors, 105-5-9
  - Multiple appointments, 105-5-4
  - Non-tried cases, 105-5-6
  - Overpayments, 105-5-5
  - Rates of, 105-5-2
  - Tried cases, 105-5-7
- Contract counsel, 105-31-1 et seq.
  - Appeals, 105-31-4
    - Awarding contracts, 105-31-2
    - Exceptional cases, 105-31-5
    - Other provisions, 105-31-6
    - Permissible when, 105-31-1
    - Qualifications, 105-31-3
- Definitions, 105-2-1, 105-4-2
- Expenses, legal, 105-6-1, 105-6-2
- Investigative, expert and other services, 105-7-1 et seq.
  - Authorization, 105-7-1
  - Claims, 105-7-2
  - Compensation, 105-7-8
  - Interpreters, 105-7-6
  - Investigators, 105-7-4
  - Limitations, 105-7-3
  - Noncompensable services, 105-7-9
  - Other services, 105-7-7
  - Psychiatric, 105-7-5
- Legal representation, 105-4-1 et seq.
  - Eligibility, determination of, 105-4-1
    - Terms used in, 105-4-2
  - Indigency,
    - Affidavit, 105-4-3
    - Finding, 105-4-4
    - Partial, 105-4-5
  - Provided when, 105-1-1
- Public defender guidelines, 105-21-1 et seq.
  - Misdemeanors, 105-21-4
  - Qualifications, 105-21-1
  - Records and reports, 105-21-6
  - Representation by, 105-21-2
  - Withdrawal, 105-21-3
- Public defender, trial, 105-10-1
  - Assigned counsel contracts, 105-10-5
  - Conflicts office, notification of designation of, 105-10-4
    - Regional implementation schedule for, 105-10-3
- Reimbursement from defendant,
  - Attorney fees, 105-11-1
- Transcripts, 105-8-1 et seq.
  - Fee claims, 105-8-2
  - Nonallowable claims, 105-8-4
  - Reporters, compensation for, 105-8-3
  - Requests, 105-8-1

## **Inheritance Tax**

Department of Revenue, Agency 92

## **Insecticides**

Board of Agriculture, Agency 4  
Vaporizing devices, 28-27-30

## **Installment Loans**

State Bank Commissioner—Consumer and Mortgage  
Lending Division, Agency 75

## **Insurance**

Bank property, 17-11-22  
Burial, 63-1-6  
Credit insurance, 40-5-6 et seq.  
Motor vehicle, special permits, 36-1-2  
Workers' compensation, 51-14-4

## **Insurance Department, Agency 40**

Accident and health insurance, 40-4-1 et seq.

- Applications,
  - Catch-all questions, 40-4-13
  - Part of policy, 40-4-12
- Benefits standards,
  - Accident only coverage, 40-4-31
  - Scope, 40-4-25
  - Specified accident coverage, 40-4-33
  - Specified disease coverage, 40-4-32
- Cancellation and renewal, 40-4-3
- Claim forms, acceptance required, 40-4-40
- Conversion policies, 40-4-36
- Coordination of benefits, 40-4-34
- Deceptive practices, 40-4-23
- Disability income protection coverage, 40-4-30
- Discrimination, prohibiting, 40-4-43
- External review,
  - Definitions, 40-4-42
  - Exhaustion of internal review process, 40-4-42g
  - Expedited, 40-4-42d
  - Minimum qualifications for organizations, 40-4-42e
  - Notice requirements of adverse decisions, 40-4-42a
  - Preliminary determination by commissioner, 40-4-42b
  - Reporting requirements, 40-4-42f
  - Standard procedures, 40-4-42c
- Franchise plan, 40-4-2
- Guaranty Association Act, 40-4-19
- Hospital confinement indemnity coverage, 40-4-28
- Hospital expense coverage, basic, 40-4-26
- Individual policies, rate filings, 40-4-1
- Language limitations, 40-4-4
- Long term care, 40-4-37 et seq.
- Loss experience record, 40-4-17
- Major medical expense coverage, 40-4-29, 40-4-29a
- Medical-surgical expense coverage, basic, 40-4-27
- Medicare supplement policies, 40-4-35, 40-4-35a
- Noncancellable and guaranteed renewable,
  - limitation on use of term, 40-4-18
- Policies, 40-4-38
- Releases, 40-4-18
- Reserve standards, 40-4-21
- Right to return policy, 40-4-22
- Utilization review organizations,
  - Access to review staff, 40-4-41g
  - Appeal procedures, 40-4-41d
  - Program qualifications, 40-4-41i

**Insurance Department—Cont.**

Accident and health insurance—Cont.  
Utilization review organizations—Cont.  
    Requesting certification, responsibility for, 40-4-41a  
    Requirements,  
        Collecting information, 40-4-41b  
        Review, 40-4-41f  
        Staff, 40-4-41e  
        Standards, 40-4-41  
        Subcontracting and delegation, 40-4-41h  
        Written procedures, 40-4-41c, 40-4-41j  
Advertising, 40-9-1 et seq.  
Agents, 40-7-1 et seq.  
    Appointment by company, 40-7-22  
    Certification, obtaining, 40-7-7  
    Change of information contained in application, 40-7-9  
    Continuing education, agents, 40-7-20a  
    Employees, 40-7-24  
    Examinations, type and conduct of, 40-7-13  
    Fees, 40-7-19, 40-7-21  
    Licenses,  
        Cancellation, 40-7-11  
        Identification, 40-7-23  
        Procedure, 40-7-7a  
    Public adjuster,  
        Examinations, 40-7-26  
        Reporting requirements, 40-7-27  
    Signatures, 40-7-5, 40-7-6  
    Termination of contract, 40-7-25  
Consumer credit insurance, 40-5-6 et seq.  
    Coverage without separate charge, 40-5-104  
    Definitions, 40-5-102  
    Experience reports, 40-5-109  
    Filing requirements, 40-5-105  
    Fire, casualty and allied lines,  
        Fire and extended coverage, single premium, 40-5-10  
        Mortgagors and mortgagees, 40-5-9  
    Policy forms, 40-5-106  
    Prohibited transactions, 40-5-111  
    Property and liability, 40-5-7  
    Rates and forms, 40-5-107  
    Refunds, 40-5-108  
    Rights and treatment of consumers, 40-5-103  
    Supervision of operations, 40-5-110  
    Termination of coverage; prohibited contractual provisions, 40-5-12  
    Uniform Consumer Credit Code, sale in connection with, 40-5-6, 40-5-7  
    Vendors single interest coverage prohibited, 40-5-8  
Domestic stock insurance companies, proxies, 40-11-12  
Excess line insurance, 40-8-2 et seq.  
    Admitted carriers, refusal of, 40-8-2  
    Agents,  
        Affidavits, 40-8-7  
        Placing risks with employer prohibited, 40-8-10  
        Records, 40-8-11  
    Contracts, endorsement required, 40-8-8  
Fire and casualty insurance, 40-3-1 et seq.  
    Assigned risk plans, forms and procedures, 40-3-30  
    Automobile business, 40-3-41  
    Automobile Injury Reparations Act, 40-3-35, 40-3-36  
    Automobiles,  
        Arbitration provisions, 40-3-20

**Insurance Department—Cont.**

Fire and casualty insurance—Cont.  
Automobiles—Cont.  
    Issuance, withholding, extension, or renewal, 40-3-34  
    Liability policies, 40-3-28  
        Cancellation, 40-3-29, 40-3-31, 40-3-37  
    Motor vehicle liability insurance policy, defined, 40-3-36  
    Physical damage notice, 40-3-19  
    Rate filings, 40-3-45  
    Rating information, 40-3-18  
    Restrictions, 40-3-44  
Binder forms, filing, 40-3-23  
Cancellation, notice required, 40-3-15  
Capital requirements, 40-3-1  
Controlled business, 40-3-43  
Controlled insurance programs, 40-3-56  
    General liability, 40-3-57  
    Workers compensation liabilities, 40-3-58  
Definitions, insurance, 40-3-46  
Discrimination, 40-3-6  
    Foreign stock or mutual, 40-3-2  
    Unfair rates, 40-3-40  
Electronic verification, 40-3-53  
Inland marine insurance,  
    Defined, 40-3-22  
    Rules, rates, 40-3-24  
Liability contracts, 40-3-17  
Managing general agents, 40-3-48  
Medical payments coverage, funeral services, 40-3-21  
Mortgage guaranty insurance, unearned premium reserves, 40-3-38  
Organizations; availability of rating information; rating, 40-3-50  
Participating policies, 40-3-7, 40-3-8, 40-3-9  
Personal injury protection benefits, 40-3-39  
Possession of policy by other than assured, 40-3-11  
    Inspection and placement program, 40-3-33  
Rate filing, individual risks,  
    Filing of forms, 40-3-5  
    Modifications, 40-3-32  
    Modification, 40-3-26, 40-3-27  
Rating organizations, 40-3-47  
Rating plans, 40-3-12, 40-3-13  
Reciprocal interinsurance exchanges, issuance of policies, 40-3-7  
Risks, writing, 40-3-25  
Surplus requirements, 40-3-1  
Title insurers; controlled business arrangements, 40-3-52  
Titled insurance, 40-3-42  
Warranties prohibited, 40-3-16  
Workers compensation  
    Affidavit of exempt status, 40-3-60  
    Policies, 40-3-59  
Firefighter's relief fund tax, 40-10-1 et seq.  
    Firefighters relief, 40-10-1  
Fraternal benefit associations,  
    Amortization of bonds, 40-6-16  
Insider stock trading, 40-13-1 et seq.  
    Arbitrage, 40-13-23  
    Definitions, 40-13-1  
    Disclaimer of beneficial ownership, 40-13-6  
    Distribution of securities, exemption, 40-13-13

**Insurance Department—Cont.**

- Insider stock trading—Cont.
  - Equity securities,
    - Deposit, 40-13-24
    - Ownership, 40-13-5
  - Exempt transactions, 40-13-12
  - Merger or consolidation, 40-13-17
  - Options, exercise of, 40-13-16
    - Exemptions, certain persons, 40-13-7
  - Securities,
    - Held in trust, 40-13-10
    - Redeeming other securities, 40-13-15
    - Reporting of, 40-13-3
  - Securities transactions, exemptions, 40-13-20
  - Small transactions, 40-13-11
  - Subscription rights, sale of, 40-13-26
  - Transactions subject to act, 40-13-9
- Insurance companies, 40-1-1 et seq.
  - Actuarial opinions and memorandums, 40-1-44
  - AIDS, 40-1-36
  - Assets, 40-1-30
  - Changes in charter, bylaws or management, 40-1-5
  - Combination policies, 40-1-19
  - Company names, 40-1-15
  - Complaint register, unfair trade practices, 40-1-35
  - Contracts, 40-1-9
  - Deposits, 40-1-47
  - Directors, 40-1-1
  - Electronic filing and filing financial statements, 40-1-42
  - Endorsements and riders; change in coverage, 40-1-39
  - Financial conditions, hazardous, 40-1-38
  - Foreign, deposit requirements, 40-1-3
  - Forms and rates, 40-1-8
    - Advertising, 40-1-16
    - Holding companies, 40-1-28
  - General agents, management agreements or contracts; managing, 40-1-41
  - Insurance database, release of data from, 40-1-45
  - Insurance policies,
    - Combination, 40-1-19
    - Discrimination, prohibition, 40-1-31
  - Merger, change of company name, 40-1-22
  - Penalty taxes, 40-1-13
  - Premium financing plans, 40-1-10
  - Premium tax, 40-1-12
  - Premiums, defined, 40-1-9
  - Privacy of consumer financial and health information, 40-1-46
  - Privilege fee, 40-1-23
  - Reinsurance trust instruments, letters of credit, 40-1-43
  - Reports, filing requirements and auditing, 40-1-37
  - Riders or endorsements, 40-1-32
  - Risk-based capital instructions, health organizations, 40-1-48
  - Scoring, 40-1-50
  - Securities valuation requirements, 40-1-51
  - Stop loss or excess loss insurance, 40-1-49
  - Subrogation clause, 40-1-20
  - Suspension of filing requirements, 40-1-33
  - Suspension or revocation, 40-1-27
  - Unearned premium, 40-1-17
  - Unfair claims settlement, 40-1-34
- Life insurance, 40-2-7 et seq.
  - Accelerated benefits, 40-2-20
  - Annuities, 40-2-18

**Insurance Department—Cont.**

- Life insurance—Cont.
  - College students, 40-2-13
  - Credit life insurance policies, 40-2-29
  - Deceptive practices, 40-2-14
  - Deficiency reserves, 40-2-10
  - Deposits, 40-2-22
  - Effective dates, 40-2-18
  - Extra premium payments, 40-2-9
  - Franchise plan, requirements, 40-2-11
  - Funeral contracts or arrangements; preneed, 40-2-23
  - Guaranty Association Act, 40-2-19
  - Illustrations, 40-2-25
  - Lapse of policies, 40-2-7
  - Military sales practices, 40-2-30
  - Mortality tables, 40-2-16, 40-2-18
    - Smokers and non-smokers, 40-2-17
  - Permits, 40-2-18
  - Premium deposit fund, 40-2-8
  - Preneed contracts; reserves, 40-2-28
  - Recommendation standards, 40-2-14a, 40-2-14b
  - Reinsurance agreements, 40-2-21
  - Replacement, 40-2-12
  - Reserve liabilities and nonforfeiture benefits, 40-2-27
  - Right to return policy, 40-2-15
  - Valuation of policies, 40-2-26
  - Wholesale plan, requirements, 40-2-11
- Premium finance companies, 40-14-1 et seq.
  - Agreements,
    - Assignment, 40-14-6
    - Duplicate to borrower, 40-14-5
    - Service charges, 40-14-7
  - Annual percentage rate, disclosure of, 40-14-9
  - Annual reports, 40-14-3
  - Filing, same; rates, 40-14-10
  - Forms, printing of, 40-14-4
  - Officers, change in, 40-14-1
- Professional employer organizations, 40-16-1 et seq.
  - Definition, 40-16-1
  - Fees, 40-16-2
- Rate filings, fire and casualty, 40-3-45
- Stock, sale of, 40-12-1 et seq.
  - Capital stock insurers, 40-12-1
  - Holding companies, 40-12-6, 40-12-8
  - Options, 40-12-14
    - Agents' production, 40-12-16
    - Attorneys, actuaries and underwriters, 40-12-18
    - Limitation, 40-12-17
    - Pro rata exercise, 40-12-15
    - Resolution as to price, 40-12-19
- Organizers and promoters, 40-12-7
  - Holding companies, 40-12-8
- Permit, 40-12-4
- Proceeds, impounding, 40-12-9
- Promoters,
  - Sale to, 40-12-11
- Promotional stock, 40-12-10
- Purchase plans, officers, directors and employees, 40-12-13
- Universal life insurance, model regulation, National Assoc. of Insurance Commissioners, 40-15b-1
- Variable annuities or separate accounts, 40-15-1 et seq.
  - Agents,
    - Licenses, 40-15-8
    - Qualifications, 40-15-7

**Insurance Department—Cont.**

Variable annuities or separate accounts—Cont.

Conditions, 40-15-3

Contracts,

Definitions, 40-15-1

Disapproval, when, 40-15-5

Filing, 40-15-4

Definitions, 40-15-1

Disapproval, when, 40-15-5

Qualifications of insurance company, 40-15-2

Reports required, 40-15-6

Variable benefits, requirements, 40-15-5

Variable life insurance, model regulation, National Assoc. of Insurance Commissioners, 40-15a-1

**Interstate Commerce**

Sales tax, 92-19-29

**Investigation**

See Bureau of Investigation, Kansas, Agency 10

**Investment of State Moneys**

Pooled Money Investment Board, Agency 122

**Investment Securities**

State Bank Commissioner, Agency 103

**J**

**Jellies**

Department of Health and Environment, Agency 28

**Junior Colleges**

Department of Education, Agency 91

**Junkyards**

Kansas Department of Transportation, Agency 36

**Juvenile Justice Authority**

See Juvenile Services Division of Department of Corrections, Agency 123

**Juvenile Services Division, Department of Corrections, Agency 123**

Community juvenile supervision for violations of probation, conditional release, and a condition of sentence, 123-17-101

Facilities management,

Duties of superintendents, 123-2-105

Regulations, internal management policies and procedures, and facility orders; publication and availability to offenders, 123-2-110

Trafficking in contraband, 123-2-111

General administration,

Definitions, 123-1-101

Good time credits and sentence computation, 123-6-101 et seq.

Application of good time credits, 123-6-102

Awarding and withholding good time credits for confined offenders, 123-6-103

Definitions, 123-6-101

**Juvenile Services Div., Dept. of Corrections—Cont.**

Good time credits and sentence computation—Cont.

Good time credit rate, 123-6-105, 123-6-105a

Sentences to the age of 22½, 123-6-106

Time lost on escape, 123-6-104

Juvenile correctional facility,

Term of incarceration, 123-2-1

Offender conduct and penalties,

Accounts, 123-12-210

Answering calls; movement, 123-12-501

Anticipatory and facilitating offenses: attempt, conspiracy, solicitation, and accessory, 123-12-1101

Arson, 123-12-322

Assault, 123-12-323

Avoiding an officer, supervisor, or other employee, 123-12-307

Battery, 123-12-324

Bulletin boards; publishing facility orders, 123-12-801

Class I offenses and penalties, 123-12-1301

Class II offenses and penalties, 123-12-1302

Class III offenses and penalties, 123-12-1303

Clothing, 123-12-101

Conduct regarding visitors and the public, 123-12-321

Contraband,

Dangerous contraband, 123-12-901

Less dangerous contraband, 123-12-902

Conviction of four offenses in six months, 123-12-1202

Debt adjustment and debt collection prohibited, 123-12-206

Disciplinary segregation; limits, 123-12-1308

Disobeying orders, 123-12-304

Disruptive behavior, 123-12-318

Drunkenness, intoxication, or altered consciousness, 123-12-311

Electronic personal entertainment devices, 123-12-202

Entering into contracts; incurring financial obligations, 123-12-209

Falsifying documents, 123-12-317

Fighting; violence, 123-12-301

Gambling and bookmaking, 123-12-207

Hair standards and appearance, 123-12-106

Improper use of food, 123-12-308

Increased penalty for involving or victimizing an offender under 16, 123-12-1201

Insubordination or disrespect to employees and volunteers, 123-12-305

Interference with cell operation, locking devices, and visibility, 123-12-504

Interference with restraints, 123-12-327

Kitchen utensils and shop tools, 123-12-309

Legal assistance by offenders, 123-12-702

Lewd acts, 123-12-315

Living quarters, care of 123-12-104

Lying, 123-12-303

Mail, 123-12-601

Medical restrictions, 123-12-505b

Misconduct in the dining room, 123-12-310

Misuse of state property, 123-12-208

Noise, 123-12-302

Offender activity; limitations, 123-12-325

Official name; alias name, 123-12-606

**Juvenile Services Div., Dept. of Corrections—Cont.**

Offender conduct and penalties—Cont.  
Personal cleanliness, 123-12-102  
Personal relationships; limitations, 123-12-328  
Posting notices and distributing written materials, 123-12-602  
Programs, 123-12-401  
Registration and use of personal property, 123-12-201  
Responsibility for head counts, 123-12-502  
Restricted areas; unauthorized presence; out-of-bounds in assigned living area, 123-12-503  
Restrictions, 123-12-505  
Riot or incitement to riot, 123-12-319  
Sexual intercourse; sodomy, 123-12-314  
Sexually explicit materials, 123-12-313  
Stimulants, sedatives, drugs, or narcotics; misusing or hoarding authorized or prescribed medication, 123-12-312  
Taking without permission, 123-12-204  
Tattoos, body markings, and body piercing, 123-12-103  
Theft, 123-12-203  
Threatening or intimidating any person, 123-12-306  
Unauthorized dealing and trading, 123-12-205  
Unsafe or unsanitary practices, 123-12-105  
Use of restitution, 123-12-1306  
Use of safety devices, 123-12-107  
Violation of internal management policy and procedure of facility order, 123-12-1002  
Violation of statutes and regulations, 123-12-1001  
Offender disciplinary procedure,  
Absence from facility, 123-13-603  
Administration of oaths; designation of persons authorized, 123-13-106  
Administrative review, 123-13-701  
Administrative review board to review and make recommendations, 123-13-706  
Administrative review of requests for witnesses; denial of requests; issuance of summons; voluntary nature of witness appearance, 123-13-307  
Amendment of the charge, 123-13-202  
Appeal on the record to the commissioner in class I and II offense cases, 123-13-703  
Appeal on the record to the superintendent in class III offense cases, 123-13-702  
Assistance from staff, 123-13-408  
Calling witnesses, 123-13-405a  
Collection of restitution, 123-13-610  
Commissioner's final review on appeal, 123-13-704  
Conducting the disciplinary hearing, 123-13-403  
Continuing the hearing; recesses; time limits; extensions, 123-13-402  
Copy of record provided to offender, 123-13-505  
Credit for disciplinary segregation sentence, 123-13-602  
Criminal prosecution and disciplinary hearing, 123-13-203  
Disciplinary administrator and hearing officers, 123-13-105  
Disciplinary case log, 123-13-509  
Disciplinary procedure established, 123-13-101  
Disciplinary report and written notice, 123-13-201  
Disposition, 123-13-406

**Juvenile Services Div., Dept. of Corrections—Cont.**

Offender disciplinary procedure—Cont.  
Docket, 123-13-507  
Harmless error; plain error, 123-13-707  
Hearing record, 123-13-502a  
Hearing within certain period; notice to offender; time and place of hearing, 123-13-401  
Offender responsibilities, 123-13-306  
Preparation of the record within 10 working days, 123-13-506  
Presence of offender and presence of charging officer at disciplinary hearings; officer statements in lieu of testimony, 123-13-404  
Preservation of all reports, 123-13-501  
Prosecution by outside agency, 123-13-103  
Reports in file, 123-13-508  
Serving disciplinary segregation sentence, 123-13-601  
Standard of proof, 123-13-409  
Summary judgment procedure, 123-13-201b  
Waiver of rights, 123-13-101a  
Offender grievance procedure,  
Annual review, 123-15-105a  
Distribution; orientation; applicability; remedies; investigation, 123-15-101a  
Emergency grievance procedure, 123-15-106  
Informal resolution; formal levels, 123-15-101  
Procedure, 123-15-102  
Records, 123-15-105  
Reprisals prohibited, 123-15-104  
Sexual abuse, harassment, retaliation grievances, 123-15-107  
Special kinds of problems, 123-15-201  
Time limit for filing grievance, 123-15-101b  
Offender injury and property claims,  
Personal property at offender's own risk, 123-16-105  
Reporting loss of or damage to property; claims, 123-16-102  
Offender management,  
Clinical services; offender treatment, 123-5-112  
Definitions, 123-5-101  
Disposition of contraband, 123-5-111  
Offender visitation, 123-5-505  
Use of force or restraint on offenders, 123-5-106

**K**

**KBI**

Kansas Bureau of Investigation, Agency 10  
See Bureau of Investigation, Kansas, Agency 10

**KNI**

Kansas Neurological Institute, 30-23-1 et seq.

**KanCare Children's Health Insurance Program**

Health Care Finance Division of Kansas Department of Health and Environment, Agency 129

**Kerosene**

Flammable liquids.  
State Fire Marshal, Agency 22

## L

### Labels

- Agricultural chemicals.
  - Board of Agriculture, Agency 4
- Commercial feeding stuffs.
  - Department of Revenue—Division of Alcoholic Beverage Control, Agency 14
- Food, drugs and cosmetics.
  - Department of Health and Environment, Agency 28
- Packages.
  - Division of Weights and Measures—Board of Agriculture, Agency 5

### Labor-Board of Review, Agency 48

See Employment Security Board of Review

### Labor, Department of, Agency 49

- All-union agreement, 49-7-1 et seq.
  - Election prerequisites, 49-7-3
  - Election results, 49-7-6
  - Employer notified by mail, 49-7-4
  - Petition,
    - Contents, 49-7-2
    - Who may file, 49-7-1
  - Type of vote, 49-7-5
- Amusement ride regulations, 49-55-1 et seq.
  - Applicability, 49-55-1
  - Approved inspector certification program, 49-55-3
  - Certificate of inspections, 49-55-4
  - Definitions, 49-55-2
  - Location of evidence of inspection, 49-55-7
  - Location of safety instructions, 49-55-9
  - Nationally recognized organizations to inspect rides, 49-55-13
  - Nondestructive testing of amusement rides, 49-55-5
  - Notification of death, 49-55-11
  - Permit application, 49-55-4
  - Record retention, 49-55-6
  - Reporting of amusement ride locations, 49-55-10
  - Selection of an amusement ride for compliance audit, 49-55-8
  - Submitting reports and other documents, 49-55-11
  - Violations; reporting violations, 49-55-12
- Boiler specifications, and inspections, 49-45-1 et seq.
  - Fees, inspection, 49-49-1, 49-49-2
  - Frequency, inspection, 49-48-1
- Boilers and pressure vessels, all, general requirements, 49-50-1 through 49-53-2
- Cessation of work, 49-8-1 et seq.
  - Contractual relations, 49-8-2
  - Duties of parties, 49-8-1
  - Election results, 49-8-6, 49-8-7
  - Employer notified, 49-8-4
  - Settlement negotiations, 49-8-3
  - Type of vote, 49-8-5
- Child labor, 49-1-50 et seq.
  - Hazardous occupations, minors, 49-1-51
    - Brick and tile products, 49-1-64
    - Drivers and outside helpers, 49-1-53
    - Excavation, 49-1-68
    - Explosives, 49-1-52
    - Mining, coal, 49-1-54
    - Other than, 49-1-60

### Labor, Department of—Cont.

Child labor—Cont.

- Hazardous occupations, minors—Cont.
    - Permitted occupations, 49-1-69
  - Power driven equipment,
    - Bakeries, 49-1-62
    - Elevators and hoisting, 49-1-58
    - Metal forming, shearing, 49-1-59
    - Paper products, 49-1-63
    - Woodworking, 49-1-56
  - Prohibited occupations, 49-1-70
  - Radioactive substances, 49-1-57
  - Roofing, 49-1-67
  - Sawmills and logging, 49-1-55
  - Saws and guillotine shears, 49-1-65
  - Slaughtering and meat packing, 49-1-61
  - Under 18 years, 49-1-51
  - Wrecking operations, prohibited employment, 49-1-66
- Collective bargaining unit, 49-6-1 et seq.
  - Decertification election, 49-6-3
  - Election, 49-6-4 through 49-6-6
  - Existing, 49-6-1
  - Petition, 49-6-2
- Components, nuclear power plants, 49-53-1, 49-53-2
- Definitions, 49-45a-1 through 49-45a-28
- Elections,
  - Absentee ballots, 49-25-10
  - Balloting, tally of, 49-25-11
  - Certification, 49-25-12
  - Challenged ballots, 49-25-9
  - Conditions, 49-25-4
  - Contested, 49-9-5
  - Eligibility in general, 49-9-2
  - Listing of employees, 49-25-6
  - Membership lists, 49-25-5
  - Notice of, 49-25-7
  - Posting of notice, 49-9-3
  - Procedure, 49-25-8
  - Regulations, 49-9-1 et seq.
  - Secret ballot, 49-9-4
  - Voters eligibility, 49-9-1
- Fees, inspection, 49-49-1 et seq.
- Frequency inspection, 49-48-1
- Hearings, 49-48-1, 49-54-1 et seq.
- High pressure boilers, 49-51-1 et seq.
- Impasse, declaration, 49-27-2 et seq.
  - Fact-finding, 49-27-3, 49-27-4
- Failure, notice of, 49-27-2
- Notification, 49-26-2 et seq.
  - Costs, 49-26-5
  - Mediator authority, 49-26-4
  - Petition, 49-26-2
  - Secretary, duties of, 49-26-3
- Inspectors, 49-47-1 et seq.
- Insurance, 49-46-1
- Joint conducted union-management election, 49-12-1 et seq.
  - Absentee voting, 49-12-3
  - Affidavit of compliance, 49-12-5
  - Challenged voter, 49-12-4
  - Commissioner's authority, 49-12-1
  - Contest procedure, 49-12-6
  - Invalid rules, 49-12-7
  - Observers, 49-12-2
- Low pressure heating boilers, 49-52-1 et seq.

**Labor, Department of—Cont.**

- Mail ballot, 49-11-1 et seq.
  - Agreement, 49-11-2
  - Ballots, 49-11-3
  - Canvassing, 49-11-4
  - Commissioner to determine method, 49-11-1
- Manual ballot, 49-10-1 et seq.
  - Absentee voting, 49-10-3
  - Challenged voters, 49-10-4
  - Commissioner to conduct, 49-10-1
  - Observers, 49-10-2
  - Unfair employment practice, 49-16-1 et seq.
    - Records, retention, 49-16-1 through 49-16-3
- Minimum wage and maximum hours law,
  - Ambulance and rescue services, fire protection, 49-30-4
  - Apprentices and learners, 49-31-5
  - Complaints, employee, 49-31-9
  - Definitions, 49-31-7
  - Hours worked, 49-30-3
  - Joint employment, 49-31-8
  - Maximum hours before overtime, 49-31-6
  - Wages, 49-30-2
- Practice, unfair. See Equal opportunity.
- Procedure,
  - Claims, filing and procedure, 49-21-1, 49-21-2
  - Hearings, 49-21-3, 49-23-7
  - Papers, service of, 49-23-5
  - Petitions, 49-23-6
  - Reciprocity, enforcement agreements, 49-21-4
  - Recognition, 49-23-4
- Professional negotiations act, 49-22-1
- Prohibited practice, 49-28-1, 49-28-2
- Units, determination, 49-24-4
- Wage payments and procedures for enforcement, 49-20-1

**Labor Disputes**

Department of Labor, Agency 49

**Laetrile**

Department of Health and Environment, Agency 28

**Lakes**

Department of Health and Environment, Agency 28  
 Kansas Department of Wildlife and Parks, Agency 115  
 Park and Resources Authority, Agency 33

**Land Surveys**

Kansas State Historical Society, Agency 118

**Landscape Architects**

Board of Technical Professions, Agency 66

**Larned State Hospital**

Department of Social and Rehabilitation Services,  
 Agency 30

**Law Books**

Delivery fees, 7-32-1  
 Session laws, 7-30-1

**Law Enforcement Training Center, Agency 107**

Certification, 107-1-1 et seq.
 

- Definitions, 107-1-1
- Police, law enforcement officers, 107-1-2, 107-1-5
- Training schools, 107-1-3, 107-1-4

Continuing education, advanced officers, 107-2-1  
 Pre-training evaluation, standards, 107-3-1

**Law Enforcement Training Commission, Agency 106**

See Peace Officers' Standards and Training, Kansas  
 Commission on  
 Lead Poisoning Prevention Program  
 Department of Health and Environment, Agency 28

**Leases**

Leases on navigable streams.  
 Department of Revenue, Agency 92

**Leave of Absence**

Department of Administration, Agency 1

**Legacies and Succession Act**

Inheritance tax.  
 Department of Revenue, Agency 92

**License Number Plates or Tags**

Department of Transportation, Agency 36

**Licenses**

Adult care home and administrators.  
 Department of Health and Environment, Agency 28

Architects, registration, 66-6-5  
 Barbers, 61-1-24  
 Beauty shops, 69-6-1 et seq.  
 Cereal malt beverages tax.  
 Department of Revenue, Agency 92

Certified public accountants, 74-3-1 et seq.  
 Children,
 

- Boarding homes, 28-4-250 et seq.
- Day care centers, 28-4-200 et seq.
- Foster homes, 28-4-300 et seq.
- Residential centers, 28-4-75 et seq.

Clubs,  
 Department of Revenue—Division of A.B.C., Agency 14

Cosmetologists, 69-1-1 et seq.  
 Cosmetology, schools of, 69-3-1 et seq.  
 Dentists and dental hygienists, 71-1-5, 71-1-6  
 Driver training schools, 91-7-1 et seq.  
 Drug manufacturers, 68-20-11 et seq.  
 Drug retail dealer, 68-1-1 et seq.  
 Drugstores, 68-2-5  
 Embalming,  
 Board of Mortuary Arts, Agency 63

Engineers, 66-6-5  
 Foster care facilities, 28-4-300 et seq.  
 Hospitals, 28-34-2  
 Hunting,  
 Wildlife and Parks, Agency 23, Agency 115

Insurance agents.  
 Insurance Department, Agency 40

## **Licenses—Cont.**

Landscape architects, 66-6-5  
Maternity homes and clinics, 28-4-75 et seq.  
Nursing,  
    Board of Nursing, Agency 60  
Optometry,  
    State Board of Examiners in Optometry, Agency 65  
Pest control, 4-12-1  
Pharmacists,  
    Board of Pharmacy, Agency 45  
Podiatry,  
    Board of Healing Arts, Agency 100  
Psychologists, 72-9-1 et seq.  
Radiation, sources of, 28-35-175 et seq.  
Real estate brokers and salespeople.  
Real Estate Commission, Agency 86  
Securities, broker-dealer, agents.  
Securities Commissioner Warehouses.  
    Grain Inspection Department, Agency 25

## **Liquor**

Department of Revenue, Division of Alcoholic  
    Beverage Control, Agency 14

## **Livestock**

Animal Health Division of Kansas Department of  
    Agriculture, Agency 9

## **Loans**

Banking Department, Agency 17  
Consumer Credit Commissioner, Agency 11  
Savings and Loan Department, Agency 38

## **Lobbying**

Governmental Ethics Commission, Agency 19

## **Lottery Act, Kansas Expanded**

Racing and Gaming Commission, Agency 112

## **M**

## **Marriage and Family Therapists, registered**

Behavioral Sciences Regulatory Board, Agency 102

## **Mausoleums**

Burial in, 63-3-16  
Construction, maintenance and use, 28-9-1 et seq.

## **Measuring Devices**

Division of Weights and Measures—Board of  
    Agriculture, Agency 99

## **Meats**

Carcass, beef. Board of Agriculture, Agency 4  
Imported, labeling of, 28-26-80 et seq.  
Inedible meat, disposal, 9-4-1 et seq.  
Inspection, state, 4-16-1 et seq.  
Lungs in food products, 28-26-90a  
Weights and measures, sale, 99-9-1

## **Mental Health Facilities**

Department of Social and Rehabilitation Services,  
    Agency 30

## **Mental Health Technicians**

Board of Nursing, Agency 60

## **Mental Retardation**

Hospitals and institutions, 30-23-1 et seq.

## **Military Forces**

Commission on Veterans' Affairs, Agency 97

## **Milk and Milk Products**

Board of Agriculture, Agency 4  
Department of Health and Environment, Agency 28

## **Mined-Land Conservation and Reclamation, Agency 47, (Part of Dept. of Health and Environment)**

Blasters, 47-13-4 et seq.  
    Responsibilities, 47-13-5  
    Training, 47-13-4, 47-13-6  
Bonding procedures, 47-8-9, 47-8-11  
Civil penalties, 47-5-5a et seq.  
Coal exploration, 47-7-2 et seq.  
Employee financial interest, 47-14-7  
Hearings, notice of, 47-4-14  
    Administrative hearings, discovery, 47-4-15  
    Award of costs and expenses, 47-4-17  
    Interim orders for temporary relief, 47-4-16  
Inspections and enforcement, 47-15-1a et seq.  
    Citizens' requests for, 47-15-8  
    Federal regulations incorporated by reference, 47-15-1a  
    Injunctive relief, 47-15-4  
    Lack of information or inability to comply, 47-15-3  
    Maintenance of permit areas, 47-15-17  
    Notices, cessation orders, 47-15-15  
    State inspections, 47-15-7  
Lands unsuitable for surface mining, 47-12-4  
Mining permit application, 47-3-1 et seq.  
    Application, 47-3-1, 47-3-2, 47-3-3a, 47-3-42  
Operator assistance program, 47-11-8  
Performance standards, 47-9-1 et seq.  
    Adoption by reference, 47-9-1  
    Interim standards, 47-9-4  
    Revegetation, 47-9-2  
Permits, 47-6-1 et seq.  
    Amendments, 47-6-2  
    Coal extraction, exemption, for, 47-6-5, 47-6-9  
    Conditions, 47-6-6  
    Renewals, 47-6-3  
    Review, 47-6-1  
    Transfers, assignments, and sales, 47-6-4  
Reclamation, 47-16-1 et seq.  
    Appraisals, 47-16-7  
    Contractor responsibility, 47-16-9  
    Eligible land and water, 47-16-1  
    Entry, 47-16-3, 47-16-4, 47-16-5  
    Liens, 47-16-6, 47-16-8  
    Non-coal-mined lands and associated waters, 47-16-13  
    Noncoal sites, exclusion of, 47-16-10  
    Procedures, 47-16-12  
    Project evaluation, 47-16-2

**Mined-Land Conservation and Reclamation—Cont.**

- Reclamation—Cont.
  - Reports, 47-16-11
- Rules, general, 47-1-1 et seq.
  - Communications, 47-1-3
  - Notice requirements, 47-1-10
  - Permittee, reports, 47-1-11
  - Rulemaking, petitions to initiate, 47-1-8
  - Sessions, 47-1-4
  - Suits, notice of, 47-1-9
  - Title, 47-1-1
- Terms, meaning of, 47-2-1 et seq.
  - Adoption by reference, 47-2-75
  - Application, complete, 47-2-14
  - Employee, defined, 47-2-21
  - Public road, 47-2-74
  - Regulatory authority, 47-2-53
  - Regulatory program defined, 47-2-53a
  - Significant environmental harm, 47-2-58
  - State act, 47-2-64
  - Surety bond, defined, 47-2-67
- Underground mining, 47-10-1

**Minerals**

- Navigable stream beds, 92-9-1 et seq.

**Mortuary Arts, State Board of, Agency 63**

- Continuing education, 63-6-1 et seq.
  - Post approval and review, 63-6-3
  - Standards for approval, 63-6-2
- Crematories, 63-7-1 et seq.
  - Crematory operator,
    - Continuing education, 63-7-11
    - License,
      - Application, 63-7-9
      - Initial; renewal, 63-7-10
  - Crematory operator in charge,
    - Responsibility of, 63-7-4
  - Definitions, 63-7-1
  - Inspection, 63-7-7
  - Inspection generated by a complaint, 63-7-8
  - License; biennial renewals, 63-7-3
  - Licensure applications, 63-7-6
  - Recordkeeping, 63-7-2
  - Requirements, 63-7-5
- Dead human bodies, 63-3-1 et seq.
  - Diseases, communicable, 63-3-10
  - Disinterment, 63-3-13
  - Embalming fluids, 63-3-9
  - Funeral establishments, requirements, 63-3-18
  - In transit, 63-3-15
  - Inspections of establishments, 63-3-22, 63-3-23
  - Licenses, establishment and branch establishment, 63-3-19
  - Mangled, burned and decomposed bodies, 63-3-12
  - Mausoleum, burial in, 63-3-16
  - Prefinanced funeral agreements,
    - Reporting, 63-3-20
    - Requirements, general, 63-3-21
  - Preparation and transportation, 63-3-11
  - Pricing of services and merchandise, 63-3-17
  - Transportation of dead human bodies, 63-3-11
- Embalmers and funeral directors, 63-1-1 et seq.
  - Apprenticeship, 63-1-3

**Mortuary Arts, Kansas State Board of—Cont.**

- Embalmers and funeral directors—Cont.
  - Embalmers, 63-1-12
  - Examination, 63-1-4
  - Lectures, 63-1-9
  - License by endorsement, 63-1-23
  - Nonresident applicants, 63-1-5
  - Registration, 63-1-3
  - Requirements of practice, 63-1-6
- Fees, 63-4-1 et seq.
  - Funeral directing, 63-2-1 et seq.
    - Continuing education, 63-1-1 et seq.
    - Definitions, 63-2-16
    - Embalming rules apply, 63-2-1
    - Funeral director, 63-2-10
      - Apprenticeship, 63-2-12
      - Responsibilities, 63-2-3
    - Rules of practice, 63-2-7
- Hearings and disciplinary action, 63-5-1 et seq.
  - Advisory opinion fee, 63-5-3
  - Civil and criminal records, 63-5-3
- Licenses,
  - Assistant funeral director, 63-2-15, 63-2-26
  - Examination, 63-2-13
  - Funeral director, 63-2-14
  - Reciprocal, 63-2-11

**Motels**

- Lodging.
  - Department of Health and Environment, Agency 28

**Motor Carriers**

- Kansas Corporation Commission, Agency 82

**Motor Fuel**

- Hearings, 92-1-1 et seq.
- Interstate motor fuel use tax, 92-13-1 et seq.
- Motor fuel tax and transportation of liquid fuel, 92-3-4 et seq., 92-18-1 et seq.

**Motor Vehicles**

- Antifreeze, 36-6-1, 36-6-2, 36-6-3
- Brake fluid. Kansas Department of Transportation, Agency 36
- Commercial, LP-Gas installations on, 22-8-801 et seq.
- Dealer inventory tax, 92-53-1 et seq., 92-55-5
- Driver education, 91-5-1 et seq.
- Drivers' licenses, 92-52-1 et seq.
- Emergency vehicles, 36-2-3 et seq.
- Food products, transporting, 28-23-2
- Fuel, LP-Gas, 22-8-401 et seq.
- Fuel tax. Department of Revenue, Agency 92
- Gasoline, casinghead, transport, 22-9-1 et seq.
- Glass, safety, 36-9-1
- License and registration, 36-20-1 et seq.
- Lighting devices, approval, 36-8-1
- Motorcycles, helmets, 36-15-1 et seq.
- Operators' and chauffeurs' licenses, 92-52-1 et seq.
- Permits,
  - Colleges and universities, 88-4-1 et seq.
  - Kansas Department of Transportation, Agency 36
  - Office building parking lot, 1-45-1 et seq.
  - Statehouse grounds, 1-46-1 et seq.

## **Motor Vehicles—Cont.**

- Registration,
  - Department of Revenue, Agency 92
  - Kansas Department of Transportation, Agency 36
- Safety responsibility, 36-22-1 et seq.
- School buses, 36-13-8 et seq.
- Tank trucks. State Fire Marshal, Agency 22
- Taxation. Department of Revenue, Agency 92
- Tires. Department of Transportation, Agency 36
- Trucks,
  - Kansas Department of Transportation, Agency 36
  - LP-Gas transportation, 22-8-301 et seq.

## **Municipal Accounting Board, Agency 2**

- Accounting and fiscal procedure, 2-3-1 et seq.
- Audit reports, 2-3-4
- Compliance reports, 2-3-5

## **N**

## **Naphtha**

- Flammable liquids.
- State Fire Marshal, Agency 22

## **Nuclear Materials**

- Power plants, 49-45-10 et seq.
- Waste, transport, 28-35-189a

## **Nurseries, Child Care**

- Licensing, 28-4-200 et seq.

## **Nursing, State Board of, Agency 60**

- Accredited nursing programs, requirements,
  - 60-2-101 et seq.
  - Clinical resources, 60-2-105
  - Curriculum, 60-2-104
  - Educational facilities, 60-2-106
  - Faculty and preceptor qualifications, 60-2-103
  - Initial approval, 60-2-101
  - Reapproval, 60-2-102
  - Reports, 60-2-108
  - Student policies, 60-2-107
- Advanced nursing education program, 60-17-101 et seq.
  - Advanced practice registered nurse (APRN),
    - Discontinuing program, 60-17-110
    - Refresher course, 60-17-111
  - Approval requirements,
    - Initial, 60-17-102
    - Reapproval, 60-17-103
  - Clinical resources, 60-17-106
  - Curriculum requirements, 60-17-105
  - Definitions, 60-17-101
  - Educational facilities, 60-17-107
  - Faculty and preceptor qualifications, 60-17-104
  - Reports, 60-17-109
  - Student policies, 60-17-108
- Advanced practice registered nurse (APRN),
  - 60-11-101 et seq.
  - Continuing education,
    - Approval, 60-11-114
    - Definitions, 60-11-112
  - Definitions, 60-11-101

## **Nursing, State Board of—Cont.**

- Advanced practice registered nurse—Cont.
  - Educational requirements, 60-11-103
  - Exempt license, 60-11-121
  - Expiration dates of licenses; applications, 60-11-120
  - Fees, 60-11-119
  - Functions,
    - Anesthetist, 60-11-106
    - Clinical nurse specialist, 60-11-107
    - Nurse practitioner, 60-11-104
    - Nurse-midwife, 60-11-105
  - Licensing, 60-11-109
    - Exceptions, 60-11-117
    - Reinstatement, 60-11-116
    - Renewal, 60-11-113
    - Temporary, 60-11-118
  - Protocols or guidelines, defined, 60-11-104a
  - Roles, 60-11-102
  - Study programs, 60-11-108
- Anesthetists, registered nurse, 60-13-101 et seq.
  - Approval procedure, 60-13-102
  - Approval requirements, 60-13-103
  - Continuing education,
    - Approval, 60-13-113
    - Definitions, 60-13-111
    - Exceptions, 60-13-115
  - Exam approval, 60-13-104
  - Fees, 60-13-101
  - License renewal, 60-13-112
  - Reinstatement, 60-13-110
- Continuing education, nurses, 60-9-101 et seq.
  - Approval, 60-9-107
  - Definitions, 60-9-105
  - Exceptions, 60-9-109
  - License renewal, 60-9-106
- Fees, nurses, 60-4-101 et seq.
- Intravenous fluid therapy for licensed practical nurse,
  - 60-16-101 et seq.
  - Advisory committee, 60-16-105
  - Competency examination, 60-16-103
  - Course standards, 60-16-104
  - Curriculum content, 60-16-104
  - Definitions, 60-16-101
  - Record keeping, 60-16-103
  - Scope of practice, 60-16-102
  - Stand-alone course approval, 60-16-103
- Licensure, mental health technicians, 60-7-101 et seq.
  - Change of name, 60-7-103
  - Duplication of lost or destroyed initial license, 60-7-102
  - Exempt license, 60-7-109
  - Expiration dates; applications, 60-7-110
  - Inactive license, 60-7-108
  - Misdemeanor convictions, reporting, 60-7-111
  - Reinstatement of license after revocation, 60-7-104
  - Standards of practice, 60-7-105
  - Unprofessional conduct, 60-7-106
- Licensure, nurses, 60-3-101 et seq.
  - Change of name, 60-3-103
  - Duplication of lost or destroyed initial license, 60-3-102
  - Exempt license, 60-3-112
  - Expiration dates, 60-3-107, 60-3-108
  - Inactive license, 60-3-111
  - License by endorsement, 60-3-106
  - License reinstatement, 60-3-105
  - Licensure, 60-3-101

## **Nursing, State Board of—Cont.**

- Licensure, nurses—Cont.
  - Standards of practice, 60-3-109a
  - Temporary permit, 60-3-106a
  - Unprofessional conduct, 60-3-110
- Mental health technicians,
  - Approval procedure, 60-5-102
  - Discontinuance, 60-5-103
- Continuing education,
  - Definitions, 60-12-105
  - Exceptions, 60-12-109
  - Offerings, 60-12-104
- Educational programs, 60-6-101 et seq.
- Fees, 60-8-101
- License renewal, 60-12-106
- School settings, performance of selected nursing procedures, 60-15-101 et seq.
  - Definitions and functions, 60-15-101
  - Delegation procedures, 60-15-102
  - Medications, administration of, 60-15-104
  - Supervision of delegated tasks or procedures, 60-15-103
- Schools of nursing, 60-1-101 et seq.
  - Definitions, 60-1-104
  - Discontinuance, 60-1-103
  - Procedure for, 60-1-102

## **Nursing Homes**

- Department of Health and Environment, Agency 28
- Department of Social and Rehabilitation Services, 30-10-1a et seq.

## **O**

### **Office Building, State**

- Conduct of persons, 1-49-1 et seq.
- Parking lot, 1-45-1 et seq.
- Traffic, 1-47-1 et seq.

### **Oil and Gas**

- Conservation.
- Kansas Corporation Commission, Agency 82
- Disposal and storage.
- Department of Health and Environment, Agency 28
- Leases,
  - Navigable stream beds, 92-9-1 et seq.
  - Oil and gas leases on institutional property,
    - Department of Social and Rehabilitation Services, Agency 30
- Oil inspection law, hearings, 92-1-1 et seq.

### **Ombudsman Board, Corrections, Agency 43**

- Oath, administering, 43-1-1

### **Optometry, Board of Examiners in, Agency 65**

- Advertising, 65-11-1 et seq.
- General provisions, 65-4-1 et seq.
  - Definitions, 65-4-1
  - Fees, 65-4-3
  - Hearings, 65-4-2
  - Judgment, professional, 65-4-5
  - Notice, 65-4-4

### **Optometry, Board of Examiners in—Cont.**

- Licenses, 65-5-1 et seq.
  - Approved schools or colleges of optometry, 65-5-4
  - Continuing education, 65-5-6
  - Examinations, 65-5-3
  - Glaucoma, 65-5-10
  - Licensure by examination,
    - Application for, 65-5-2
    - Qualifications for, 65-5-1
  - Professional liability insurance, 65-5-13
  - Reciprocal, 65-5-7
  - Reinstatement, 65-5-8, 65-5-12
  - Renewal of, 65-5-5
  - Suspension, termination or denial of authority to practice, 65-5-9
- Maintaining an office, 65-10-1 et seq.
- Ophthalmic services, minimum standards for, 65-8-1 et seq.
- Trade names, 65-9-1 et seq.

### **Osawatimie Youth Rehabilitation Center**

- Department of Social and Rehabilitation Services, Agency 30

### **Osteopaths**

- Board of Healing Arts, Agency 100

## **P**

### **Paints**

- Department of Health and Environment, Agency 28

### **Park and Resources Authority, Agency 33**

- Private operations and advertisements, 33-1-18
- Quiet hours, 33-1-20

### **Parking**

- State office building parking lot, 1-45-1 et seq.
- Statehouse grounds, 1-46-1 et seq.
- Traffic rules and regulations.

### **Parks**

- Kansas Department of Wildlife and Parks, Agency 115
- Park and Resources Authority, Agency 33

### **Parole Board, Kansas, Agency 45**

- Conditional release, 45-10-1, 45-600-1
- Definitions, 45-1-1, 45-100-1
- Discharge, 45-800-1
- Dockets, 45-300-1 et seq.
- Executive clemency, 45-14-1, 45-900-1
- Functionally incapacitated inmates, release of, 45-700-1 et seq.
  - Application for release, 45-700-1
  - Review and consideration of, 45-700-2
- Parole discharge, 45-11-1
  - Cases previously denied, 45-6-2
  - Detainer cancelled, 45-6-5
  - Docket, 45-6-1
  - Inmate absence at hearing, 45-6-3
- Parole hearing proceedings, 45-200-1 et seq.
- Parole hearings, 45-4-4 et seq.
  - Appeals, 45-4-6
  - Attendees at hearings, 45-4-4

**Parole Board—Cont.**

## Parole hearings—Cont.

- Denial of parole, reasons for, 45-4-7
- Endorsements, 45-4-5
- Medical cases, 45-4-9
- Parole release, 45-7-1 et seq.
  - Dates, 45-7-3
  - Deferred release, 45-7-4
  - General provisions, 45-7-1
  - Report on parole, 45-7-2
  - Sidetrrips and stopovers, 45-7-5
- Parole violators, 45-9-1 et seq., 45-500-1 et seq.
  - Computation of time, 45-500-3
  - Final revocation hearings, 45-500-2
  - General provisions, 45-500-1
  - Waiver of final revocation hearing, 45-500-4
- Release to supervision, 45-400-1 et seq.
  - Deferred release, 45-400-4
  - General provisions, 45-400-1
  - Parole plan, 45-400-2
  - Release, 45-400-3
- Restitution orders, 45-16-2 et seq., 45-1000-1 et seq.

**Pathogenic Microorganisms**

- Distribution and use, 28-12-1

**Peace Officers' Standards and Training, Kansas Commission on, Agency 106**

- Certification, 106-1-1 et seq.
  - Definitions, 106-1-1
  - Reinstatement, 106-1-8
  - Suspension, revocation or denial of,
    - Grounds, 106-1-2
    - Investigations and hearings, 106-1-3 through 106-1-6
    - Voluntary revocation, 106-1-7
- Definitions, 106-2-1 et seq.
  - Certain misdemeanors constituting grounds for denial or discipline, 106-2-2a
  - Certain misdemeanors constituting grounds for disqualification of applicants, 106-2-2
  - General, 106-2-1
  - Good moral character, 106-2-4
  - Unprofessional conduct, 106-2-3
- Officer certification standards, 106-3-1 et seq.
  - High school equivalence, verification of, 106-3-4
  - Oath required for certification, 106-3-6
  - Part-time certification, determination of work hours for, 106-3-5
  - Provisional certificate conditioned on attendance at next available basic training course, 106-3-1
  - Provisional certification; working as officer during basic training course, 106-3-2
  - Psychological testing, standards for approval of, 106-3-3
- Training school standards, 106-4-1 et seq.
  - Approval of training schools, 106-4-1

**Pesticides**

- Board of Agriculture, Agency 4

**Pharmacy Assistance Program**

- Department on Aging, Article 26

**Pharmacy, State Board of, Agency 68**

- Advertising, 68-8-1
- Cancer drug repository program, 68-16-1 et seq.
  - Definitions, 68-16-1
  - Dispensing requirements, 68-16-4
  - Distribution of donated cancer drugs, 68-16-6
  - Donation of cancer drugs, 68-16-3
  - Forms, 68-16-9
  - Handling fees, 68-16-5
  - Recordkeeping requirements, 68-16-8
  - Requirements for participation, 68-16-2
  - Sale of donated drugs, 68-16-7
- Controlled substances, 68-20-1 et seq.
  - Definitions, 68-20-1
  - Dispensing without prescription, 68-20-22
  - Electronic transmission of prescription, 68-20-10a
  - Order forms, 68-20-17
  - Prescriptions, 68-20-18
    - Schedule I substances, 68-20-23, 68-20-31
    - Schedule II substances, 68-20-19
    - Schedule III and IV substances, 68-20-20
    - Schedule V substances, 68-20-21
  - Records and inventory, 68-20-16
  - Registration and reregistration, 68-20-9
    - Application, 68-20-11
    - Drug handling requirements, 68-20-10
    - Fees, 68-20-9
    - Hearings, 68-20-13
    - Modification, transfer and termination, 68-20-14
    - Security requirements, 68-20-15a
- Drugstores, regulation of, 68-2-5 et seq.
  - Branches, agents, and pickup stations, 68-2-16
  - Cessation of operations, 68-2-10
  - Change of ownership, 68-2-9
  - Electronic transmission of prescription, 68-2-22
  - Minimum requirements, 68-2-12a
  - Nametags, 68-2-15
  - Notification to board; disciplinary action, 68-2-23
  - Pharmacist-in-charge, 68-2-5
  - Pharmacist's functions, 68-2-20
  - Prescriptions, 68-2-19
  - Security, 68-2-11
- Electronic supervision of medical care facility pharmacy personnel, 68-22-1 et seq.
  - Application for approval to utilize electronic supervision, 68-22-2
- Electronic supervision of medical care facility pharmacy personnel—Cont.
  - Definitions, 68-22-1
  - Electronic supervision, 68-22-4
  - Minimum operating requirements, 68-22-5
  - Prior approval and training required, 68-22-3
- Fees, 68-11-1 et seq.
  - Examination and licensure as pharmacist, 68-11-1
  - Premises and service registration and permits, 68-11-2
  - Registration as a pharmacy intern, 68-11-3
  - Registration as a pharmacy technician, 68-11-3
- General rules,
  - Definitions, 68-5-1
  - Pharmacy technicians,
    - certification examination, 68-5-17
    - request for extension, 68-5-17
  - Ratio of pharmacy technicians to pharmacists, 68-5-16

**Pharmacy, State Board of—Cont.**

- Medications, unused, utilization, 68-18-1 et seq.
  - Accepting, 68-18-2
  - Recall, 68-18-3
  - Transferring, 68-18-1
- Nonprescription wholesale distributors, 68-15-1 et seq.
- Parenteral products, 68-13-1
  - Definitions, 68-13-2
  - Nonsterile preparations, 68-13-3
  - Sterile preparations, 68-13-4
- Pharmacists, registration and examination, 68-1-1a et seq.
  - Applications, 68-1-1a
  - Certificates, 68-1-7
  - Education,
    - Continuing, 68-1-1b
    - Grades, examinations, 68-1-2
    - Graduates, foreign, 68-1-1f, 68-1-1h
    - Schools not accredited by ACPE, 68-1-1e
  - Experience, 68-1-3, 68-1-3a
  - Internet-based TOEFL, 68-1-1g
  - Pharmacist-in-charge examination, 68-1-2a
  - Pharmacist on duty required, 68-1-8
  - Schools and colleges, approval, 68-1-1d
- Pharmacy technicians
  - Continuing education, 68-5-18
  - Ratio of pharmacy technicians to pharmacists, 68-5-16
  - Registration fees, 68-11-3
- Prescription monitoring program, 68-21-1 et seq.
  - Access to information, 68-21-5
  - Definitions, 68-21-1
  - Drugs of concern, 68-21-7
  - Electronic reports, 68-21-2
    - Waivers for, 68-21-3
  - Notice of requests for information, 68-21-4
  - Reciprocal agreements with other states or government entities to share information, 68-21-6
- Prescription systems, automated, 68-9-1 et seq.
  - Automated drug delivery systems in facilities, 68-9-3
  - Automated drug delivery systems in pharmacies, 68-9-2
  - Electronic data storage systems, 68-9-1
- Provisions, general, 68-7-10 et seq.
  - Collaborative practice, 68-7-22
  - Drug distribution in long-term care facilities, 68-7-10
  - Drug packaging of oral drugs, 68-7-15
  - Emergency medication kits, 68-7-10
  - Emergency opioid antagonist dispensing and administration without prescription, 68-7-23
  - Health departments, family planning clinics, 68-7-18
  - Incident reports, 68-7-12b
  - Institutional drug rooms, 68-7-21
  - Nonresident pharmacies, 68-7-12a
  - Notification to board; pharmacist, pharmacy technician or pharmacy intern, 68-7-25
  - Pharmacists in charge, duties, 68-7-12, 68-7-13
  - Pharmacy, 68-7-11
  - Prescription labels, 68-7-14
  - Refillable prescription, transfer between pharmacies, 68-7-19
  - Retail dealers permits, 68-3-5, 68-3-6
  - Shared services, 68-7-20
- Quality assurance programs, continuous,
  - Minimum requirements, 68-19-1
- Resale of dispensed prescription drugs, 68-12-2

**Pharmacy, State Board of—Cont.**

- Wholesale distributors, 68-14-1 et seq.
  - Definitions, 68-14-2
  - Distribution records for prescription-only drugs and devices, 68-14-7
  - Outsourcing facilities, 68-14-7b
  - Personnel, 68-14-5
  - Registration requirement, 68-14-3
  - Registration, minimum required information, 68-14-4
  - Storage and handling of prescription-only drugs and devices, 68-14-7
  - Third-party logistics providers, 68-14-7a
  - Transaction, 68-14-8
  - Violations and penalties, 68-14-6

**Pheasant**

Kansas Department of Wildlife and Parks, Agency 115

**Physical Therapy**

Board of Healing Arts, Agency 100

**Physicians and Surgeons**

Board of Healing Arts, Agency 100

**Podiatry Board**

Board of Healing Arts, Agency 100

**Poisons**

- Controlled substances.
- Board of Pharmacy, Agency 68
- Hazardous household articles, 28-27-1 et seq.

**Polygraphists, Kansas Board of, Agency 114**

- Applications for license, 114-3-1 et seq.
  - Address, change of, 114-3-2
  - Perceptor trained examiners, 114-3-3
- Complaints, 114-8-1
- Examinations, 114-6-1 through 114-6-5
- Fees, 114-7-1 through 114-7-4
- Internship, 114-5-1 through 114-5-4
- License required, 114-1-1 et seq.
- Schools, approved, 114-4-1
- Standards of practice, 114-2-1

**Ponds**

Disposal, 28-13-1 et seq.

**Pooled Money Investment Board, Agency 122**

- Definitions, 122-1-1
- Depository banks,
  - Collateral, 122-2-2
  - Qualifications, 122-2-1
- Investment accounts in qualified banks,
  - Money available for investment, 122-5-1
- Investment of state moneys, 122-3-1 et seq.
  - Chief investment officer, qualifications, 122-3-10
  - Conflicts of interest, 122-3-8
  - Investment instruments,
    - Competitive selection, 122-3-6
    - Requirements, 122-3-3
  - Investment principles, 122-3-1

**Pooled Money Investment Board—Cont.**

- Investment of state moneys—Cont.
  - Investment transactions,
    - Requirements for brokers and dealers, 122-3-5
  - Maturity, 122-3-4
  - Performance monitoring, 122-3-9
  - Portfolio management, 122-3-2
  - Safekeeping and custody, 122-3-7
- Municipal investment pool,
  - Earnings, 122-4-1

**Postsecondary Education Savings Program, Kansas**

State Treasurer, Agency 3

**Poultry**

- Animal Health Division of Department of Agriculture,
  - Agency 9
- Imported, labeling of, 28-26-80 et seq.
- Innoculated or infected with disease, 28-12-1

**Prairie Chickens**

Kansas Department of Wildlife and Parks, Agency 115

**Prescription Drugs**

- Senior pharmacy assistance program.
- Kansas Department on Aging, Agency 26

**Prisoner Review Board**

See Parole Board, Kansas, Agency 45

**Prisoners of War**

Educational benefits to dependents, 97-5-1, 97-5-2

**Private Detectives**

Licensure, 16-3-1 et seq.

**Propane**

- Liquefied petroleum gases.
- State Fire Marshal, Agency 22

**Property Valuation, Division of, Department of Revenue, Agency 93**

- Certificates of value, 93-3-1 et seq.
  - Accompanying deed, 93-3-2
  - Assessment-sales ratio cards, 93-3-4
  - Recordation of instrument, 93-3-3
  - Supplies, 93-3-1
- Complex industrial property,
  - Appraiser qualifications; appraisal reports, 93-9-1
- Hearings by director, 93-1-1 et seq.
  - Information, assistance, 93-1-2
  - Proceedings, 93-1-3, 93-1-4
  - Regulations, purpose and scope, 93-1-1
- Machinery and Equipment Exemption, 93-7-1 et seq.
  - Definitions, 93-7-1
  - Possession and use presumption, 93-7-3
  - Transfer of title presumption, 93-7-2
- Notices, physical inspection of property, 93-5-1
- Real estate ratio study, 93-4-1 et seq.
  - Access to county records by director, 93-4-5
  - Annotation and disposition of real estate sales validation questionnaires, 93-4-2

**Property Valuation, Div. of, Dept. of Revenue—Cont.**

- Real estate ratio study—Cont.
  - Assemblage and entering of sales data, 93-4-4
  - Assessment-sales ratio study, 93-4-1
  - Performance standards, 93-4-6
  - Split and combined real estate parcel sales, 93-4-3
- Registered mass appraiser, 93-6-1 et seq.
  - Prerequisites, 93-6-1
  - Reciprocity, 93-6-6
  - Reinstatement, 93-6-7
  - Requirements,
    - Case study, 93-6-5
  - Continuing education, 93-6-3
  - Education, 93-6-2
  - Experience, 93-6-4
- Telecommunications and Railroad Machinery and Equipment Exemption, 93-8-1 et seq.
  - Definitions, 93-8-1
  - Possession and use presumption, 93-8-3
  - Transfer of title presumption, 93-8-2

**Psychologists**

Behavioral Sciences Regulatory Board, Agency 102

**Public Assistance Program**

Department of Social and Rehabilitation Services,  
Agency 30

**Public Disclosure Commission, Kansas**

Governmental Ethics Commission, Agency 19

**Public Employee Relations Board, Agency 84**

- General provisions, 84-1-1 et seq.
  - Computation of time, 84-1-3
  - Definitions, 84-1-1
  - Registration and reports, 84-1-4
  - Scope, 84-1-2
- Impasse, 84-5-1
- Local government procedures, 84-4-1 et seq.
  - Amendment, 84-4-5
  - Application for approval, 84-4-1
  - Determination by the presiding officer, 84-4-4
- Local government procedures—Cont.
  - Investigation and hearing, 84-4-3
  - Local regulations, 84-4-6
  - Objections, 84-4-2
  - Review of, 84-4-7
  - Termination or amendment, 84-4-5
- Procedure, 84-2-1 et seq.
  - Arbitration, 84-2-15
  - Authorization cards, 84-2-4
  - Hearings, 84-2-2
  - Intervention and joinder, 84-2-3
  - Mediation, 84-2-14
  - Petition, following amendment or withdrawal of,
    - 84-2-9
  - Service of pleadings, 84-2-1
- Units,
  - Determining appropriate, 84-2-6, 84-2-7
  - Elections, 84-2-11, 84-2-12, 84-2-13
  - Validity of showing of interest, 84-2-5
- Prohibited practices, 84-3-1 et seq.
  - Complaints, 84-3-1

## **Public Employee Relations Board—Cont.**

### Prohibited practices—Cont.

- Findings of fact, 84-3-5
- Hearing notice, 84-3-2
- Joinder of parties, 84-3-4
- Record of proceedings, 84-3-3
- Strikes or lockouts, 84-3-6

## **Public Employees Retirement System, Kansas, Agency 80**

### Accounts of members, 80-4-1 et seq.

- Arrearage, 80-4-5
- Errors, correction of, 80-4-3
- Identification of, 80-4-1
- Interest, crediting of, 80-4-2
- Receipt of contributions, 80-4-6
- Reconciliation of, 80-4-4

### Actuarial tables,

- Worker's compensation benefits, value, 80-6-4

### Beneficiaries, 80-5-1 et seq.

- Child, defined, 80-5-17
- Death of, 80-5-16
- Designation of, 80-5-10, 80-5-11, 80-5-13, 80-5-14, 80-5-18
- Retirement, allowance calculation, 80-5-6

### Board election, 80-8-1 et seq.

- Certification, 80-8-5
- Election committee, 80-8-4
- Nominations, 80-8-2
- Time computation, 80-8-6
- Vacancy, 80-8-7
- Voting, 80-8-3

### Credit and breaks in service, 80-3-1 et seq.

- Age 70, beyond, 80-3-6
- Break in service, defined, 80-3-3
- Continuous employment, 80-3-2
- Contributions, withdrawal, 80-3-9, 80-53-6
- Disability, 80-3-5
- Early retirement, 80-3-14
- Employment termination, 80-3-8
- Military leave, 80-3-4
- Military service, claiming, 80-3-12
- Prior service credit, 80-3-1
- Proof of prior service credit, 80-3-11
- Purchase, military service, 80-3-16
- Purchase, year of service, 80-3-15
- Recording of compensation, 80-3-7
- Temporary positions, 80-3-13

### Employer account, police and firemen, 80-52-1 et seq.

- Employer contributions, 80-52-3
- Employer's K.P.E.R.S. contribution, transfer, 80-52-2

- Fund reserves, records, 80-52-1

### Insurance,

- Annual rate of compensation, 80-7-1

### Investments, 80-9-1 et seq.

- Alternative investment program, 80-9-2
- Common stock investment program, 80-9-1

### Membership, 80-1-1 et seq.

- Commencement date of year of service, 80-1-1
- Compensation, service without, 80-1-8
- Continuous employment, construed, 80-1-11
- Elected officials, 80-1-4, 80-1-12
- Eligible employers, 80-1-10

## **Public Employees Retirement System—Cont.**

### Membership—Cont.

- Employee, defined, 80-1-7
- Employee of employer, defined, 80-1-13
- Employer entry date, application, 80-1-9
- Military duty, active, 80-1-6
- Military service, year of service, 80-1-5
- Year of service, 80-1-2, 80-1-3, 80-1-5
- Membership, police and firemen, 80-51-1 et seq.
  - General, 80-51-1 through 80-51-3
  - Leave of absence on entry date, 80-51-6
  - Military leave on entrance dates, 80-51-7
  - Sheriff, membership of, 80-51-4
  - Termination, 80-51-5

### Multiple enrollment, 80-2-1 et seq.

- Beneficiary, designation of, 80-2-3
- Definition and requirements, 80-2-1
- Prior service, annual salary, 80-2-4
- Service credit, 80-2-2

### Police and firemen, general, 80-50-1 et seq.

- Application for participation, 80-50-2
- Birth, proof of date, 80-50-8
- Death, defined, 80-50-4
- Disability, defined, 80-50-1
- Local pension system, defined, policeman or fireman, 80-50-9

- Proposal for coverage, request, 80-50-3

- Reduced by social security, 80-50-6

- Rules and regulations, K.P.E.R.S., application, 80-50-7

- Social security, 80-50-5

### Retirement, 80-5-1 et seq.

- Beneficiaries, 80-5-10 through 80-5-18
- Benefits, 80-5-1
- Birth, proof of date, 80-5-9
- Compensation, 80-5-6
- Date of, 80-5-15
- Employment after vesting, 80-5-3
- Options, election of, 80-5-7, 80-5-12
- Partial lump sum option, 80-5-19 through 80-5-22
- Re-employment of retirant, 80-5-2

### Retirement, police and firemen, 80-55-1 et seq.

- Allowance calculation, 80-55-8
- Death benefit after retirement, 80-55-4
- Eligibility for benefits, 80-55-7
- Eligibility for retirement, 80-55-3
- Normal retirement benefit, defined, 80-55-2
- School retirement system, 80-45-1 et seq.
  - School lunch employees, participation, 80-45-4
  - Substitute school service, defined, 80-45-2
  - Teacher certification, 80-45-1
  - Teaching day, defined, 80-45-3

## **Public Utilities**

### Kansas Corporation Commission, Agency 82

### Sales tax, application, 92-19-20

## **Q**

## **Quail**

### Kansas Department of Wildlife and Parks, Agency 115

## R

### Rabbits

Kansas Department of Wildlife and Parks, Agency 115

### Racing and Gaming Commission, Kansas, Agency 112

Expanded Lottery Act, Kansas,  
Electronic gaming machines (EGM), 112-107-1  
Automated jackpot payout machines, 112-107-17  
Cashless funds transfer systems, 112-107-27  
Casino management systems, 112-107-24  
Commencement of electronic gaming operations,  
112-107-13  
Coupons, 112-107-19  
EGM computer systems, 112-107-20  
EGM conversions, 112-107-14  
EGM destruction procedures, 112-107-32  
EGMs and associated equipment utilizing  
alterable storage media, 112-107-30  
Electronic gaming machine requirements,  
112-107-1  
Electronic gaming monitoring systems, 112-107-23  
External bonusing systems, 112-107-26  
Gaming floor plan, 112-107-7  
Gaming tickets, 112-107-18  
Kiosks as automated gaming ticket and coupon  
redemption machines, 112-107-16  
Master list of approved gaming machines,  
112-107-10  
Notice to Kansas lottery of EGM movement,  
112-107-11  
Off-premises storage of EGMs, 112-107-6  
Player tracking systems, 112-107-25  
Progressive LFGs, 112-107-21  
Remote system access, 112-107-31  
Revocations and additional conditions, 112-107-15  
Server-based electronic gaming systems,  
112-107-29  
Server-supported electronic gaming systems,  
112-107-28  
Submission for testing and approval, 112-107-3  
Testing and approval, 112-107-2  
Testing and software installation on the live gaming  
floor, 112-107-9  
Transportation of LFGs, 112-107-5  
Waivers, 112-107-34  
Wide-area progressive systems, 112-107-22  
Employee certification, 112-103-1 et seq.  
Affirmative duty to demonstrate qualifications,  
112-103-6  
Application for a license, 112-103-4  
Applicant identification, 112-103-5  
Background investigation, 112-103-7  
Disqualification criteria for a level I, level II, or  
level III license, 112-103-8  
Examinations, 112-103-9  
License duration, 112-103-10  
License levels, 112-103-2  
License mobility; limitations, 112-103-15  
License renewal, 112-103-11  
Licenses, temporary work permits, and badges to  
be commission property, 112-103-16  
Prohibition of unlicensed employment with a  
facility manager, 112-103-1

### Racing and Gaming Commission, Kansas—Cont.

Employee certification—Cont.  
Reapplication after license denial or revocation,  
112-103-12  
Temporary work permit, 112-103-3  
Facility manager certification, 112-101-1 et seq.  
Access to gaming facility and information,  
112-101-13  
Advertising; promotion of responsible gaming,  
112-101-10  
Affirmative duty to demonstrate qualifications,  
112-101-4  
Background investigations, 112-101-3  
Certificate duration, 112-101-7  
Certificate renewal, 112-101-8  
Certification of employees, 112-101-14  
Disqualification criteria, 112-101-6  
Facility manager application procedure, 112-101-2  
Fees and costs, 112-101-5  
Material debt transaction, 112-101-11  
Notice of anticipated or actual change, 112-101-9  
Notice of bankruptcy or liquidation, 112-101-12  
Prohibition against uncertified management of a  
gaming facility, 112-101-1  
Prohibitions, 112-101-16  
Reporting requirements, 112-101-15  
Gaming supplier and non-gaming supplier  
certification, 112-102-1 et seq.  
Affirmative duty to demonstrate qualifications,  
112-102-6  
Application for a certificate, 112-102-4  
Background investigations, 112-102-7  
Certificate duration, 112-102-9  
Certificate renewal application, 112-102-10  
Certificates, temporary supplier permits, and  
badges to be commission property,  
112-102-12  
Change in ownership, 112-102-11  
Disqualification criteria, 112-102-8  
Gaming and non-gaming supplier employees,  
112-102-3  
Gaming supplier and non-gaming supplier defined,  
112-102-2  
Prohibition against uncertified business, 112-102-1  
Records, 112-102-13  
Temporary supplier permit, 112-102-5  
General provisions and definitions, 112-100-1 et seq.  
Definitions, 112-100-1  
Display of credentials, 112-100-5  
Duty to disclose material and complete information,  
112-100-2  
Duty to submit to background investigations and  
to cooperate, 112-100-3  
Knowledge of the law and regulations, 112-100-4  
Loss of badges, 112-100-6  
Nontransferability, 112-100-7  
Hearings, rules of, 112-114-1 et seq.  
Appeals of disciplinary review board hearings,  
112-114-14  
Definitions, 112-114-1  
Evidence, 112-114-10  
Hearing procedure, 112-114-9  
Informal settlements, 112-114-5  
Notice of alleged violation and hearing, 112-114-3  
Orders, 112-114-11

**Racing and Gaming Commission, Kansas—Cont.**

- Hearings, rules of—Cont.
- Participation by and representation of respondents, 112-114-6
- Presiding officer, 112-114-8
- Report of an alleged violation, 112-114-2
- Service of order, 112-114-12
- Waiver, 112-114-4
- Involuntary exclusions, 112-111-1 et seq.
  - Effect of placement on the exclusion list, 112-111-3
  - Facility manager duties, 112-111-4
  - Inclusion on list; notice, 112-111-2
  - Involuntary exclusion list, 112-111-1
  - Petition for removal, 112-111-5
- Minimum internal control system, 112-104-1 et seq.
  - Acceptance of tips or gratuities from patrons, 112-104-27
  - Accounting controls for the cage and main bank, 112-104-16
  - Accounting records, 112-104-3
  - Annual audit; other reports; currency transaction reporting; suspicious transaction reporting, 112-104-6
  - Annuity jackpots, 112-104-22
  - Automated teller machines, 112-104-28
  - Bill validators and bill validator canisters, 112-104-17
  - Broken, lost, or missing keys, 112-104-38
  - Cage and main bank, 112-104-14
  - Cash equivalents, 112-104-12
  - Complimentaries, 112-104-9
  - Corrections to forms, 112-104-39
  - Count room and main bank requirements, 112-104-15
  - Counting and recording bill validator canisters, 112-104-20
  - Definitions; internal control system, 112-104-1
  - Disputes, 112-104-33
  - Facility manager's organization, 112-104-2
  - Forms, description, 112-104-41
  - Forms, records, and documents, 112-104-4
  - Gaming day, 112-104-30
  - Gaming facility, 112-104-26
  - Information technology standards, 112-104-25
  - Internal audit standards, 112-104-24
  - Jackpot payouts, 112-104-21
  - Key access list, 112-104-36
  - Key control procedures, 112-104-35
  - Key log, 112-104-37
  - Manual form dispensers, 112-104-40
  - Merchandise jackpots, 112-104-23
  - Meter readings and related statistical reports, 112-104-7
  - Patron deposits, 112-104-13
  - Personal check cashing, 112-104-10
  - Physical key controls; automated key controls, 112-104-34
  - Purchasing, 112-104-42
  - Retention, storage, and destruction of books, records, and documents, 112-104-8
  - Signature, 112-104-31
  - Standard financial reports, 112-104-5
  - Transportation of bill validator canisters to and from bill validators; storage, 112-104-18
  - Unclaimed winnings, 112-104-32

**Racing and Gaming Commission, Kansas—Cont.**

- Minimum internal control system—Cont.
- Unsecured currency, gaming tickets, and coupons, 112-104-19
- Waiver of requirements, 112-104-29
- Wire transfers, 112-104-11
- Responsible gambling, 112-112-1 et seq.
  - Definition, 112-112-2
  - Office of, 112-112-1
  - Plan, 112-112-3
  - Self-exclusion list, 112-112-4
    - Confidentiality of, 112-112-7
    - Facility manager conduct regarding self-excluded persons, 112-112-8
    - Mandatory surrenders to the state, 112-112-6
    - Procedure for removal from, 112-112-9
    - Requirements for placement on, 112-112-5
- Sanctions, 112-113-1 et seq.
  - Sanctions, 112-113-1
- Security, 112-105-1 et seq.
  - Communications system, 112-105-7
  - Department, 112-105-1
  - Department staffing, 112-105-4
  - Detention area, 112-105-6
  - Emergency operations plan, 112-105-3
  - Plan, 112-105-2
  - Reports, 112-105-5
- Surveillance, 112-106-1 et seq.
  - Department, 112-106-3
  - Department staffing, 112-106-4
  - Monitoring, 112-106-6
  - Retention of recordings, 112-106-7
  - Room, 112-106-5
  - System, 112-106-1
  - System plan, 112-106-2
- Table games, 112-108-1 et seq.
  - Authorized table gaming suppliers, 112-108-9
  - Automated table credits, 112-108-34
  - Bad beat and special hand, 112-108-45
  - Chips,
    - Counterfeit, 112-108-17
    - Destruction of, 112-108-16
    - Exchange and storage of foreign chips, 112-108-49
    - Exchange of value chips or non-value chips, 112-108-13
    - Handling, 112-108-56
    - Inventory of, 112-108-15
    - Primary, secondary, and reserve sets of gaming chips, 112-108-12
    - Procedures for automated filling of chips, 112-108-32
    - Procedures for manually filling chips from cage to tables; form procedures, 112-108-31
    - Receipt of gaming chips from manufacturer, 112-108-14
    - Specifications, 112-108-10
    - Submission for review and approval, 112-108-11
    - Tournament chips and tournaments, 112-108-18
- Compliance with law; prohibited activities, 112-108-5
- Consistency with the Kansas lottery's rules, 112-108-2
- Dealer and boxperson hand clearing, 112-108-39
- Definitions, 112-108-1

**Racing and Gaming Commission, Kansas—Cont.**

- Table games—Cont.
  - Dice,
    - Receipt, storage, inspections, and removal from use, 112-108-23
    - Specifications, 112-108-22
  - Found items, 112-108-53
  - Gaming tables,
    - Closing of gaming tables, 112-108-29
    - During 24-hour gaming, 112-108-30
    - Emergency gaming table drop devices; drop procedures, 112-108-47
    - Gaming table drop device characteristics, 112-108-46
    - Handling of cash at gaming tables, 112-108-25
    - Opening of gaming tables, 112-108-28
    - Procedures for the collection and transportation of drop devices, 112-108-48
  - Instructional table games offered to public, 112-108-37
  - Maintaining table game statistical data, 112-108-51
  - Mandatory table game count procedure, 112-108-24
  - Minimum and maximum table game wagers, 112-108-38
  - Participation in table games by a certificate holder or a licensee, 112-108-3
  - Payout for progressive table games, 112-108-8
  - Poker room,
    - Banks and transactions, 112-108-43
    - Drops and counts, 112-108-44
    - General, 112-108-41
    - Supervision, 112-108-42
  - Procedures for monitoring and reviewing game operations, 112-108-50
  - Procedures for recording manual table credits, 112-108-33
  - Progressive table games, 112-108-57
  - Promotional activities, 112-108-19
  - Publication of rules and payoff schedules for all permitted games, 112-108-7
  - Required internal audits, 112-108-52
  - Required personnel for specific table games, 112-108-36
  - Shipment of table games and table game mechanisms, 112-108-55
  - Table game cards; receipt, storage, inspections, and removal from use, 112-108-21
  - Table game layouts, 112-108-35
  - Table game tips, 112-108-26
  - Table games and poker cards; specifications, 112-108-20
  - Table games internal controls, 112-108-6
  - Table games jackpot; employee pocketbooks, 112-108-40
  - Table inventory, 112-108-27
  - Testing and approval of table games, 112-108-4
  - Waiver of requirements, 112-108-54
- Technical standards, 112-110-1 et seq.
  - Adoptions by reference, 112-110-1
  - Central computer system,
    - Acceptance testing, 112-110-13
    - Accounting, 112-110-2
    - Additional functionality, 112-110-12
    - Backup, 112-110-9
    - Communication, 112-110-6

**Racing and Gaming Commission, Kansas—Cont.**

- Technical standards—Cont.
  - Central computer system—Cont.
    - Configuration and control, 112-110-4
    - EGM breaks in communication, resolving, 112-110-14
    - General hardware specifications, 112-110-8
    - Manuals, 112-110-10
    - Protocol simulator, 112-110-7
    - Security, 112-110-3
    - Software validation, 112-110-5
    - Support of progressive games, 112-110-11
- Racing,
  - Animal health, 112-10-2 et seq.
    - Assistant animal health officer, 112-10-2, 112-10-32
    - Authorized medication, 112-10-5
    - Bandages, 112-10-10
    - Bleeder list, 112-10-6
    - Drugs, medication, 112-10-4, 112-10-13, 112-10-34
    - Furosemide list, 112-10-6a
    - Greyhound testing, 112-10-35
    - Posterior digital neurectomy, 112-10-11
    - Postmortem examination, 112-10-12, 112-10-37
    - Practicing veterinarians, 112-10-3, 112-10-33
    - Split samples, 112-10-9a, 112-10-36a
    - Test barn, 112-10-7
    - Testing, 112-10-8
    - Vaccinations, 112-10-38
  - Annual certified financial audit of organization licensee, 112-3-15
  - Application, 112-3-1 et seq.
    - Application forms for fair associations and the state of Kansas, 112-3-16
    - Audit, annual certification financial, organization licensee, 112-3-15
    - Background investigations, 112-3-19
    - Business structure and control of facility owner or facility manager, 112-3-8
    - Commission approval or sale of conveyance, 112-3-18
    - Controlled substances, testing for, 112-3-20
    - Corporate structure and control of organization license applicant, 112-3-7
    - Development and financing, 112-3-10
    - Economic, demographic, and other information, 112-3-13
  - Forms for,
    - Facility manager applicant, 112-3-6
    - Facility owner applicant, 112-3-4
    - Organization applicant, 112-3-2
  - Procedure for,
    - Facility manager applicant, 112-3-5
    - Facility owner applicant, 112-3-3
    - Organization applicant, 112-3-1
  - Race date fees, payment, 112-3-21
  - Submission of information, 112-3-17
- Definitions, 112-15-1 et seq.
  - Application,
    - Deadlines, 112-15-2
    - Grant committees, 112-15-7
    - Notification of decision, 112-15-5
    - Reporting requirements, 112-15-6
    - Requirements, 112-15-3
    - Review, 112-15-4

**Racing and Gaming Commission, Kansas—Cont.**

Racing—Cont.

- Fair or horsemen's nonprofit organization, 112-17-1 et seq.
- Applicant,
  - Application,
    - Form, 112-17-2
    - Procedure, 112-17-1
  - Development process, 112-17-7
  - Financial,
    - Plan, 112-17-5
    - Resources, 112-17-4
  - Governmental actions, 112-17-6
  - Management of racetrack facility, 112-17-8
  - Site and physical plant, 112-17-3
- Applicant or licensee,
  - Additional information, 112-17-10
  - Background investigations, 112-17-9
- Benefit fund, distribution of monies, 112-17-15
  - License order, general regulation, 112-17-14
- Licensee,
  - Financial audit, 112-17-11
  - Licensee file, 112-17-12
  - Testing for controlled substances, 112-17-13
- Greyhound, race track officials, 112-6-1 et seq.
  - Chartwriter, 112-6-10
  - Clerk of scales, 112-6-5
  - Commission officials, racing judges, 112-6-2
  - Lead outs, 112-6-4a
  - Lure operator, 112-6-7
  - Mutuel manager, 112-6-9
  - Paddock judge and kennel master, 112-6-4
  - Race track, 112-6-1
  - Racing director, 112-6-3
  - Racing secretary, 112-6-8
  - Starter, 112-6-6
- Greyhound, rules for racing, 112-8-2 et seq.
  - Complaints, 112-8-12
  - Entries, 112-8-3
  - Grading and purse systems, 112-8-7
  - Housing, 112-8-13
  - Limitation of performances, 112-8-11
  - Qualifications, 112-8-6
  - Race, before and between, 112-8-9
  - Race, rules, 112-8-10
  - Registration, 112-8-2
  - Schooling, 112-8-5
  - Weights and weighing, 112-8-8
  - Withdrawals and scratches, 112-8-4
- Harness racing, 112-14-1 et seq.
  - Complaints, harness racing, 112-14-6
  - Conduct, harness racing, 112-14-5
  - Drivers meeting, 112-14-3
  - Driving, unsatisfactory, harness racing, 112-14-7
  - Prohibited acts, 112-14-9
  - Safety standards, driver, 112-14-10
  - Starter, duties of harness racing, 112-14-2
  - Traffic procedure, harness racing, 112-14-4
- Hearing procedures, simplified, 112-16-1 et seq.
- Horse breeding development fund, 112-12-1 et seq.
  - Kansas-bred or Kansas-foaled races, 112-12-10
  - Kansas-certified mare awards, 112-12-9
  - Kansas-certified stallion awards, 112-12-8
  - Live horse racing purse supplement fund, 112-12-15

**Racing and Gaming Commission, Kansas—Cont.**

Racing—Cont.

- Horse breeding development fund—Cont.
  - Mare eligibility certificate, 112-12-4
  - Registration of Arabian Appaloosa, Paint and Standard bred, 112-12-14
- Horse, race track officials, 112-5-1 et seq.
  - Clerk of scales, 112-5-7
  - Identifier, 112-5-9
  - Mutuel manager, 112-5-10
  - Paddock judge, 112-5-4
  - Patrol judge, 112-5-5
  - Placing judges and timers, 112-5-6
  - Racing secretary, 112-5-8
  - Starter, 112-5-3
  - Stewards, 112-5-2
- Horse racing, rules for, 112-7-2 et seq.
  - Allowances, penalties, 112-7-14
  - Changing of races, 112-7-11
  - Claiming, 112-7-15a
    - Claiming authorization, 112-7-17
    - Claiming, vacated stable, 112-7-15b
  - Claims, invalid or void, prohibitions, 112-7-16
  - Declarations, scratches, 112-7-13
  - Disclosure of mare in foal, 112-7-16a
  - Documents, 112-7-4
  - Eligibility, registration, 112-7-6
  - Entries, 112-7-7
    - Closing of, 112-7-10
    - Coupled, 112-7-8
    - Loss of, 112-7-9
  - Horses sold or transferred with engagements, 112-7-5
    - Jockey agent, 112-7-18a
    - Jockeys, 112-7-18
    - Mount fees, 112-7-19
    - Owners, deceased, 112-7-3
    - Ownership, 112-7-2
    - Paddock to post, 112-7-21
    - Post to finish, 112-7-22
    - Safety helmet required, 112-7-20
    - Safety vests required, 112-7-24
    - Workouts, 112-7-23
- Licenses, occupation and concessionaire, 112-4-1 et seq.
  - Application information, changes, 112-4-7
  - Concessionaire licenses, 112-4-1a
  - Conditions and agreements, 112-4-6
  - Conduct, 112-4-23
  - Crossover employment, 112-4-4a
  - Denial of, 112-4-26
  - Examinations, 112-4-8
  - Financial responsibility,
    - Applicants, 112-4-9
    - Licensee, 112-4-9a
  - Greyhound ownership by,
    - Corporation, partnership, or others, 112-4-19
    - Lease, 112-4-18
      - License, qualification for, 112-4-25
  - Horse owner, qualifications for license, 112-4-16
  - Horse ownership by lease, 112-4-17
  - Identification requirements, 112-4-5
  - Inspection of, 112-4-2
  - Jockey, amateur, qualifications for, 112-4-24
  - Jockey, apprentice, qualifications for, 112-4-12

**Racing and Gaming Commission, Kansas—Cont.**

## Racing—Cont.

## Licenses, occupation and concessionaire—Cont.

Jockey, qualifications for, 112-4-11

Kennel owner, 112-4-21a

Knowledge of law and regulations, required,  
112-4-3

Occupation, 112-4-1

Physical examinations, 112-4-10

Program trainer, 112-4-14

Prohibited, 112-4-4

Prohibited activity, 112-4-4b

Qualifications as horse owner, 112-4-16

Racing or wagering equipment or services,  
112-4-1b

Registration, kennel name, 112-4-21

Registrations required, 112-4-22a

Required licensing, 112-4-22

Stable name registration, 112-4-20

Suspended trainer, 112-4-15

Trainer responsibility, 112-4-14b

## Parimutuel wagering, 112-9-1 et seq.

Accounting, 112-9-8

Dead heats, 112-9-37

Definitions, 112-9-1

## Errors,

Payment for, 112-9-25

Posted payoff, 112-9-24

Exacta, 112-9-17a

Facilities, mutuel, 112-9-2

General provisions, 112-9-11a

Managers, mutuel, 112-9-26

Morning line, probable odds or, 112-9-29

Parimutuel dept., cooperation of, 112-9-27

Pools, 112-9-9

Carryover, capping, 112-9-43

Daily double, 112-9-15a

Distribution, evidence of, 112-9-36

Distribution of, 112-9-10

Exacta, 112-9-17a

Minus, payoff on, 112-9-23

Pick (N), 112-9-22a

Pick three, 112-9-21a

Place, 112-9-13a

Place pick (N), 112-9-44

Pools, claim for payment, 112-9-5

Quinella, 112-9-16a, 112-9-16b

Show, 112-9-14a

Superfecta, 112-9-39a

Trifecta, 112-9-18a

Tri-superfecta, 112-9-40a

Twin quinella, 112-9-19a

Twin superfecta, 112-9-42

Twin trifecta, 112-9-41a

Win, 112-9-12a

Probable odds, on morning line, 112-9-29

Purses for, 112-9-38

Race declared official, 112-9-11

Racing selection services, 112-9-33

Tickets, 112-9-4

Lost or destroyed, 112-9-6

Uncashed, 112-9-7

## Wagering,

By jockey, 112-9-34

Closing of, in a race, 112-9-30

**Racing and Gaming Commission, Kansas—Cont.**

## Racing—Cont.

## Parimutuel wagering—Cont.

## Wagering—Cont.

Interest, 112-9-35

Parimutuel, 112-9-3

Prohibited, 112-9-32

By minors, 112-9-31

Racing license, application procedures, 112-3-1 et seq.

Physical plant and site, 112-3-9

Public safety and security, 112-3-14

Race track facilities, management of, 112-3-12

Racing operation and parimutuel wagering, 112-3-11

Safety and security, public, 112-3-14

Sale or conveyance, commission approval of, 112-3-18

Testing for controlled substances, 112-3-20

Safety and security, 112-11-1 et seq.

Ambulances, 112-11-14

Emergency, 112-11-17

Fire prevention, 112-11-15

Greyhound race meets, 112-11-20

Identification and credentials, 112-11-10

Manual, written security and safety, 112-11-8

Obedience to security guards and commission  
representatives, 112-11-18

Prohibited acts, 112-11-21

Race track and horse race meets, 112-11-19

Restricted areas, access to, 112-11-11

Security guard, 112-11-1 et seq.

Basic course for, 112-11-4

Continuing education for, 112-11-5

License, 112-11-3

Minimum requirements for, 112-11-2

Obedience to security guard and other  
commission officials, 112-11-18

Smoking, in shedrow and kennels, 112-11-16

Standards of conduct, 112-11-6

Testing, controlled substance and alcohol,  
112-11-13a, 112-11-21

Simulcasting licenses, 112-18-2 et seq.

Changes to approved simulcasting schedule, 112-18-7

Combined wagering pool,

Breakage, interstate, 112-18-15

Distribution of, 112-18-14

Formation of, 112-18-13

General provisions, 112-18-12

Report to commission, 112-18-16

Duties of,

Receiving facility, 112-18-9

Sending racetrack, 112-18-10

Election and recognition of recognized group,

Greyhound owners', 112-18-21

Horsemen's, 112-18-22

Expenses, 112-18-6

Fee for simulcasting race or performance, 112-18-8

Lost video signal, procedures, 112-18-11

Merge,

Failure to, 112-18-18

Manual, 112-18-17

Payoffs, accuracy of, 112-18-20

Report of expenses and allocation of purse monies

between horses and greyhounds, 112-18-5

Responsibility for the accuracy of transmitted  
wagering data, 112-18-19

**Racing and Gaming Commission, Kansas—Cont.**

- Simulcasting licenses—Cont.
  - Simulcasting applicant,
    - Application form for, 112-18-3
    - Application procedure, 112-18-2
  - Special racing event, 112-18-4
- Whelped program, Kansas, 112-13-2 et seq.
  - Greyhound breakage distribution,
    - Open status, 112-13-4
    - Purses, 112-13-5
  - Greyhound breeding development fund, 112-13-6
  - Resident racing program, Kansas, 112-13-3

**Radiation and Radioactive Materials**

- Hospital departments, 28-34-12
- Nuclear power plants, 49-45-10 et seq.
- Radiation,
  - Department of Health and Environment, Agency 28

**Railroads**

- Fires on right of way, 82-6-1, 82-6-2, 82-6-3
- Grade crossing protection, 82-7-1 et seq.
- Kansas Corporation Commission, Agency 82

**Real Estate Appraisal Board, Kansas, Agency 117**

- Appraisal management company registration,
  - 117-20-1 et seq.
    - Certificate of registration, 117-20-5
    - Certification of annual review, 117-20-7
    - Change of information, 117-20-6
    - Definitions, 117-20-1
    - Fees, 117-20-4
    - Registration, 117-20-2
      - Renewal, 117-20-3
- Continuing education, 117-6-1 et seq.
  - Approval of courses,
    - Denial or revocation, 117-6-4
    - Obtaining, 117-6-3
    - Renewal, 117-6-1
    - Requirements of, 117-6-2
- Definitions, 117-1-1
- Fees, 117-7-1
- General classification, requirements, 117-3-1 et seq.
  - Appraisal experience, 117-3-2
  - Education, 117-3-1
  - Examination, 117-3-3
  - Scope of practice, 117-3-4
  - Supervision requirements, 117-3-2a
- Inactive status,
  - Reinstatement; continuing education, 117-10-1
- Licensed classification, requirements, 117-2-1 et seq.
  - Appraisal experience, 117-2-2
  - Education, 117-2-1
  - Examination, 117-2-3
  - Scope of practice, 117-2-4
  - Supervisor requirements, 117-2-2a
- Qualifications criteria—provisional classification,
  - Education requirements, 117-5-1
  - Scope of practice, 117-5-3
  - Supervised experience requirements, 117-5-2, 117-5-2a
- Residential classification, requirements, 117-4-1 et seq.
  - Appraisal experience, 117-4-2
  - Education, 117-4-1
  - Examination, 117-4-3

**Real Estate Appraisal Board—Cont.**

- Residential classification, requirements—Cont.
  - Scope of practice, 117-4-4
  - Supervision requirements, 117-4-2a
- Standards of professional appraisal practice, 117-8-1
  - Confidentiality provision, 117-8-2
  - Uniform standards of professional appraisal practice; adoption by reference, 117-8-3
- Temporary practice, 117-9-1

**Real Estate Commission, Kansas, Agency 86**

- Authority of Commission, procedure,
  - Licensing,
    - Credit report of applicant, 86-2-3
    - Examination of records, 86-2-8
    - Hearings regarding, 86-2-5
    - Informal disposition of complaint, 86-2-7
  - Examination and registration, 86-1-2 et seq.
    - Alternative licensing criteria for broker applicants, 86-1-18
    - Credit for hours taught, instruction, 86-1-16
    - Evidence of course attendance, 86-1-13
    - Examination and registration, 86-1-2
    - Expiration of licenses, 86-1-3
    - Instruction course, approval, 86-1-10
    - License, fees and renewal, 86-1-4, 86-1-5
    - Monitoring courses, 86-1-12
    - Name change, 86-1-15
    - Schools, responsibilities of, 86-1-17
    - Standards, 86-1-11
    - Submission of supporting documentation with application, 86-1-19, 86-1-20
- Licensee, duties, 86-3-3 et seq.
  - Advertising, 86-3-7, 86-3-30
  - Broker supervision, 86-3-31
  - Brokerage agreements, 86-3-8
  - Brokerage relationships brochure, 86-3-26
  - Buyer's or tenant's consent, 86-3-28
  - Designated agents
  - Disclosure of alternative agency relationships form, 86-3-25
  - Disclosure of brokerage relationships, 86-3-26a
  - Interest in property, disclosure, 86-3-19
  - Legal counsel, 86-3-9
  - Offices, 86-3-6a
  - Reinstatement of license, 86-3-20
  - Reporting of information, 86-3-15
  - Retention of records, 86-3-10
  - Submission of offers to purchase, 86-3-23
  - Title agency, affiliated business arrangement, 86-3-29
  - Trade name, registration, 86-3-3
  - Transaction broker addendum, 86-3-27
  - Transaction identification, 86-3-22
  - Trust account, records, 86-3-18, 86-3-21

**Records**

- State Records Board, Agency 53

**Recreation**

- Kansas Department of Wildlife and Parks, Agency 115
- Park and Resources Authority, Agency 33

## Regents, State Board of, Agency 88

- AO-K to work program,
  - AO-K career pathways, 88-25-2
  - Career readiness certificate, 88-25-3
  - Fee, 88-25-5
  - High school equivalency requirements, 88-25-4
  - Industry-recognized credentials, 88-25-2
  - Program title, 88-25-1
- Bicycles, University of Kansas, 88-6-1 et seq.
  - Operation, 88-6-2
  - Penalties, 88-6-3
- Community colleges, technical colleges and Washburn Institute of Technology,
  - Accreditation, 88-26-2
  - Admissions, 88-26-3
  - Approval of programs, 88-26-6
  - Credit, 88-26-4
  - Definitions, 88-26-1
  - Graduation or completion requirements, 88-26-5
  - Out-district tuition and courses,
    - Approval of courses, 88-26-14
    - Courses disapproved for community college operating grant purposes, 88-26-16
    - Review of program or course disapproval, 88-26-15
    - Review of tuition determinations, 88-26-13
    - Tuition for certain students, 88-26-12
  - Residence appeal board, 88-26-10
  - Review of determination, 88-26-11
  - Residence determination, 88-26-7
  - Review of student tuition determination, 88-26-9
  - Student residency determination, 88-26-8
- Community resource programs, 88-14-1 et seq.
- Degrees, granting by nonpublic institutions, 88-16-1 et seq.
  - Certification and registration fees, 88-16-5b
  - Definitions, 88-16-1a, 88-16-1b
  - General requirements, 88-16-1
  - New degree programs, authorization, 88-16-6
  - Procedure for approval, 88-16-5
  - Requirements, modification of, 88-16-8
  - Standards for approval, 88-16-2
- Ethnic minority scholarship program, 88-21-1 et seq.
  - Available funds, 88-21-7
  - College certification, 88-21-8
  - Confidentiality, 88-21-6
  - Definitions, 88-21-1
  - Eligibility,
    - Applicant, 88-21-3
    - Application, 88-21-4
  - Examination, income tax form, 88-21-5
  - Financial need analysis agency, 88-21-10
  - Scholar selection, 88-21-2
  - Scholarship, 88-21-9
- General Education Development (GED) test, 88-24-1 et seq.
  - Eligibility to take test, 88-24-1
  - Test score requirements, 88-24-2
- Honors Program, Kansas, 88-18-1 et seq.
  - Applicant eligibility, 88-18-3
  - Application eligibility, 88-18-4
  - Available funds, 88-18-7
  - College certification, 88-18-8
  - Confidentiality of information, 88-18-6

## Regents, State Board of—Cont.

- Honors Program, Kansas—Cont.
  - Definitions, 88-18-1
  - Examination of income tax forms, 88-18-5
  - Financial need analysis agency, 88-18-2
- Nursing Student Scholarship Program, Kansas, 88-20-1 et seq.
  - College certification, 88-20-9
  - Confidentiality of information, 88-20-7
  - Definitions, 88-20-1
  - Eligibility,
    - Applicant, 88-20-3
    - Application, 88-20-4
    - Financial need analysis agency, 88-20-11
    - Income tax forms, 88-20-6
  - Funds available, 88-20-8
  - Grant offer, 88-20-10
  - Scholarship amount, 88-20-2
  - Sponsor agreement, 88-20-5
- Private and Out-of-State Postsecondary Education
  - Institutions, 88-28-1 et seq.
    - Certificates of approval, 88-28-3
    - Definitions, 88-28-1
    - Enrollment documents, 88-28-7
    - Fees, 88-28-6
    - Minimum requirements, 88-28-2
    - On-site visits, 88-28-4
    - Registration of representatives, 88-28-5
    - Student records upon closure of an institution, 88-28-8
  - Proprietary schools, 88-23-1 et seq.
    - Certificate of approval, 88-23-3, 88-23-3a
    - Definitions, 88-23-1
    - Enrollment agreement, 88-23-2a
    - Exempt schools; avocational or recreational programs, 88-23-5
    - Minimum standards, 88-23-2
    - Registration of representative, 88-23-4
    - Student records upon closure, 88-23-6
    - Transcript, certificate, and registration, 88-23-7
- Qualified admission, 88-29-1 et seq.
  - Admission policies for state educational institutions, 88-29-9
  - Categories of admission, 88-29-3
  - Content requirements for qualified admission,
    - Computer technology courses, 88-29-13
    - English courses, 88-29-14
    - Mathematics courses, 88-29-15
    - Natural science courses, 88-29-16
    - Social science courses, 88-29-17
  - Definitions, 88-29-1
  - Exception window,
    - Nonresident transfer admissions, 88-29-8b
    - Resident freshman class admissions, 88-29-8
    - Resident transfer admissions, 88-29-8a
  - Precollege curriculum,
    - Establishment by accredited high school in Kansas, 88-29-12
    - Functional equivalents; residents, 88-29-18
    - Functional equivalents; nonresidents, 88-29-19
    - Requirements, 88-29-11
  - Qualifications required for admission,
    - Applicant with 24 or more transferable credit hours, 88-29-4
    - Kansas resident under the age of 21, 88-29-5

**Regents, State Board of—Cont.**

Qualified admission—Cont.

- Qualifications required for admission—Cont.
  - Kansas resident who is 21 or older, 88-29-6
  - Methods for state educational institutions to use when evaluating, 88-29-10
  - Nonresident age 21 or older, 88-29-7a
  - Nonresident under the age of 21, 88-29-7
- Scope, 88-29-2
- State university admissions, 88-29a-1 et seq.
  - Admission policies, 88-29a-9
  - Definitions, 88-29a-1
  - Exception window,
    - Nonresident freshman class admissions, 88-29a-8c
    - Resident freshman class admissions, 88-29a-8
  - Precollege curriculum,
    - Functional equivalents; nonresidents, 88-29a-19
    - Functional equivalents; residents, 88-29a-18
    - Requirements, 88-29a-11
  - Qualifications required for admission,
    - Kansas resident age 21 or older, 88-29a-6
    - Kansas resident under the age of 21, 88-29a-5
    - Methods for state educational institutions to use when evaluating, 88-29a-10
    - Nonresident age 21 or older, 88-29a-7a
    - Nonresident under the age of 21, 88-29a-7
  - Scope, 88-29a-2
- State university admissions as of 2021 summer session, 88-29c-1 et seq.
  - Admission policies, 88-29c-9
  - Definitions, 88-29c-1
  - Methods to use when evaluating qualifications for admission, 88-29c-10
  - Qualifications required for admission,
    - Kansas resident under the age of 21, 88-29c-5
    - Nonresident under the age of 21, 88-29c-7
- University of Kansas admissions, 88-29b-1 et seq.
  - Admission policies, 88-29b-9
  - Categories of admission, 88-29b-3
  - Definitions, 88-29b-1
  - Exception window,
    - Nonresident freshman class admissions, 88-29b-8c
    - Nonresident transfer admissions, 88-29b-8b
    - Resident freshman class admissions, 88-29b-8
    - Resident transfer admissions, 88-29b-8a
  - Methods for evaluating qualifications for admission, 88-29b-10
  - Qualifications required for admission,
    - Applicant with 24 or more transferable college credit hours, 88-29b-4
    - Kansas resident age 21 or older, 88-29b-6
    - Kansas resident under the age of 21, 88-29b-5
    - Nonresident age 21 or older, 88-29b-7a
    - Nonresident under the age of 21, 88-29cd7
  - Scope, 88-29b-2
- University of Kansas admissions as of 2021 summer session, 88-29d-1 et seq.
  - Admission policies, 88-29d-9
  - Definitions, 88-29d-1
  - Methods to use when evaluating qualifications for admission, 88-29d-10

**Regents, Kansas Board of—Cont.**

Qualified admission—Cont.

- University of Kansas admissions as of 2021 summer session—Cont.
  - Qualifications required for admission,
    - Kansas resident under the age of 21, 88-29d-5
    - Nonresident under the age of 21, 88-29d-7
- Reduced service program, 88-12-1 et seq.
  - Application procedure, 88-12-3
  - Eligibility, 88-12-1
  - Full time benefits, 88-12-6
  - Modification agreement, 88-12-7
  - Provisions agreement 88-12-5
  - Retirement, 88-12-8
  - Revocability, 88-12-4
  - Voluntariness, 88-12-2
- Registration of courses, out-of-state institutions, 88-15-1, 88-15-2
- Residence fees, procedures, 88-2-1 et seq.
  - Appeals, 88-2-2
  - Classification, 88-2-1
  - Residence committee, 88-2-3
  - Decisions, 88-2-4
- Residency guidelines for students, 88-3-1 et seq.
  - Definitions, 88-3-2
  - Employees, transferred or recruited, 88-3-11
  - Equal treatment, both sexes, 88-3-6
  - Extension of time, 88-3-5
  - High school graduates, Kansas, 88-3-10
  - Information, 88-3-1
  - Institutional personnel, 88-3-9
  - Married persons, 88-3-7
  - Military service, discharge, 88-3-12
  - Military personnel and veterans, 88-3-8, 88-3-8a
  - Special domestic relations circumstances, 88-3-13
  - 12-month, definition, 88-3-3
  - Under 18 years of age, 88-3-4
- Rhodes scholarship program, Kansas, 88-19-1 et seq.
  - Applicant eligibility, 88-19-2
  - Applications, 88-19-3
  - Definitions, 88-19-1
  - Institutional certification, 88-19-4
- ROTC, 88-17-1 et seq.
  - Adjutant general, 88-17-4
  - Definitions, 88-17-1
  - Responsibilities, board of regents, 88-17-2
  - Responsibilities, ROTC institution, 88-17-3
- Student assistance programs, 88-13-1 et seq.
  - Applicant eligibility, 88-13-4, 88-13-5
  - College certification, 88-13-11
  - Confidentiality of information, 88-13-8
  - Definitions, 88-13-1
  - Examination of income tax forms, 88-13-7
  - Financial needs analysis agency, 88-13-2
  - Grant offer, 88-13-10
  - Grant reduction, 88-13-12
  - Hearing procedure, 88-13-6
  - Rosters, 88-13-9
  - State scholar selection, 88-13-3
- Student health insurance program, 88-30-1 et seq.
  - Definitions, 88-30-1
  - Election of coverage, 88-30-2
  - Premiums, payment, 88-30-3

## **Regents, State Board of—Cont.**

- Tax-Sheltered Annuity Program,
  - Employees covered by K.S.A. 74-4925b, 88-11-1 et seq.
    - Agreement and worksheet, 88-11-11
    - Companies authorized to issue annuities, 88-11-6
    - Company selection by employee, 88-11-12
    - Conditions and limitations on program, 88-11-5
    - Contracts, execution, 88-11-3
    - Eligibility, 88-11-2
    - Employee responsibility, 88-11-8
    - Financial officer, powers of, 88-11-4
    - Insurance companies, statements, 88-11-7
    - Salary reduction and annuity purchase requests, 88-11-9
  - Employees covered under K.S.A. 74-4925(1)(a), 88-10-1 et seq.
    - Agreement and worksheet, 88-10-10
    - Companies authorized to issue annuities, 88-10-5
    - Contracts, 88-10-2, 88-10-4
    - Exclusion allowances, 88-10-7
    - Financial officers, powers, 88-10-3
    - Names of agents soliciting business, 88-10-6
    - Purchase, conditions, 88-10-1
    - Salary reduction agreement form, 88-10-8
    - Selection of companies by employee, 88-10-12
- Teacher scholarship program, Kansas, 88-22-1 et seq.
  - Agreement, 88-22-8
  - Award, number available, amount of, 88-22-9
  - Certification, college, 88-22-7
  - Confidentiality of information, 88-22-5
  - Definitions, 88-22-1
  - Eligibility,
    - Application, 88-22-3
    - Qualified students, applicant, 88-22-2
    - Renewal, for, 88-22-4
  - Funds, available, 88-22-6
  - Obligations; repayment; interest, failure to satisfy, 88-22-10
- Traffic, parking, University of Kansas, 88-5-1 et seq.
  - Areas not covered by ordinances, 88-5-4
  - Jurisdiction, city of Lawrence, 88-5-2
  - Penalties, 88-5-3
  - Regulations, where effective, 88-5-1
- Vocational educational scholarship program, 88-9-1 et seq.
  - Applicant eligibility, 88-9-2
  - Applications, 88-9-4
  - Competitive examinations, 88-9-3
  - Definitions, 88-9-1
  - Institutional certification, 88-9-5
  - Scholar selection, 88-9-6
- Work-study, career programs, 88-8-1 et seq.
  - Administrative expenses, 88-8-7
  - Annual report, 88-8-8
  - Applicant eligibility, 88-8-2
  - College certification, 88-8-9
  - Compensation, 88-8-3
  - Contractual agreement, 88-8-4
  - Definitions, 88-8-1
  - Employee displacement, 88-8-6
  - Program availability, 88-8-5

## **Relocation Assistance**

Kansas Department of Transportation, Agency 36

## **Reptiles**

Sale of, 28-1-25  
Kansas Department of Wildlife and Parks, Agency 115

## **Reservoirs**

Disposal, 28-13-1 et seq.  
Sanitation zones, 28-10-15 et seq.  
Kansas Department of Wildlife and Parks, Agency 115

## **Residence**

Students,  
Board of Regents, Agency 88

## **Restaurants**

Food and drinking utensils, sterilization, 28-7-1 et seq.  
Food service establishments,  
Department of Health and Environment, Agency 28  
Sanitary rules, 28-23-1 et seq.

## **Retail Sales, Installment**

State Bank Commissioner—Consumer and Mortgage  
Lending Division, Agency 75

## **Retailers' Sales Tax Act**

Sales tax,  
Department of Revenue, Agency 92

## **Retirement**

Public Employees Retirement System, Kansas,  
Agency 80

## **Revenue, Department of, Agency 92**

Agricultural ethyl alcohol producer incentive,  
92-26-1 et seq.  
Alcoholic Beverage Control, Division of, see  
Agency 14  
Alcoholic liquor, retail excise tax, 92-24-9 et seq.  
Application of tax, 92-24-11  
Assumption of tax by licensee, 92-24-13  
Bond, 92-24-23  
Daily summary, 92-24-17  
Definitions, 92-24-9  
Discontinuing business, 92-24-24  
Inventory, 92-24-18  
Loss through theft or disaster, 92-24-21  
Price listing, 92-24-19  
Records, 92-24-15, 92-24-16  
Registration certificates, 92-24-10  
Returns and payment of tax, 92-24-14  
Sales tax, exempt, 92-24-12  
Tax liability, determination, 92-24-22  
Bingo, 92-23-1 et seq.  
Advertising, 92-23-40  
Bond required, 92-23-17, 92-23-42  
Books and records, 92-23-38  
Definitions, 92-23-41  
Games,  
Cards, hard, 92-23-11, 92-23-31  
Cards, reusable, 92-23-45  
Disputed, 92-23-38a, 92-23-51  
Instant, 92-23-30, 92-23-56

**Revenue, Department of—Cont.**

## Bingo—Cont.

## Games—Cont.

## Numbers,

Displaying called, 92-23-13, 92-23-47

Needed, numbers, 92-23-12, 92-23-50

Wrong number called, 92-23-23, 92-23-48

Persons conducting, 92-23-9, 92-23-41

Schedule of, filing, 92-23-14, 92-23-44

## Winners,

multiple, 92-23-52

verification of, 92-23-10, 92-23-25, 92-23-53

House rules, 92-23-20, 92-23-46

## Licenses,

Game schedules, 92-23-14

Revocation, 92-23-39

Notices to licensees, 92-23-37

Other workers, 92-23-19, 92-23-49

Prize checks, cashing, 92-23-16, 92-23-55

Prize limits, 92-23-22

Prize value, 92-23-21, 82-23-54

Records inspection and preservation 92-23-57

Returns, filing of, 92-23-18, 92-23-39, 92-23-58

Restrictions, 92-23-41

Taxes, remitting, 92-23-39, 92-23-59

Trust accounts, 92-23-15, 92-23-43

Biodiesel fuel producer incentive, qualified,  
92-27-1 et seq.

Application, 92-27-2

Definition, 92-27-1

Funds erroneously paid, 92-27-5

Quarterly reports, filing; deadline, 92-27-3

Record requirements, maintenance, and retention,  
92-27-4

Cereal malt beverage and wine distributors, 92-8-20

Cigarette tax, 92-5-1 et seq.

Compensating tax, 92-20-1 et seq.

Consumable material tax, 92-57-1 et seq.

Certificate of registration, 92-57-2

Definitions, 92-57-1

Inspection access to premises, 92-57-4

Monthly tax returns, 92-57-5

Records required, 92-57-4

Taxes imposed, 92-57-3

Contractors, nonresident, 92-15-1 et seq.

Drivers' licenses, 92-52-1 et seq.

Applications for employment, 92-52-15

Definitions, 92-52-14

Moving violations, 92-52-9, 92-52-9a

Third-party relationship requirement, 92-52-16

Vision exam, standards, 92-52-12

Electronic cigarette tax, See Consumable material  
tax, 92-57-1 et seq.

Estate taxes. See Inheritance taxes, 92-2-54 et seq.

Hearings, 92-1-1 et seq.

Homestead tax relief, 92-22-4 et seq.

Business or rental use, 92-22-5

## Claims,

Complete filing required, 92-22-34

Death of claimant, 92-22-18

Dependent children of claimant, 92-22-33

Extension in filing, 92-22-19

Proof and support of, 92-22-25

Right to file, 92-22-17

**Revenue, Department of—Cont.**

## Homestead tax relief—Cont.

Deadline for filing claims, 92-22-19

Disability, proof, 92-22-8

Domicile, 92-22-4

Temporary absence, 92-22-4

Extension of time for filing claim, 92-22-19

Farm rental constituting homestead, 92-22-22

Furniture, charges for, 92-22-32

Homestead situated upon rental property, 92-22-24

Household income, defined, 92-22-11

Negligent return, penalty, 92-22-28

Ownership, defined, 92-22-12

Personal property, charges for, 92-22-32

Refunds, disbursement of, 92-22-18

Rent constituting property taxes accrued, services,  
92-22-14

Rental and ownership of a homestead, 92-22-23

Rental or business use, 92-22-5

Right to file claim, 92-22-17

Services, charges for, 92-22-32

Ignition interlock devices, 92-56-1 et seq.

Certification and standards, 92-56-2

Definitions, 92-56-1

Device removal, 92-56-8

Inspection and calibration, 92-56-4

Installation, inspection, and calibration standards,  
92-56-4

Installation, proof of, 92-56-9

Insurance, policy limits, 92-56-3

Revocation of certification penalties, 92-56-5

Security, 92-56-7

Service provider; relocation and replacement, 92-56-6

## Income tax,

Abatement of final tax liabilities, 92-12-66a

Accounting methods,

Change, 92-12-19, 92-12-20

Limitation, spreadback rule, 92-12-19

Accounting periods, change, 92-12-16

Adjustment of income by IRS, 92-12-109

Allocation of income earned within and without  
state, 92-12-53

Appeal procedure, 92-12-61

Books and records, examination by director,  
92-12-65

## Business income,

Allocation, 92-12-78

Apportionment, 92-12-76

Formula, 92-12-83

Payroll factor, 92-12-91 et seq.

Property factor, 92-12-84 to 92-12-90

Sales factor, 92-12-95 to 92-12-100

Special rules, 92-12-101, 92-12-102, 92-12-103

Business and nonbusiness income, 92-12-71

Application, 92-12-73

Corporation subject to, 92-12-81

Definitions, 92-12-75

Jurisdiction to subject taxpayer to a net income  
tax, 92-12-82

Proration of deductions, 92-12-74

## Reporting,

Combined income method of reporting,  
92-12-77

Consistency and uniformity, 92-12-79

**Revenue, Department of—Cont.**

Income tax—Cont.  
Business income—Cont.  
Taxable in another state, 92-12-80  
Two or more businesses of a single taxpayer, 92-12-72  
Commercial and industrial machinery and equipment, 92-12-113  
Compromise of taxes, 92-12-66  
Contribution to income, 92-12-105  
Corporations,  
Consolidated returns, 92-12-52, 92-12-106  
Defined, 92-12-8  
Returns, 92-12-55  
Credits against tax, 92-12-11  
Debtor setoff, 92-12-105  
Deductions,  
Medical expenses, 92-12-29  
Standard, resident individual, 92-12-27  
Definitions,  
Business and nonbusiness income, 92-12-71  
Corporation, 92-12-8  
Domicile, 92-12-4  
Director of taxation, powers and duties, 92-12-65  
Estates, returns, 92-12-55  
Estimated tax, 92-11-1 et seq.  
Exempt persons and organizations, 92-12-14  
Forms, 92-12-57  
Individuals,  
Deductions,  
Medical expenses, 92-12-29  
Standard, 92-12-27  
Returns, 92-12-55  
Information returns, 92-12-68  
Partnership, returns, 92-12-55  
Payment of tax, 92-12-58  
Insufficient fund check, 92-12-58  
Qualified expenditures, 92-12-121  
Qualified taxpayer, 92-12-120  
Rates and restrictions, 92-9-6a  
Records, examination by director, 92-12-65  
Required, 92-12-57  
Refunds, claims by taxpayers, 92-12-64  
Residence,  
Establishment, 92-12-5  
Retention by certain individuals, 92-12-6  
Resident individual, 92-12-4a  
Returns,  
Airlines, 92-12-111  
Available, 92-12-56  
Consolidated, 92-12-52  
Corporations, 92-12-52, 92-12-110  
Estimated tax, 92-11-12, 92-11-20  
Filing, extension of time, 92-12-67  
Information returns, 92-12-68  
Partnership returns, 92-12-55  
Rates and restrictions, 92-9-6a  
Required, 92-12-55  
Who must file, 92-12-55  
Sales factor numerator, 92-12-112  
Secretary of revenue, powers, 92-12-65  
Short taxable years, 92-11-24  
Tax credit,  
Amount, 92-12-130  
Definitions, 92-12-140, 92-12-146

**Revenue, Department of—Cont.**

Income tax—Cont.  
Tax credit—Cont.  
Quarterly reports, 92-12-143, 92-12-149  
Reallocation of credits, 92-12-144  
Tax credit agreement, 92-12-141, 92-12-147  
Tax credit application, 92-12-142, 92-12-148  
Transfer of tax credits, 92-12-145  
Trusts, returns, 92-12-55  
Withholding and estimated tax, 92-11-1 et seq.  
Credit against income tax, 92-11-8, 92-11-22  
Determination of tax, 92-11-4  
Nonresidents, 92-11-6  
Residents, 92-11-5  
Early return and payment, power of director, 92-11-14  
Employees information statement, 92-11-7  
Employer,  
Defined, 92-11-2  
Identification number, 92-11-13  
Liability for tax withheld, 92-11-15  
Quarterly return, 92-11-9  
Yearly return, 92-11-11  
Errors in withholding, correction, 92-11-10  
Forms, 92-11-12, 92-11-20  
Nonresidents, amount withheld, 92-11-6  
Payment, time for, 92-11-21  
Requirements, amount withheld, 92-11-5  
Residents, amount withheld, 92-11-5  
Wages, defined, 92-11-3  
Inheritance taxes, 92-2-54 et seq.  
Adjustments of I.R.S., 92-2-83  
Annuities, 92-2-73  
Appointment, powers of, 92-2-75  
Assets, transfer prior to tax payment, 92-2-54  
Charitable distributees, 92-2-60  
Death tax credits, 92-2-63, 92-2-65  
Death, transfers in contemplation of, 92-2-69  
Debts, 92-2-79  
Deductions,  
Expenses and debts, 92-2-79, 92-2-80  
Federal estate tax, 92-2-81  
Proration, 92-2-78  
Distributees,  
Charitable, 92-2-60  
Class A, prior transfers, 92-2-57  
Election, qualified terminable interest, 92-2-61  
Exclusions, 92-2-68  
Expenses and debts, deductions, 92-2-79, 92-2-80  
Family settlement agreements, 92-2-56  
Federal estate taxes, 92-2-81  
Fees, overpayment, 92-2-84  
Filing returns, 92-2-82  
Gross estate exclusions, 92-2-68  
Income tax, expenses not allowable as deductions for, 92-2-80  
Insurance proceeds, life, 92-2-76  
I.R.S., adjustments of, 92-2-83  
Joint tenancy, 92-2-74  
Liens, 92-2-82  
Life insurance proceeds, 92-2-76  
Powers of appointment, 92-2-75  
Property, valuation of, 92-2-66, 92-2-67  
Returns, filing of, 92-2-82  
Spouses, surviving, 92-2-59

**Revenue, Department of—Cont.**

- Inheritance taxes—Cont.
  - Tax,
    - Additional, death tax credit, 92-2-63
    - Minimum, 92-2-64
    - Payment, 92-2-82
    - Proration of death tax credit, 92-2-65
    - Residue, 92-2-62
    - Return, 92-2-82
  - Terminable interest, qualified, 92-2-61
- Transfers,
  - Effective at death, 92-2-71
  - In contemplation of death, 92-2-69
  - Insufficient consideration, 92-2-77
  - Life estate retained, 92-2-70
  - Revocable, 92-2-72
- Valuation,
  - Closely held business properties, 92-2-67
  - Farms, certain, 92-2-67
  - Property, 92-2-66
- Will, debts forgiven by, 92-2-58
- Installation, maintenance, repair of personal property, 92-21-18
- Interstate motor fuel use tax, 92-13-1 et seq.
- Kansas retailers' sales tax. See Sales tax, Kansas.
- Leases and rentals, application of local sales tax, 92-21-17
- Leases on navigable streams,
  - Bids, public, 92-9-1
  - Cancellation, 92-9-7
  - Cash bonus, 92-9-2
  - Exemptions, sale of sand, 92-9-8
  - Location of operations, notice, 92-9-5
  - Rental, 92-9-2
  - Returns, rates and restrictions, 92-9-6a
  - Surveys, 92-9-3
  - Wells, operation, 92-9-4
- Liquefied petroleum fuel tax,
  - Bond requirements, 92-14-8
  - Compressed natural gas, conversion formula, 92-14-9
  - License applications, 92-14-8
  - Motor vehicles, 92-50-42
  - Records, 92-14-5
  - Sales to special permit users, 92-14-6
  - Special LP-gas permits, 92-14-7
  - Withdrawal for use in motor vehicle propelling carrier, 92-14-4
- Liquor, retail excise tax. See Alcoholic liquor, 92-24-9 et seq.
- Local retailers' sales tax. See Sales tax, local.
- Motor fuel tax,
  - Bonds and licenses, 92-3-17a
  - Books and records, 92-3-16, 92-3-20
  - Deliveries, certain, 92-3-9a
  - Distributors, principal business, 92-3-19
  - Exemption on export, 92-3-4
  - Licenses and bonds, 92-3-17a
  - Liquefied petroleum fuel tax, 92-50-42
  - Refunds, 92-3-20
  - Special fuel tax, 92-18-1 et seq.
  - Vehicle tanks carrying liquid fuel,
    - Calibration unit numbers, 92-3-14
    - Delivery apparatus, 92-3-7

**Revenue, Department of—Cont.**

- Motor fuel tax—Cont.
    - Vehicle tanks carrying liquid fuel—Cont.
      - Marking, 92-3-6
        - Capacity markers, 92-3-10, 92-3-11
        - Certificate, identification, capacity, 92-3-11
        - Remarking when damaged, 92-3-12a
  - Motor vehicle inventory tax,
    - Gross weight, defined, 92-53-1
  - Stamps,
    - Combination of stamps, 92-53-5
  - Placement,
    - Kansas title, 92-53-3
    - Manufacturer's statement of origin or foreign title, 92-53-4
  - Purchase and transfer, 92-53-7
  - Tax costs, 92-53-6
  - Validation by dealer, 92-53-2
- Motor vehicle registration,  
See also Department of Transportation, Agency 36
- Apportioned fleet registration,
    - Audits, 92-51-60
    - Commercial vehicles, 92-51-52
    - Estimated miles, 92-51-52
    - Exemptions, 92-51-53
    - Fees, 92-51-59
    - Leasing rules, 92-51-56
    - Mileage records, 92-51-60
    - Mileage reporting period, 92-51-50
    - Proration registration cab card, 92-51-61
    - Temporary proration authorization, 92-51-57
    - Title to fleet vehicles, 92-51-62
    - Total fleet miles, 92-51-51
  - City and county vehicles, 92-51-41
  - Farm trucks, 92-51-36
  - Fees, 92-51-22
    - Refund, 92-51-30
    - Title and registration; refunds, 92-51-39
  - Handicapped, 92-51-40
  - Interstate permit, 92-51-58
  - Law enforcement vehicles, unmarked, 92-51-41a
  - License plates, new issuance, 92-51-34, 92-51-34a
  - Mobile home registration plates, display, 92-51-33
  - Odometer, disclosure statement, 92-51-42
  - Period of, 92-51-22
  - Personalized, educational institution, and shriners' plates,
    - Lost or stolen, 92-51-37
    - Unclaimed, 92-51-38
  - Prisoner of war plates, 92-51-35
  - Prorate fleet composition, 92-51-55
  - Refund of fees, 92-51-30
  - Six thousand mile requirement, 92-51-32
  - Staggered system, 92-51-21
  - Temporary registrations, 92-51-31
- Titles and registration,
  - Correction of title, 92-51-26
  - Electronic titles, printing, 92-51-28
  - Foreign vehicles, 92-51-25, 92-51-25a
  - Mailing, 92-51-24
  - Manufactured or mobile home, eliminating, 92-51-29
  - Nonnegotiable title, 92-51-27
- Transfer of plates, 92-51-23
  - Trucks, farm and truck tractors, 92-51-36

**Revenue, Department of—Cont.**

- Motor vehicle taxation,
  - Apportionment of tax receipts, 92-55-8
  - Dealer-owned vehicles, 92-55-5
  - Definitions, 92-55-1
  - Distribution of tax receipts, 92-55-7
  - Estimated receipts in budget preparation, 92-55-9
  - Refund not authorized, 92-55-4
  - Refund of tax, application, 92-55-3
  - Remittance and collection of tax and registration fee, 92-55-6
  - Valuation, classification, 92-55-2
  - Vehicles registered in more than one state, 92-55-10
- Oil and gas leases, navigable streams, 92-9-1 et seq.
- Raffles, charitable, 92-23-70 et seq.
  - Conduction of, 92-23-73
  - Definitions, 92-23-70
  - Licensing requirements, renewals, 92-23-71
  - Prizes, 92-23-74
  - Reporting requirements, recordkeeping, 92-23-75
  - Ticket requirements, 92-23-72
- Retail dealer incentive, 92-28-1 et seq.
  - Definition, 92-28-1
  - Filing of quarterly reports; deadline, 92-28-2
  - Funds erroneously paid; informal conferences, 92-28-4
  - Record requirements, 92-28-3
- Sales tax, Kansas, 92-19-1a et seq.
  - Abatement of final tax liabilities, 92-19-81
  - Accounting periods, requirements, 92-19-74
  - Admissions, 92-19-22, 92-19-22a
  - Agency relationships, 92-19-52
  - Amount of, computation, 92-19-1a
  - Antiques, coins, stamps, etc., 92-19-56
  - Assessment, limitations on, 92-19-63
  - Audits, 92-19-44, 92-19-45
  - Bad debts, allowances for, 92-19-3b
  - Books and records, inspection, preservation, 92-19-4a
  - Caterers, 92-19-69
  - Cellular, mobile phones, beepers, 92-19-71
  - Coin operated devices, 92-19-23, 92-19-23a
  - Coins, antiques, stamps, etc., 92-19-56
  - Collection schedules, 92-19-1b
  - Component part, 92-19-54
  - Computer software, 92-19-70
  - Consigned merchandise, sale of, 92-19-8
  - Consumed in production, 92-19-53
  - Contractors and subcontractors, repairmen, 92-19-66
  - Corporate officer liability, 92-19-64
  - Corporations, not-for-profit, 92-19-67
  - Credit, conditional and installment sales, 92-19-3, 92-19-3a
  - Direct pay permits, 92-19-82
  - Educational institutions, defined, 92-19-75
  - Electricity,
    - Agricultural use, 92-19-39
    - Consumed in production, 92-19-20
    - Florists, 92-19-13
    - Residential premises, 92-19-37
  - Equipment, tools, 92-19-66c
  - Exemption, 92-19-25a, 92-19-25b, 92-19-34
  - Extensions, 92-19-5, 92-19-5a
    - Permanent extensions of time to file returns, 92-19-33

**Revenue, Department of—Cont.**

- Sales tax, Kansas—Cont.
  - Farm machinery and equipment, used, 92-19-32
  - Florists, nurserymen, greenhouses, 92-19-13, 92-19-13a
  - Food, refund of sales tax paid, 92-19-200 et seq.
  - Fuels, 92-19-57
  - Funeral directors, 92-19-15
  - Gas,
    - Agricultural use, 92-19-39
    - Consumed in production, 92-19-20
    - Florists, 92-19-13
    - Fuels, 92-19-57
    - Residential premises, 92-19-37
  - Gifts, premiums, prizes, coupons, and rebates, 92-19-16a, 92-19-16b
  - Gifts, premiums, prizes, trading stamps, 92-19-16
  - Gratuities, similar charges, 92-19-51
  - Hotels, renting of rooms, 92-19-24
  - Housing, factory built and manufactured, 92-19-66d
  - Ingredient or component part, 92-19-54
  - Interest and penalties, late returns, failure to file, 92-19-78
  - Interstate commerce, sales in, 92-19-29
  - Isolated sales, 92-19-34
  - Jeopardy assessments, 92-19-36
  - Labor services, 92-19-66b
  - Leased departments, 92-19-7
  - Leases, rentals, 92-19-55, 92-19-55a
  - Magazines, periodicals, 92-19-12
  - Meals or drinks, 92-19-21
  - Medical equipment, supplies, 92-19-65
  - Memberships, 92-19-73
  - Minimum charges, similar charges, 92-19-51
  - Mobile, cellular phones, beepers, 92-19-71
  - Motor carriers, 92-19-28
  - Motor vehicles, 92-19-30a
    - Fuels, 92-19-57
    - Isolated or occasional sales, 92-19-30
    - Manufacturers' rebates, 92-19-16b
    - Registration by licensed dealer, 92-19-43
  - Not-for-profit corporations, other organizations, 92-19-67
  - Occasional sales, 92-19-34
  - Oil, gas, waterwells, 92-19-79
  - Operating leases, 92-19-55b
  - Political subdivisions, sales to, 92-19-76
  - Presumption of taxability, 92-19-61, 92-19-61a
  - Production, consumed in, 92-19-53
  - Project exemptions, 92-19-66a, 92-19-66e
  - Quitting or changing business, duties, 92-19-6, 92-19-6a
  - Recordkeeping requirements, 92-19-4b
  - Recreational activities, charges for participation, 92-19-22b
  - Refunds and credits, 92-19-49, 92-19-49a, 92-19-49b, 92-19-49c, 92-19-49d
  - Registration certificate, 92-19-2a, 92-19-35
  - Related entities, 92-19-72
  - Rentals, leases, 92-19-55
  - Repairmen, 92-19-41
  - Repossessed goods, 92-19-3c
  - Repossessed property, 92-19-10
  - Resale, sales for, 92-19-27a

**Revenue, Department of—Cont.**

## Sales tax, Kansas—Cont.

- Residential premises,
  - Natural gas, electricity, heat and water, 92-19-37
  - Propane, LP-gas, coal and wood, 92-19-38
- Responsible individuals, 92-19-64a
- Retailer, defined, 92-19-47
- Retailer's responsibility to collect, 92-19-61a
- Returns, interest and penalties, 92-19-78
- Revenue rulings, defined, 92-19-58, 92-19-59
- Securities, bonds, escrow, 92-19-35a
- Selling price, defined, 92-19-46
- Service and maintenance contracts, 92-19-62
- Service charges, similar charges, 92-19-51
- Signs, sale of, 92-19-18, 92-19-18a
- Stamps, coins, antiques, etc., 92-19-56
- Stocks of goods, use or consumption by retailer
  - or wholesaler, 92-19-11
- Telephone and telegraph services, 92-19-19, 92-19-40
- Temporary service providers, 92-19-68
- Third party lessors, 92-19-50
- Tools, equipment, 92-19-66c
- Undertakers, funeral directors, 92-19-15
- United States, sales to, 92-19-77
- Use or consumption of stock by retailer or
  - wholesaler, 92-19-11
- Utilities, 92-19-20
- Veterinarians, sale of certain drugs to, exempt, 92-19-42
- Warranties, service and maintenance contracts, 92-19-62
- Water,
  - Agricultural use, 92-19-39
  - Consumed in production, 92-19-20
  - Florists, 92-19-13
  - Residential premises, 92-19-37
- Wells, oil, gas, water, 92-19-79
- Wholesalers and distributors, sales by, 92-19-2
- Sales tax, local, 92-21-1 et seq.
  - Amount, computation of, 92-21-21
  - Application, 92-21-8
    - Delivery only, 92-21-8
    - Gross receipts, 92-21-19
  - Interest, penalties, limitations, procedure, 92-21-4
  - Place of business,
    - Auctioneers, 92-21-12
    - Retailers, out-of-state, 92-21-10
    - Sales from vehicle, 92-21-14
    - Vending machines, 92-21-13
  - Place of sale, 92-21-7
    - Common carriers, meals, food, drinks, 92-21-15
    - Leases and rentals, 92-21-17
    - Motor vehicles or trailers, isolated or occasional sale, 92-21-16
    - No fixed place of business, 92-21-11
    - Telephone, gas, water, electricity, heat, 92-21-9
  - Retailers, registration, 92-21-3
  - Returns, filing of, 92-21-5
  - State regulations, 92-21-1
- Sand, navigable streams, 92-9-6
- Sight clearance certification, 92-54-1 et seq.
  - Hearing procedure, 92-54-5
  - Oaths, subpoenas, 92-54-4
  - Revocation,
    - Grounds, 92-54-2
    - Notice and hearing, 92-54-1
  - Visual display, 92-54-3

**Revenue, Department of—Cont.**

## Solar tax incentives, 92-12a-1 et seq.

- Acquisition year, 92-12a-20
- Additions to solar systems, 92-12a-21
- Credit claimed by spouse, 92-12a-23
- Daytime collection units, 92-12a-4
- Definitions, 92-12a-1
- Eligible energy systems, 92-12a-2
- Multiple system equipment, 92-12a-22
- Passive aperture criteria, 92-12a-3
- Passive solar direct gain systems,
  - Claimable costs, 92-12a-6, 92-12a-15
  - Eligibility criteria, 92-12a-5, 92-12a-14
- Passive solar indirect gain systems,
  - Claimable costs, 92-12a-8, 92-12a-17
  - Eligibility criteria, 92-12a-7, 92-12a-16
- Passive solar isolated gain systems,
  - Claimable costs, 92-12a-10, 92-12a-19
  - Eligibility criteria, 92-12a-9, 92-12a-18
- Passive solar temperature control elements,
  - Claimable costs, 92-12a-13
  - Eligibility criteria, 92-12a-13
- Passive solar thermosiphon systems,
  - Claimable costs, 92-12a-12
  - Eligibility criteria, 92-12a-11
- Special fuel tax, 92-18-1 et seq.
- Tobacco products tax,
  - Bonds, 92-17-4
  - Cancellation, 92-17-5
  - Definitions, 92-17-1
  - Exempt products, 92-17-6
  - Imposition, 92-17-2
  - License applications and forms, 92-17-3
  - Refunds and credits, 92-17-6
- Transient guest tax, 92-25-1
- Vision exams, standards for, 92-52-12
- Wine and cereal malt beverage distributors, 92-8-20
- Withholding tax, 92-11-1 et seq.

**Rivers and Streams**

- Minerals and natural products, leases, 92-9-1 et seq.
- Sewage discharge, 28-16-1 et seq.
- Water quality criteria, 28-16-28

**Roads and Highways**

- Flammable liquids.
- State Fire Marshal, Agency 22
- Interstate highways, right-of-way, use, 36-14-1
- Kansas Department of Transportation, Agency 36
- Kansas Turnpike Authority, Agency 39

**Roofing Contractors**

- Attorney General, Agency 16

**Rooming Houses**

- Lodging,
  - Department of Health and Environment, Agency 28

**S****Salaries**

- Compensation and salaries,
  - Department of Administration, Agency 1

## **Sales Tax**

Compensating tax, 92-20-1 et seq.  
Kansas sales tax, 92-19-1 et seq.  
Local sales tax, 92-21-1 et seq.

## **Sand**

Navigable stream beds, 92-9-6

## **Sanitation**

Bakeries, 28-23-22 et seq.  
Barbershops, 61-1-1 et seq.  
Cosmetologists, 28-24-1 et seq.  
Cups, common drinking, 28-6-1, 28-23-14  
Food, drink stands, 28-23-60 et seq.  
Food, drug establishments, 28-23-1 et seq.  
Food and drinking utensils, 28-7-1 et seq.  
Reservoirs, sanitation zones, 28-10-15 et seq.

## **Savings and Loan Department, Agency 38**

Accounts or deposits not insured, notice, 38-3-1 et seq.  
Presentations, 38-3-1, 38-3-2, 38-3-3

Agents of associations, 38-2-1 et seq.  
Advertising, use of agent's name, 38-2-7  
Collections, 38-2-5

## **Savings and Loan Department—Cont.**

Agents of associations—Cont.

Designation, 38-2-1  
Notification required, 38-2-2  
Remuneration, 38-2-6  
Restricted activities, 38-2-4  
Written agreements required, 38-2-3  
Branch offices, 38-1-1 et seq.  
Application, processing, 38-1-3  
Decision, 38-1-5  
Hearing, 38-1-4  
Establishment of, 38-1-1  
Relocation of, 38-1-2

Interstate branching, 38-10-1 et seq.

Non-Kansas associations,  
Establishment of, 38-10-4  
Examinations, 38-10-7  
Fees, 38-10-6  
Rights of, 38-10-5

State-chartered associations,  
Fees, 38-10-3  
Permission to establish, 38-10-1  
Rights, 38-10-2

Loans,

Line of credit, real estate loans, 38-5-1  
Mobile home financing, 38-8-1

Safety deposit boxes, 38-9-1

Unsecured loans for property alteration, 38-4-1

## **Savings Bonds**

Deduction program, 1-21-1 et seq.

## **Scholarship Program, Kansas**

Board of Regents, Agency 88

## **School Retirement Board**

Public Employees Retirement System, Agency 80

## **Schools and School Districts**

Board of Regents, Agency 88  
Community colleges, accrediting, 91-8-1 et seq.  
Driver education, 91-5-1 et seq.  
Drivers' training schools, commercial, 91-7-1 et seq.  
G.E.D. tests, 91-10-1, 91-10-2  
Immunizations required for school entry, 28-1-20  
Nonprofit food service programs, 91-26-1 et seq.  
Optometry, 65-5-4  
Scholarship program, Kansas, 88-13-1 et seq.  
Special education,  
Department of Education, Agency 91  
Vocational education, 91-16-1 et seq.

## **Scrap Metal Dealers**

Attorney General, Agency 16  
Kansas Bureau of Investigation, Agency 10

## **Secretary of State, Agency 7**

Absentee and advance voting, 7-36-1 et seq.  
Ballot, absentee and advance,  
Applications, processing, 7-36-7  
Counting, 7-36-5  
Envelopes, 7-36-1  
List with voting place, advance, 7-36-6  
Uniformed and overseas citizens absentee voting  
act, 7-36-8  
Voter, absentee and advance,  
Assistance, 7-36-3  
Classification as permanent, 7-36-2  
Lists, 7-36-4

Address confidentiality program, 7-44-1 et seq.  
Certification, renewal and cancellation, 7-44-6  
Definitions, 7-44-1  
Enrolling agent registration, 7-44-2  
Enrolling assistant training, 7-44-3  
Law enforcement agencies, information released  
to, 7-44-4

Mail, forwardable, 7-44-5  
Voting process, 7-44-7  
Athlete Agent Act, Kansas, 7-18-1 et seq.  
Contracts, 7-18-3  
Forms, 7-18-2  
Registration; renewal; expiration, 7-18-1

Audit implementation, 7-47-1  
Ballots, 7-29-2

Census adjustment, 7-35-1 et seq.  
Federal census data, 7-35-1  
Questionnaires, 7-35-2

Certificates,  
Election, 7-26-2  
Nomination, 7-26-1

Charitable organizations, 7-42-1 et seq.  
Changes to registration, 7-42-5  
Charitable organizations; registration, 7-42-1  
Professional fund raisers; annual report, 7-42-3  
Professional fund raisers; registration, 7-42-2  
Professional solicitors; registration, 7-42-4

Election board workers,  
Oversight of authorized poll agents, 7-45-2  
Shifts, modified, 7-45-1

Elections,  
Abstracts of votes cast, certification, 7-25-1  
Audits, 7-47-1

**Secretary of State—Cont.**

- Elections—Cont.
  - Hours of, 7-20-1
- Electronic filing, 7-19-1 et seq.
  - ANSI standards, 7-19-7
  - Authorized user, 7-19-2
  - Contents of transmission, 7-19-3
  - Date and fee of filing, 7-19-6
  - Definitions, 7-19-1
  - Secured party,
    - Identification of, 7-19-5
    - Signature of debtor and, 7-19-4
- Electronic notarization, 7-43-1 et seq.
  - Applicability of statutes, 7-43-6
  - Definitions, 7-43-1
  - Form of evidence of authenticity of electronic notarial act, 7-43-5
  - Notarization requirements, 7-43-3
  - Personal appearance requirement, 7-43-4
  - Registration requirements, 7-43-2
- Fees,
  - Computer access, 7-33-2
  - Confidentiality application fee, 7-34-1
  - Corporation filing fees, 7-34-2
  - Information, 7-33-1
  - Information and services, 7-16-1
  - Technology communication, 7-16-2
- Land surveys,
  - Corners, 7-31-1, 7-31-2
  - Filing fees, 7-31-4
- Law books, delivery, 7-32-1
  - Administrative regulations, prices, 7-32-2
- Motor voter, 7-37-1 et seq.
  - Voter registration; department of revenue; division of vehicles, 7-37-1
    - Electronic transmission of data, 7-37-2
- National Voter Registration Act (NVRA), 7-38-1 et seq.
  - Reporting requirements, 7-38-2
  - Systematic list maintenance; files, 7-38-1
- Party affiliation lists, 7-27-1
- Petitions, sufficiency of, 7-28-1
- Photographic identification requirements, 7-46-1 et seq.
  - Declarations of religious objection, 7-46-3
  - Election board worker assessment of validity of documents, 7-46-2
  - Postelection submission of photographic identification by provisional voter, 7-46-1
- Reference reports, 7-31-3
- Session laws, price, 7-30-1
- Supplies for voting places,
  - Number of ballot boxes, 7-24-1
  - Receipts and records, 7-24-2
- Trademark act, 7-40-1
- Uniform commercial code, 7-17-1 et seq.
  - Bankruptcy, notice of, 7-17-20
  - Definitions, 7-17-1
  - Delivery of records, 7-17-2
  - Fees, 7-17-4
    - Methods of payment, 7-17-5
    - Overpayment and underpayment, 7-17-6
  - Filing,
    - Deadline for continuation statement, 7-17-18
    - Deadline to refuse, 7-17-10
    - Defects, 7-17-9
      - Notification of, 7-17-8

**Secretary of State—Cont.**

- Uniform commercial code—Cont.
  - Filing—Cont.
    - Errors in, 7-17-19
    - Office data entry, 7-17-11
    - Officer's duties deemed ministerial, 7-17-7
  - Forms, 7-17-3
  - Searches, 7-17-21
    - Logic, 7-17-22
    - Reports, 7-17-23
    - Unofficial, 7-17-24
  - Status of parties upon filing,
    - Amendment, 7-17-13
    - Assignment, 7-17-14
    - Continuation statement, 7-17-15
    - Correction statement, 7-17-17
    - Initial financing statement, 7-17-12
    - Termination statement, 7-17-16
- Uniform electronic transactions act, 7-41-1 et seq.
  - Registered certification authority,
    - Agreements; registration authority; local registration authority, 7-41-32
    - Certificate; format and name, 7-41-34
    - Certificate renewal, updating, and routine rekeying, 7-41-31
    - Certification practice statements, 7-41-5
    - Changes to information, 7-41-6
    - Civil penalties, 7-41-9
    - Definitions, 7-41-1
    - Financial security,
      - Evidence of, 7-41-4
      - Recovery against, 7-41-11
    - Grounds for lapse of registration, 7-41-8
    - ITEC certificate policy, 7-41-35
    - Identification and authentication,
      - Certificate security levels, 7-41-30
      - Initial registration, 7-41-24
      - Name interpretation and subordination, 7-41-27
      - Procedures, 7-41-29
      - Recognition and authentication of trademarks, 7-41-28
      - Required components of name, 7-41-26
      - Types of names, 7-41-25
    - Original registration; renewal; expiration, 7-41-2
    - Picture identification credentials, 7-41-33
    - Procedure upon discontinuance of business, 7-41-10
    - Reciprocity, 7-41-12
    - Recordkeeping and retention of documents, 7-41-7
    - Registration authority and local registration authority,
      - Certification, 7-41-17
      - Compliance, 7-41-15
      - Equipment security and physical access, 7-41-20
      - General responsibilities, 7-41-16
      - Information confidentiality, access, classification, verification, correction, and revision, 7-41-18
      - Personnel; qualifications and requirements, 7-41-21
      - Private key archiving, 7-41-22
      - Private key use; restrictions, 7-41-23
      - Security procedures, 7-41-19

## **Secretary of State—Cont.**

Uniform electronic transactions act—Cont.

Registration authority—Cont.

Registration forms, 7-41-3

State agency; compliance, 7-41-14

Subscriber information, use of, 7-41-13

Uniform partnership act, 7-39-1 et seq.

Filing fees, 7-39-1

Voter registration,

Address, sufficiency of, 7-23-12

Central format, 7-23-13

Citizenship documents, 7-23-14

Incomplete applications, 7-23-15

Notice of places and dates of, 7-23-4

Publication of additional places, 7-23-7

Records, 7-23-2

Residence, change of and proof of, 7-23-8

Special election, additional hours not required, 7-23-6

Voting equipment,

Manual count of paper ballots, 7-21-4

Preparation of machines, 7-21-2

Replacement of machines, 7-21-3

Security, 7-21-2

Storage, 7-21-1

## **Securities Commissioner, Office of the, Agency 81**

Administrative procedure, 81-11-2 through 81-11-12,  
81-30-1

Advertising, 81-10-1, 81-27-1

Approval, 81-27-2

Approval standards, 81-24-1 et seq.

Administrative intent, 81-24-1

Deficiency, notice, 81-24-2

Safeguards, 81-24-3

Contracts, deeds, and titles, 81-26-1

Definitions, 81-1-1, 81-21-1

Effectiveness, 81-28-1, 81-28-2

Effectiveness and post-effective requirements, 81-8-1

Exemptions, 81-5-1 et seq.

Accredited investor, 81-5-13

Blue chip, 81-5-1

Commercial paper, 81-5-11

Cross-border trading, 81-5-19

Exchange, 81-5-7

Fees for exemption filing and interpretive opinions,  
81-5-8

Financial institution, 81-5-5

Internet communication, 81-5-16

Invest Kansas, 81-5-21

Isolated nonissuer transaction, 81-5-3

Kansas venture capital inc., 81-5-20

Limited offering, uniform, 81-5-6

Notice filings and fees for offerings of investment  
company securities, 81-5-14

Notice filings and fees for rule 506 offerings,  
81-5-15

Notice filing requirements for securities of  
agricultural associations, 81-5-18

Oil and gas, 81-5-10

Open-end management investments, 81-5-9

Religious, non-profit, 81-5-2

Solicitations of interest, 81-5-12

## **Securities Commissioner, Office of the—Cont.**

Exemptions—Cont.

Standard manuals, 81-5-17

Unsolicited order, 81-5-4

Fees, registration and forms, 81-23-1, 81-23-2, 81-23-3

Filing, fees, and forms, 81-2-1

Instruction programs, 81-13-1

Investment advisers and investment adviser  
representatives, 81-14-1 et seq.

Contracts, 81-14-3

Custody of client funds or securities, 81-14-9

Dishonest and unethical practices, 81-14-5

Electronic filing, 81-14-6

Kansas private adviser exemption, 81-14-11

Notice filing requirements for federal covered  
advisers, 81-14-7

Operational requirements, 81-14-10

Persons employed by or associated with federal  
covered advisers, 81-14-8

Recordkeeping requirements, 81-14-4

Registration fees, 81-14-2

Registration procedures, 81-14-1

Kansas Land Sales Practices Act, 81-20-1, 81-20-2

Licensing, brokers-dealers, agents, 81-3-1 et seq.

Prospectus, 81-6-1

Public offering statements, 81-25-1 et seq.

Content, 81-25-2

Form, 81-25-4

Policy, 81-25-1

Use of, 81-25-3

Registration, policy relating to, 81-7-1 et seq.

Registration, procedures, 81-22-1 et seq.

Amendments, 81-22-3

Applications for, 81-22-1

Consolidated procedure, 81-22-2

Reporting requirements, 81-29-1, 81-29-2

Reports, annual, 81-9-1

Securities, registration of, 81-4-1

Not-for-profit issuers, 81-4-4

Registration, small company offering, 81-4-2

Series and portfolios, registration of, 81-4-3

## **Seed**

Board of Agriculture, 4-2-1 et seq.

## **Sewage Disposal**

Department of Health and Environment, Agency 28

## **Sheep**

Animal Health Department, Agency 9

## **Social and Rehabilitation Services, Department of, Agency 30**

See Children and Families, Kansas Department for,  
Agency 30

## **Solar Energy**

Tax incentives, 92-12a-1 et seq.

## **Soldiers' Home**

Kansas Commission on Veterans' Affairs, Agency 97

**State Employees Health Care Commission, Kansas, Agency 108**

Benefits program, eligibility, 108-1-1  
Local unit of government employee health care benefits plan, 108-1-4  
School district employee health care benefits plan, 108-1-3  
Student health care benefits plan, 108-1-2

**State Fair Board, Kansas, Agency 116**

Camping, tent, 116-4-1 et seq.  
Cereal malt beverages,  
Definitions, 116-1-1  
Sale and consumption of, 116-1-2  
Pets on fair grounds, 116-2-1  
Soliciting and advertising, 116-3-2  
Definitions, 116-3-1

**State Library, Agency 54**

Blind and physically handicapped, subregional libraries,  
Definitions, 54-3-1  
Grants,  
Determining, procedures, 54-3-3  
Eligibility, 54-3-2  
Children's internet protection; public library requirements,  
Public library internet access policy, 54-4-1  
Publication collection and depository system,  
Agency lists of publications, 54-2-7  
Complete depository library, defined, 54-2-3  
Deposit by state agency, 54-2-1  
Distribution of publications, 54-2-2  
Item numbers, assignment, 54-2-6  
Requests for publications, 54-2-5  
Selective depository library, defined, 54-2-4  
Regional system of cooperation libraries,  
Administrative center, 54-1-9  
Admission to, 54-1-3  
Annual program, 54-1-5  
Annual reports, 54-1-10  
Audit, annual, 54-1-6  
Civil rights, compliance, 54-1-4  
Contracts, 54-1-20  
Establishment, 54-1-1  
Exclusion from, 54-1-21  
Free service provision, 54-1-8  
Grants, 54-1-11  
Inclusion, 54-1-22  
Grant-in-aid fund, allocation, 54-1-23  
Name of system, 54-1-16  
Personnel, 54-1-7  
Petition to participate, 54-1-3  
Private libraries, 54-1-18  
Program, annual, 54-1-5  
Resolution, 54-1-2  
School or college libraries, 54-1-19  
Withdrawal from system, 54-1-12, 54-1-17  
Consultation with system board, 54-1-13  
Hearing, 54-1-14  
Property, transfer, 54-1-15

**State Records Board, Agency 53**

General records retention and disposition schedule for state agencies, 53-3-1  
Records officer, 53-4-1

**State Treasurer, Agency 3**

Linked deposit loan programs, 3-3-1 et seq.  
Agricultural production loans, 3-3-1  
Housing loans, Kansas, 3-3-2  
Low-Income Family Postsecondary Savings Accounts Incentive Program, 3-4-1 et seq.  
Applications, 3-4-3  
Definitions, 3-4-1  
Eligibility period, 3-4-4  
Eligibility requirements, 3-4-2  
Forfeit of matching grant funds, 3-4-7  
Matching grant accounts, 3-4-5  
Multiple accounts, 3-4-6  
Postsecondary education savings program,  
Excess contributions, 3-2-2  
No guarantee of principal or earnings, 3-2-1  
Withdrawals, 3-2-3  
Unclaimed property, disposition, 3-1-1 et seq.  
Action by holder, 3-1-4  
Charges, 3-1-3  
Definitions, 3-1-2  
Time limits, 3-1-1

**Statehouse**

Conduct of persons, 1-49-1 et seq.  
Parking, 1-46-1 et seq.

**Surety Bonds and Insurance, Committee on, Agency 131**

Definitions, 131-1-1 et seq.  
Purchase, 131-1-1

**Swine**

Animal Health Department, Agency 9

**Syphilis**

Laboratories performing tests, 28-33-1 et seq.

**T**

**Tanning Facilities**

Board of Cosmetology, Agency 69

**Tax Appeals, State Board of, Agency 94**

Court member continued education, 94-4-1 et seq.  
Administration, 94-4-2  
Court judge continued education, 94-4-1  
Economic development revenue bonds, 94-3-1 et seq.  
Definition of, 94-3-1  
Filing fees and forms, 94-3-2  
Proceedings before board, 94-2-1 et seq.  
Business records, confidential, 94-2-14  
Continuances, 94-2-15  
Definitions, 94-2-1  
Discovery procedure, 94-2-8  
Dismissals, 94-2-16  
Electronic mail filing, 94-2-20  
Exchange of evidence and witness lists, 94-2-13  
Facsimile filing, 94-2-19  
Filing fees, 94-2-21  
Hearing procedure, 94-2-10  
Information and assistance, 94-2-2

## **Tax Appeals, State Board of—Cont.**

- Proceedings before board—Cont.
  - Intervention and joinder, 94-2-7
  - Orders of the court, 94-2-12
  - Petitions for reconsideration, 94-2-11
- Pleadings,
  - Form, 94-2-3
  - Prehearing conference procedure, 94-2-6
  - Procedure, time limits, 94-2-4
  - Service, 94-2-5
  - Subpoenas, 94-2-9
- Stipulations, 94-2-18
- Waivers, 94-2-17
- Proceedings before the court, 94-5-1 et seq.
  - Authorized representation, 94-5-6
  - Commencement of action; pleadings, 94-5-4
  - Confidentiality, 94-5-12
  - Consolidation, 94-5-14
  - Continuances, 94-5-20
  - Court regulations and procedures, 94-5-1
  - Definitions, 94-5-2
  - Discovery, 94-5-16
  - Evidence, 94-5-23
  - Exchange of evidence and witness lists, 94-5-21
  - Failure to appear, 94-5-24
- Filing,
  - Electronic mail filings, 94-5-10
  - Facsimile filing, 94-5-11
  - Filing fees, 94-5-8
  - Filing procedures; time limitations, 94-5-9
- Information and assistance to self-represented litigants, 94-5-7
- Intervention; joinder, 94-5-13
- Motion practice, 94-5-15
- Petitions for reconsideration, 94-5-25
- Prehearing conferences, 94-5-19
- Service, 94-5-3
- Signatures of parties or counsel, 94-5-5
- Stipulations, 94-5-18
- Subpoenas, 94-5-17

## **Taxation**

- Alcoholic beverages,
  - Division of Alcoholic Beverage Control—
    - Department of Revenue, Agency 14
- Court of Tax Appeals, Agency 94
- Department of Revenue, Agency 92

## **Teachers**

- Board of Regents, Agency 88
- Department of Education, Agency 91
- Retirement system, 80-45-1 et seq.

## **Technical Colleges**

- Board of Regents, Agency 88

## **Technical Professions, State Board of, Agency 66**

- Applications, 66-7-1 et seq.
  - Civil and criminal records, 66-7-4
- Certificates,
  - Intern engineer, 66-11-1
  - Intern geologist, 66-11-1a
  - Intern land surveyor, 66-11-1b

## **Technical Professions, State Board of—Cont.**

- Continuing education requirements, 66-14-1 et seq.
  - Activities, 66-14-3
  - Computation of credit, 66-14-5
  - Criteria, 66-14-4
  - Definitions, 66-14-2
  - Disallowance, 66-14-12
  - Dual licensee, 66-14-11
  - Exemptions, 66-14-6
  - Licensure in another jurisdiction, 66-14-10
  - Proof of compliance, 66-14-9
  - Records, 66-14-7
  - Reinstatement, 66-14-8
  - Requirements, 66-14-1
- Education, 66-9-1 et seq.
  - Architectural, 66-9-1
  - Engineering, 66-9-4
  - Geology curriculum, 66-9-6
  - Landscape architectural curriculum, 66-9-2
  - Reciprocity applicants, 66-9-7
  - Surveying curriculum, 66-9-5
- Examinations, 66-8-1 et seq.
  - Architectural, 66-8-2
  - Engineering, 66-8-3
  - Geology, 66-8-7
  - Landscape architectural, 66-8-5
  - Proctoring of, 66-8-1
  - Professional surveyor, 66-8-4
  - Reciprocity applicants, 66-8-8
  - Reexamination, 66-8-6
- Experience, 66-10-1 et seq.
  - Architectural, 66-10-1, 66-10-3
  - Engineering, 66-10-9
  - Geology, 66-10-13
  - Landscape architecture, 66-10-4
  - Reciprocity applicants, 66-10-14
  - Surveying, 66-10-10 through 66-10-12
- Fees, 66-15-1
- Intern certification and admission to the fundamentals examination, 66-11-1 et seq.
  - Admission requirements, 66-11-5
  - Engineering, 66-11-2
  - Geology, 66-11-4
  - Land surveying, 66-11-5
- Certificates,
  - Intern geologist, 66-11-1a
  - Intern surveyor, 66-11-1b
- Procedure, administrative, 66-13-1
- Professional conduct, 66-6-1 through 66-6-4
- Professional practice, 66-6-1 et seq.
  - Licenses, 66-6-8, 66-6-9, 66-6-10
  - Seals and signatures, 66-6-1
- Standards for practice of professional surveying, minimum, 66-12-1

## **Trademarks**

- Revised Kansas Trademark Act, 7-40-1

## **Traffic Rules and Regulations**

- Bicycles, University of Kansas, 88-6-1 et seq.
- Emergency vehicles, application, 36-2-3 et seq.
- Parking, statehouse grounds, 1-46-1 et seq.

## Transportation

Alcoholic beverages, 14-5-1 et seq.  
Flammable liquids.  
State Fire Marshal, Agency 22  
Human bodies, 28-20-3a et seq.

## Transportation, Kansas Department of, Agency 36

Billboards and outdoor advertising, 36-17-1 et seq.  
Directional and other official signs and notices, 36-17-8  
Licensing fees, disposition, 36-17-5  
Nonconforming status, termination, 36-17-9  
Performance bond, 36-17-1  
Permit number on sign, 36-17-3  
Prohibited signs, 36-17-7  
Repairs to signs, 36-17-6  
Child safety, 36-34-1  
Combine headers, transporting, 36-35-1  
Construction bidding procedures, 36-30-1 et seq.  
Authority of Secretary, 36-30-7  
Contracts, award of, 36-30-6  
Definitions, 36-30-1  
Qualifications, 36-30-3, 36-30-4  
Requirements, 36-30-2  
Contractors, debarment and suspension of, 36-31-1 et seq.  
Contract authority, 36-31-6  
Debarment, 36-31-2  
Definitions, 36-31-1  
Effect on current contracts, 36-31-4  
List of debarred and suspended, 36-31-5  
Suspension, 36-31-3  
Driveway permits, 36-3-6  
Emergency vehicles, 36-2-3 et seq.  
Approvals required, 36-2-4  
Designation, application, 36-2-3  
Designation, prior, 36-2-8  
Nondesignated vehicle, prohibitions, 36-2-9  
Red light use after designation denied or cancelled, 36-2-12  
Refusal of approval, hearing, 36-2-6  
Sirens, 36-2-14  
Violations, warning, cancellation of designation, 36-2-10  
Escort vehicles, escort vehicle service providers, and escort vehicle operators, 36-45-1  
Definitions, 36-45-1  
Determination of registration revocation or denial, 36-45-10  
Documentation for permitted route, 36-45-7  
Equipment, 36-45-6  
Escort vehicle, 36-45-5  
Escort vehicle operator, 36-45-4  
Insurance, 36-45-3  
Registration, 36-45-2  
Registration committee, 36-45-10  
Trip procedures, 36-45-8  
Hearing,  
Notice of right of, 36-2-13  
Request for, 36-2-11  
Intermodal transportation revolving fund, 36-42-1 et seq.  
Application and supporting documents, 36-42-2  
Approved project costs; accounting requirement, 36-42-9  
Approved project statements, 36-42-8  
Definitions, 36-42-1

## Transportation, Kansas Department of—Cont.

Intermodal transportation revolving fund—Cont.  
Financial assistance agreement; requirements, 36-42-5  
Fund use, 36-42-4  
Interest rate and servicing fees, 36-42-6  
Intermodal transportation project; eligibility, 36-42-3  
Repayment of financial assistance, 36-42-7  
Interstate highways, prohibition on the use of, 36-14-1  
Junkyard and salvage control, 36-27-1 et seq.  
Beautification administrator authority, 36-27-5a  
Certificates, provisional, 36-27-7  
Industrial areas, 36-27-1  
Inspection, 36-27-6, 36-27-8  
Screening, 36-27-9  
Transfers of ownership, 36-27-3  
Zoning, policy, 36-27-12  
Lights, highway construction and maintenance vehicles, 36-18-4  
Motorcyclists, eye protection devices, 36-15-23  
Moving expenses, 36-29-1  
Multi-jurisdictional oversize, overweight, permit program, 36-38-1 et seq.  
Adoption of standards, 36-38-2  
Limitations, special, 36-38-1  
Oilfield certification program, 36-37-1 et seq.  
Definition section, 36-37-1  
Fees, 36-37-5  
Insurance requirements, 36-37-4  
Requirements, 36-37-3  
Violations, 36-37-2  
Weight limitations, 36-37-6  
Permits, special, 36-1-1 et seq.  
Authorized agents, 36-1-3  
Cancellation of permits, 36-1-30  
Common requirements, 36-1-36  
Definitions, 36-1-1a, 36-1-35  
Driver qualification standards, 36-1-34  
Equipment, 36-1-31  
Insurance, 36-1-33  
Loads over 120,000 lbs., 36-1-10  
Maximum dimensions and gross weights, 36-1-37  
Mobile homes, 36-1-26  
Operational procedure, 36-1-32  
Oversized loads, 36-1-27  
Policy, 36-1-1  
Requirements for operation, 36-1-2  
Restrictions, 36-1-8, 36-1-9  
Types, 36-1-38  
Vehicle combinations, 36-1-28  
Violations, 36-1-29  
Public safety communication system revolving fund, 36-41-1 et seq.  
Access and equipment lease agreements, 36-41-3  
Application and supporting documents, 36-41-2  
Definitions, 36-41-1  
Interest rate and service fees, 36-41-4  
Prevailing rates, 36-41-5  
Rail service assistance program, 36-39-1 et seq.  
Definitions, 36-39-2  
Forms, 36-39-4  
Pre-application conference, 36-39-5  
Priorities for loan guarantee applications, 36-39-1

## **Transportation, Kansas Department of—Cont.**

### **Rail service assistance program—Cont.**

- Rail service financial assistance; loans and grants, 36-39-6
  - Requirements and conditions for application for a loan guarantee, 36-39-3
  - Railroad grade crossings, 36-26-1
  - Real property acquisition, 36-16-1 et seq.
    - Appeal, 36-16-4 et seq.
      - Hearings, 36-16-7
      - Continuances, 36-16-6
      - Designation, of hearing examiner, 36-16-5
      - Notice, 36-16-4
    - Applicable to counties, townships, and cities, 36-16-21
    - Federal program,
      - Highway commission as agent, 36-16-18
    - Hearings, 36-16-7
    - Housing replacement, 36-16-16
    - Programs receiving federal assistance, 36-16-20
  - Registration of motor vehicles.
    - Department of Revenue, Agency 92
  - Roadside facilities, 36-32-1, 36-32-2
  - Saddlemounts, 36-4-8
  - School buses, 36-13-20 et seq.
    - Accident and emergency procedure, 36-13-34
    - Chassis and body standards, 36-13-30
    - Driver qualifications and duties, 36-13-32
    - Equipment or procedure test waiver, 36-13-20
    - Passenger conduct, 36-13-35
    - Procedures, loading and unloading, 36-13-33
    - School vehicles, definitions and limitations, 36-13-39
    - Student transportation, special needs, 36-13-38
    - Transportation supervisor, inspection, 36-13-31
    - Urban mass transportation buses, 36-13-37
  - Service brakes, second-towed vehicles, 36-28-1
  - Slow-moving vehicle identification emblem, 36-19-9
  - Tires, stud, 36-7-1, 36-7-2
  - Utilities on highway right-of-way, 36-11-6
  - Vehicle widths, 36-36-1
- Transportation revolving fund, 36-40-1 et seq.
  - Application and supporting documents, 36-40-2
  - Approved project costs, 36-40-9
  - Approved project statements, 36-40-8
  - Definitions, 36-40-1
  - Financial assistance,
    - Agreement requirements, 36-40-5
    - Repayment, 36-40-7
  - Fund use, 36-40-4
  - Interest rate and servicing fees, 36-40-6
  - Transportation project eligibility, 36-40-3

## **Travel Expenses**

- Reimbursement.
- Department of Administration, Agency 3

## **Treasurer, State**

- See State Treasurer, Agency 3

## **Trust Supervision**

- Bank Commissioner, State, Agency 17

## **Tuberculosis**

- Animal Health Division of Dept. of Agriculture, Agency 9

## **Tuition Grant Program**

- Student assistance.
- Board of Regents, Agency 88

## **Turnpike Authority, Kansas, Agency 39**

- Bonds and coupons, duplication of, 39-3-1 et seq.
  - Procedure after call or having become due, 39-3-3, 39-3-7
  - Requirements of owners, 39-3-2, 39-3-6
  - Secretary-treasurer, trustee powers, 39-3-1, 39-3-5
  - Time application considered, 39-3-4, 39-3-8
  - Trustee, powers, 39-3-1, 39-3-5
- Discount rates, 39-5-1
- Limitations on use, 39-1-1 et seq.
  - Prohibitions,
    - Accidents, 39-1-15
    - Damage to property, 39-1-4
    - Definitions, 39-1-7
    - Direction of traffic, 39-1-10
    - Following too closely, 39-1-17
    - Gambling and alcohol, 39-1-5
    - Hitchhiking and loitering, 39-1-2
    - Impounding of vehicles, 39-1-16
    - Lane traffic, 39-1-13
    - Law, vehicle and traffic, 39-1-18
    - Medial strip, 39-1-11
    - Obedience to officers, signs and signals, 39-1-19
    - Parking, stopping, 39-1-14
    - Passing, 39-1-13
  - Prohibited uses, 39-1-1
    - Solicitation of funds, 39-1-6
    - Speed limits, 39-1-9
    - U-turns, 39-1-12
    - Vehicle classification and tolls, 39-1-8
    - Waste and rubbish, 39-1-3
- Office, designation of, 39-4-1
- Toll rate, 39-6-1, 39-6-2

## **Turtles**

- Sale of, 28-1-25

## **U**

## **Unclaimed Property**

- State Treasurer, 3-1-1 et seq.

## **Uniform Commercial Code**

- Secretary of State, Agency 7

## **United States Savings Bonds**

- Deduction program, 1-21-1 et seq.

## **University of Kansas**

- Bicycles, 88-6-1 et seq.
- Board of Regents, Agency 88
- Traffic and parking, 88-5-1 et seq.

## **Unmarked Burial Sites Preservation Board, Agency 126**

- Unmarked burial sites, 126-1-1 et seq.
  - Permits for excavation, study, display and reinterment, 126-1-2
  - Registry, 126-1-1

## Use Tax

Compensating tax.  
Department of Revenue, Agency 92

## Utilities

Sales tax, application, 92-19-20  
Water supply, public, 28-14-1 et seq., 28-15-11 et seq.  
Kansas Corporation Commission, Agency 82

## V

### Vanpool Program

Department of Administration, 1-23-1 et seq.

## Vehicles

Department of Administration, Agency 1  
Traffic rules and regulations.  
Department of Transportation, Agency 36

## Vending Facilities

Department of Social and Rehabilitation Services,  
Agency 30

## Vending Machines

Cigarette tax, 92-5-2  
Food vending machines and companies.  
Department of Health and Environment, Agency 28  
Sales tax, application, 92-19-23

## Veterans' Affairs, Kansas Commission on, Agency 97

Soldiers' home,

Discharges, termination of membership, 97-3-2 et seq.  
Eligibility for membership, 97-3-1  
False statements, application, 97-3-4, 97-3-9  
Guests, 97-3-6  
Personal conduct, 97-3-1a  
Honorable discharge, 97-3-3  
Misconduct, 97-3-5  
Notice, procedure, 97-3-7  
Passes, 97-3-3a  
Pets and service or therapeutic animals, 97-3-2a  
Reasonable time to leave, 97-3-8  
Termination of dependents' membership, 97-3-2

Membership, 97-1-1 et seq.

Administrative oversight, 97-1-2a

Admission,

Application, 97-1-1, 97-1-4a  
Approval of application, 97-1-4, 97-1-6a  
Ineligibility, 97-1-3  
Investigation of applicants, 97-1-2  
Priority, 97-1-5a  
Temporary period, 97-1-5

Definitions, 97-1-1a

Eligibility, 97-1-3a

Persons missing in action, financial benefits to dependents, 97-5-1, 97-5-2

Prisoners of war, financial benefits to dependents, 97-5-1, 97-5-2

Rules governing members, 97-2-1 et seq.

## Veterans' Affairs, Kansas Commission on—Cont.

Soldiers' home—Cont.

Rules governing members—Cont.

Charges, 97-2-1a

Children, over age, 97-2-7

Comfort money, 97-2-2a

Conduct, 97-2-8

Cottages, 97-2-3

Discipline, violation of rules, 97-2-2

Furloughs, 97-2-1

Hunting not allowed, 97-2-4

Pets, 97-2-5

Subsistence allowance, 97-2-6

Veteran memorial donations for the construction and maintenance of capital improvement projects, 97-4-1 et seq.

Advisory committee; appointment, dissolution, 97-4-7

Criteria for memorials for veterans, 97-4-2

Definitions, 97-4-1

Disciplinary actions, 97-4-1a

Financial reporting, 97-4-6

Financing, 97-4-3

Fund-raising materials for proposed memorials, 97-4-5

Procedures following advisory committee

submission of a final project plan, 97-4-8

Proposals; use of names and references, 97-4-4

Veterans claims assistance program and the service grant program, 97-6-1, et seq.

Claims processing requirements, 97-6-5

Definitions, 97-6-1

Director's duties, 97-6-11

Grants,

Duration of grants; insurance requirements, 97-6-8

Grant agreement requirements, 97-6-6

Responsibilities of parties to the grant

agreements, 97-6-7

Intent to participate; review, 97-6-2

Reports, format and frequency, 97-6-9

Quality assurance, 97-6-10

VSO services, staff, training, and other support, 97-6-4

Vietnam War era medallion program, 97-7-1 et seq.

Applicants on behalf of deceased veterans, 97-7-4

Application procedures, 97-7-5

Definitions, 97-7-1

Legal resident status, 97-7-3

Reconsideration of denied applications, 97-7-6

Veteran status, 97-7-2

## Veterinary Examiners, State Board of, Agency 70

Applications, 70-4-1 et seq.

Applications for licensure, 70-4-8

Examination applications, 70-4-10

License renewal applications, 70-4-9

Revocation and suspension,

Amendments to complaint, 70-4-2

Costs of hearing, 70-4-7

Failure to appear, 70-4-5

Form of complaint, 70-4-1

Pleading to complaint, 70-4-3

Right to be heard, 70-4-4

Suspension, 70-4-6

Definitions, 70-1-1 et seq.

Anesthetized, 70-1-6

Attendance at meetings, 70-1-2

**Veterinary Examiners, State Board of—Cont.**

- Definitions—Cont.
  - Continuing education, 70-1-1
  - Dental operation, 70-1-5
  - Mobile veterinary clinic, 70-1-4
- Examinations, 70-3-1 et seq.
- Fees, 70-5-1
- Fines, 70-10-1
- Impairment, 70-9-1
- Meetings, 70-2-1 et seq.
- Unprofessional conduct, 70-8-1
- Veterinary practice, standards of, 70-7-1
- Veterinary premises and mobile veterinary clinic,
  - minimum requirements, 70-6-1

**Vital Statistics**

- Department of Health and Environment, Agency 28

**Vocational Education**

- Board of Education, Agency 91

**Vocational-Technical Schools**

- Department of Education, 91-27-1 et seq.

**Voter Registration**

- Secretary of State, Agency 7

**Voting Equipment**

- Secretary of State, Agency 7

**W****Water**

- Conservation Commission, Agency 11
- Water Plan, 98-1-1, 98-1-2

**Water Office, Kansas, Agency 98**

- Assurance plan, 98-6-1 et seq.
  - Charges, calculation of, 98-6-4
  - Contract,
    - Authority, 98-6-2
    - Definitions, 98-6-1
    - Negotiation procedures, 98-6-3
  - Definitions, 98-1-1
  - Easement authority on navigable rivers, 98-8-1 et seq.
    - Application for easement, 98-8-1
    - Notice to county and other government agencies, 98-8-2
    - Review of notice of intent to grant easement, 98-8-3
  - Lower Smoky Hill water supply access program,
    - 98-7-1 et seq.
    - Calculation of charges by water supply access
      - district, 98-7-6
    - Contract negotiation procedures, 98-7-4
    - District formation, 98-7-1
    - District membership after district formation, 98-7-2
    - Special irrigation district; organization, 98-7-3
  - Water plan, public hearings on, 98-2-1 et seq.
    - Accounting, 98-2-20
      - Budget,
        - Amounts requested to be included, 98-2-15
        - Contents of request for inclusion, 98-2-16
        - Determination by board, 98-2-18

**Water Office, Kansas—Cont.**

- Water plan, public hearings on—Cont.
  - Accounting—Cont.
    - Budget—Cont.
      - Forms, 98-2-17
      - Funds, disbursement of, 98-2-19
      - Requests for inclusion in, 98-2-13
      - Return of state assistance, 98-2-20
      - Time for filing requests for inclusion in, 98-2-14
    - Costs,
      - Eligible, 98-2-3
      - Ineligible, 98-2-4
    - Eligibility for assistance,
      - Consideration of applications, 98-2-9
      - Contents of application, 98-2-7
      - Determination of eligibility, 98-2-10
      - Evidence in support of application, 98-2-8
      - Filing of application, 98-2-6
      - Hearing, conduct of, 98-2-2
      - Necessity of finding of eligibility, 98-2-5
      - Notice, 98-2-1
      - Notification by board, 98-2-11
      - Records, board, 98-2-12
    - Water plan storage, 98-5-1 et seq.
      - Application, 98-5-2
      - Assignment, 98-5-5
      - Contract negotiation procedures, 98-5-4
      - Contract provisions, 98-5-8
      - Definitions, 98-5-1
      - Rate for surplus water, 98-5-7
      - Rates for water, 98-5-6
      - Request to negotiate, 98-5-3
      - Reservoir yields through droughts, 98-5-9
    - Weather modification, 98-4-1 et seq.
      - Field operations, 98-4-8, 98-4-10
      - Licenses, 98-4-1
        - Suspension or revocation, procedure, 98-4-9
      - Permits, 98-4-2
        - Emergency permits, 98-4-7
        - Evaluation of permit application, 98-4-3
        - Procedure for granting emergency permits, 98-4-5
      - Reports, 98-4-4, 98-4-6

**Water Pollution**

- Abatement, 28-16-1 et seq.
- Agricultural and related wastes, 28-18-1 et seq.
- Reservoir sanitation zones, 28-10-15 et seq.
- River basin water quality criteria, 28-16-27 et seq.

**Water Resources, Division of, Department of Agriculture, Agency 5**

- Abandonment and termination, 5-7-1 et seq.
  - Conservation reserve program, 5-7-4a
  - Hearing waiver, 5-7-2
  - Nonuse, 5-7-1
  - Reduction of an existing water right, 5-7-5
  - Water rights conservation program,
    - Tier 1, 5-7-4
    - Tier 2, 5-7-4b
- Appropriation rights, 5-3-1 et seq.
  - Application, 5-3-1, 5-3-1a, 5-3-1b, 5-3-4, 5-3-4b, 5-3-4c, 5-3-5, 5-3-5a, 5-3-7, 5-3-18
  - Authorized place of use, 5-3-5n
  - Certificate of appropriation rights, 5-3-8

**Water Resources, Division of, Dept. of Ag.—Cont.**

- Appropriation rights—Cont.
  - Check valves, 5-3-5c
  - Closed areas, 5-3-16a
  - Conditions on permits and certificates, 5-3-25
  - Dewatering of construction sites, 5-3-13
  - Equus beds special groundwater quality area, 5-3-27
  - Extension of time, 5-3-7
  - Forfeiture, revocation or dismissal, 5-3-6
  - Groundwater source formation codes, 5-3-4e
  - Hearing before issuance of an order, 5-3-4a
  - Legal access, 5-3-3a
  - Limited power of attorney, 5-3-5m
  - Lyons special groundwater quality area, 5-3-28
  - Maximum reasonable quantity of water,
    - Irrigation use, 5-3-19, 5-3-20, 5-3-23, 5-3-24
    - Livestock and poultry, 5-3-22
  - Meters and other water measuring devices, 5-3-5e
  - Ozark and Springfield plateau aquifers, 5-3-29
  - Pawnee subbasin, 5-3-26
  - Perfection of water right for irrigation use, 5-3-21
  - Priorities, 5-3-2
  - Public interest, 5-3-9
  - Safe yield, availability of water for appropriation, 5-3-10
    - Confined groundwater aquifers, 5-3-14
    - Exemptions, 5-3-16, 5-3-17
    - Surface water, 5-3-15
    - Unconfined groundwater aquifers, 5-3-11
  - Sealing diversion works, 5-3-6a
  - Storage of water, 5-3-3
  - Stratigraphic log requirements, 5-3-4d
  - Underground storage in mineralized formations, approval, 5-3-5b
  - Water conservation plans, 5-3-5h, 5-3-5i, 5-3-5j, 5-3-5k, 5-3-5l
  - Water level measurement tube installation, 5-3-5d
  - Water use correspondent designation, 5-3-5g
  - Water use reports, amending, 5-3-50
- Appropriation, water, 5-10-4 et seq.
  - Administration of water use among vested right holders, 5-10-5
- Aquifer storage and recovery, 5-12-1 et seq.
  - Accounting, 5-12-2
  - Groundwater management districts, 5-12-4
  - Hearings, 5-12-3
  - Permitting, 5-12-1
- Assurance districts,
  - Benefits, determination of, 5-11-2
  - Definitions, 5-11-1
- Big Bend Groundwater Management District No. 5, 5-25-1 et seq.
  - Application for additional rate only, 5-25-12
  - Appropriation, reasonable, 5-25-3
  - Board recommendations, 5-25-20
  - Change in point of diversion, 5-25-2a
  - Definitions, 5-25-1
  - Exemptions, 5-25-15
  - Noncompliance procedures, 5-25-9
  - Rattlesnake creek subbasin,
    - Water quality analyses and observation wells, 5-25-16
    - Water right movement affecting streamflow, 5-25-22
    - Water rights, voluntary reductions, 5-25-17
    - Well location changes, 5-25-18

**Water Resources, Division of, Dept. of Ag.—Cont.**

- Big Bend Groundwater Management Dist. No. 5—Cont.
  - Saturated thickness map, 5-25-19
  - Sustainable yield, 5-25-4
  - Test holes and water quality analyses, 5-25-10
  - Waste of water, 5-25-8
  - Water flowmeter requirements, 5-25-5
  - Water quality tests, 5-25-7
  - Water use reports, 5-25-6
  - Well locations, determination, 5-25-11
  - Well spacing, 5-25-2
  - Wells, battery of, 5-25-14
- Certification of water rights, 5-8-1 et seq.
  - Construction of diversion works, 5-8-4
  - Field inspection, 5-8-8
  - Perfection, 5-8-6
    - Extensions of time, 5-8-7
    - Multiple water rights, 5-8-3
  - Changes in use or in points of diversion, 5-5-1 et seq.
    - Additional wells, 5-5-16
    - Application for change, 5-5-1
      - Approval from irrigation to other use, 5-5-9
        - Duties of owners, 5-5-14
        - Standards for, 5-5-8
      - Charge for irrigation purposes, 5-5-11
      - Complete, 5-5-2a
    - Consumptive use, change in, 5-5-3
    - Diversion works, authorized location, 5-5-6, 5-5-6c
    - Net irrigation requirements, NIR, 5-5-12
    - Partial change, 5-5-10
    - Relocation of alluvial wells, 5-5-13
    - Signatures required, 5-5-5
    - Waste of water, 5-5-7
- Channel changes, design, 5-41-1 et seq.
- Dams, approval, 5-30-1
- Dams, earth, design of, 5-40-1 et seq.
- Distribution of water between users, 5-4-1 et seq.
- Dredging, sand, 5-43-1 et seq.
- Enforcement and appeals, 5-14-1 et seq.
  - Appeal of timely certificate issuance failure, 5-14-4
  - Civil penalties for violations, 5-14-10, 5-14-12
  - Conference hearing,
    - Conversion, 5-14-7
    - Request, 5-14-2, 5-14-5
  - Enforcement, 5-14-1
  - Hearing procedure, 5-14-3a
  - Informal settlement, 5-14-6
  - Orders, 5-14-3
  - Water use reporting, 5-14-11
- Equus Beds Groundwater Management District No. 2, 5-22-1 et seq.
  - Application processing, 5-22-12
  - Aquifer storage and recovery system, 5-22-10
  - Bank storage wells, 5-22-17
  - Definitions, 5-22-1
  - Diversion, changes in points of, 5-22-8
  - Exceptions, 5-22-9
  - Fresh groundwater, limitations on use, 5-22-15
  - Maximum reasonable quantity for beneficial use, 5-22-14
  - Metering, 5-22-4
  - Noncompliance procedures, 5-22-6
  - Potential net evaporation, 5-22-13

**Water Resources, Division of, Dept. of Ag.—Cont.**

**Equus Beds Groundwater management Dist. No. 2—Cont.**

- Water flowmeter, 5-22-4a
  - Installation procedures, 5-22-4d
  - Maintenance, 5-22-4b
  - Requirement, 5-22-4a
  - Testing by a nondistrict person, 5-22-4c
- Water use, calculating, 5-25-21
- Water use, reporting, 5-22-5
- Water waste, 5-22-3
- Well spacing, 5-22-2
- Yield, safe, 5-22-7
- Flex account, 5-16-1 et seq.
  - Base water right, 5-16-7
  - Definitions, 5-16-1
  - Establishing, 5-16-3
  - Fee to establish account and apply for term permit, 5-16-2
  - Multiyear flex accounts,
    - Establishing, 5-16-3
    - Method for calculating deposited water, 5-25-21
    - Term permits, 5-16-6
  - Term permits,
    - Conditions on, 5-16-4
    - Quantity of water authorized, 5-16-5
- Floodplain management, 5-44-1 et seq.
- Intensive Groundwater Use Control Area (IGUCA), 5-20-1 et seq.
  - Formal review of orders, 5-20-2
  - Public hearings, 5-20-1
- Levees and floodplain fills, design, 5-45-1 et seq.
- Minimum desirable streamflows, 5-15-1 et seq.
- Northwest Kansas Groundwater Management District No. 4,
  - Appropriation for reasonable use, 5-24-5
  - Definitions, 5-24-1
  - Depletion, planned, 5-24-2
  - Diversion, change in points of, 5-24-6
  - Exemptions, 5-24-10
  - Investigation and enforcement, 5-24-11
  - Resource development plans, 5-24-8
  - Tailwater control and waste, 5-24-4
  - Water flowmeters, 5-24-9
  - Well construction criteria, 5-24-7
  - Well spacing, 5-24-3
- Permits, general,
  - Bridge and culvert replacement projects, 5-46-1
  - Pipeline crossings, 5-46-4
- Sand and gravel removal operations, 5-46-3
- Sand and gravel pit operations, 5-13-1 et seq.
  - Approval of pit operations, 5-13-5
  - Easements and covenants, 5-13-9
  - Exemption, 5-13-4
- Groundwater,
  - Evaporation as beneficial use, 5-13-3
  - Offset calculations, 5-13-8
  - Offsets for evaporation, 5-13-7
  - Substantially adverse impact determination, 5-13-2
  - Time to perfect a water right for evaporation, 5-13-11
  - Maximum rate of diversion determination, 5-13-6
  - Notice of intent to open, 5-13-1
  - Time to construct diversion works, 5-13-10
- Southwest Kansas Groundwater Management District No. 3,
  - Criteria, new appropriations, 5-23-4a
  - Dakota aquifer system, 5-23-14

**Water Resources, Division of, Dept. of Ag.—Cont.**

**SW Kansas Groundwater Management Dist. No. 3—Cont.**

- Definitions, 5-23-1
- High plains aquifer, 5-23-4
- Saturated thickness of the high plains aquifer, 5-23-15
- Township closures, 5-23-4b
- Water use,
  - Applications and limitations for, 5-23-5
  - Measuring devices, 5-23-6
  - Rules and regulations, procedures for filing complaint for noncompliance, 5-23-11
  - Tailwater control and waste, 5-23-2
- Well spacing, 5-23-3, 5-23-3a
- Storage, water, 5-6-1 et seq.
  - Authorized place of use, 5-6-10
  - Average annual precipitation, 5-6-12
  - Check valve specifications, 5-6-13a
  - Drainage basin boundaries, 5-6-14
  - Irrigation with effluent from a confined feeding facility lagoon, 5-6-14
  - Potential annual runoff, determination, 5-6-4
  - Potential net evaporation, 5-6-3, 5-6-7
  - Priorities, 5-6-1
  - Water level measurement tube specifications, 5-6-13
- Watershed district reservoirs, 5-6-2
  - Administration of surface water stored, 5-6-9
  - Initial filling and refilling, 5-6-6
  - Maximum reasonable annual quantity, 5-6-5
  - Reasonable rate of diversion, 5-6-11
  - Seepage loss determination, 5-6-8
- Stream obstructions, design, 5-42-1 et seq.
- Streamflows, minimum desirable, 5-15-1 et seq.
  - Administration, 5-15-1
  - Cessation of administration, 5-15-3
  - Consent orders, 5-15-2
  - Standards, 5-15-4
- Temporary permits, 5-9-1 et seq.
  - Application, 5-9-1, 5-9-10
  - Approval, 5-9-6
  - Documentation of access to source, 5-9-11
  - Extension of time, 5-9-7
  - Ownership non-transferable, 5-9-8
  - Place of use, 5-9-4
  - Point of diversion, 5-9-5
  - Priority, 5-9-2
  - Quantity of water allowed, 5-9-3
  - Term of permit, 5-9-7
  - Term permits,
    - Application, 5-9-1a
    - Approvals and extensions, 5-9-1b
    - No water right perfected, 5-9-1d
    - Request to extend, 5-9-1c
  - Vested rights, 5-2-3, 5-2-4
- Water Appropriations Act, 5-1-1
- Water banking, 5-17-1 et seq.
  - Annual reports of water banks, 5-17-11
  - Application to lease water, 5-17-4
  - Charter proposal, 5-17-10
  - Condition on the term permit to exercise, 5-17-6
  - Contract to lease water, 5-17-5
  - Definitions, 5-17-1
  - Deposit of water rights,
    - Application to deposit or withdraw, 5-17-2
    - Contract for, 5-17-3

**Water Resources, Division of, Dept. of Ag.—Cont.**

- Water banking—Cont.
  - Enforcement, 5-17-13
  - Priority of use of water rights and permits, 5-17-16
  - Private sale or lease of water right, 5-17-15
  - Reimbursable and non-reimbursable costs, 5-17-18
  - Safe deposit account,
    - Contract to deposit water, 5-17-7
    - Depositing water, 5-17-8
    - Term permit to use water that was deposited, 5-17-9
  - Waste of leased water and safe deposit account water, 5-17-17
  - Water flowmeters, 5-17-14
  - Water use reports, 5-17-12
- Water right certification, 5-8-1
- Water transfers, 5-50-1 et seq.
  - Application requirements, 5-50-2, 5-50-7
  - Definitions, 5-50-1
  - Emergency transfer, 5-50-5
  - Emergency use, 5-50-4
  - Engineer, chief, authority of, 5-50-6
  - Hearing, 5-50-3
  - Hearing officer, selection of, 5-50-8
- Well spacing requirements, 5-4-4, 5-21-3, 5-23-3
- Western Kansas Groundwater Management District
  - No. 1, 5-21-1 et seq.
  - Aquifer depletion, 5-21-4
  - Change in use, 5-21-7
  - Definitions, 5-21-1
  - Tailwater control and waste, 5-21-2
  - Water flowmeters, 5-21-6

**Water Supply**

- Barbershops, 61-1-3
- Fees for analysis of samples, 28-14-1 et seq.
- Information required for sewage permits, 28-16-1 et seq.

**Weights and Measures, Division of—Department of Agriculture, Agency 99**

- Adoption by reference, 99-25-1, 99-40-21 et seq.
- Civil penalty, 99-27-1 et seq.
- Dispensing devices, definition of, 99-31-1 et seq.
- Exemptions for certain packages, 99-10-1
- Fees, 99-26-1
- Gasoline,
  - Complaint,
    - Answer to the, 99-40-101
    - Civil penalty, 99-40-100
    - Adjusting amount, 99-40-105
  - Definitions, 99-40-1, 99-40-21 et seq.
  - Invoice requirements for wholesalers and distributors, 99-40-3
  - Registration form, 99-30-2
  - Settlement, informal, 99-40-105
- Meat, poultry, seafood, 99-9-1
- Package labeling, model state packaging and labeling regulations, 99-8-8
- Sale, commodities, 99-8-9
- Scale testing and service companies, 99-30-2 et seq.
- Weighing and measuring devices, technical requirements, 99-25-1 et seq.
  - Adoption by reference, 99-25-1, 99-25-9, 99-25-12
  - Conformance certificate of, 99-25-3

**Weights and Measures, Division of, Dept. of Ag.—Cont.**

- Weighing and measuring devices—Cont.
  - Continuing education requirements for technical representatives, 99-25-4
  - Motor fuel defined, testing standards, 99-25-11
  - Notification of nonconforming device, 99-25-6
  - Record retention, 99-25-8
  - Reporting requirements, 99-25-7
  - Retail dispenser labeling, 99-25-10
  - Retroactive and nonretroactive provisions, 99-25-2
  - Technical representative license application and renewal, 99-25-5

**Welfare**

- Department of Social and Rehabilitation Services, Agency 30

**Wheat Commission, Kansas, Agency 24**

- Mill levy assessment, 24-1-1

**Wildlife and Parks, Department of, Agency 23, see also Agency 115**

- Animals, furbearing. See also Game animals
- Birds, migratory, waterfowl,
  - Open season and bag limits, game birds,
    - Doves, 23-1-3
    - Upland birds, 23-1-4
  - Waterfowl, migratory, 23-1-2
  - Retrieval and possession, 23-1-11
- Diving, skin and scuba, 23-8-27
- Field trial events,
  - Game birds and animals, 23-21-1
- Squirrels, season, bag and possession limit, 23-2-2

**Wildlife and Parks, Kansas Department of, Agency 115**

- Agritourism, 115-40-1 et seq.
  - Contracts, 115-40-6
  - Definitions, 115-40-1
  - Liability insurance; costs qualifying for tax credits, 115-40-3
  - New registration form, 115-40-5
  - Registration, 115-40-2
  - Tax credits, 115-40-4
- Backcountry access pass; fee, exceptions, and general provisions, 115-2-7
- Big game, 115-4-1 et seq.
- Boating,
  - Accident reports, 115-30-8
  - Adoption by reference, 115-30-6
  - Capacity plate and operation, 115-30-5
  - Certificates of number, 115-30-2
  - Fees, 115-2-4
  - Fire extinguishers, 115-30-4
  - Flotation devices, 115-30-3
  - General restrictions, 115-8-7
  - Identification, 115-30-1
  - Personal watercraft, 115-30-10
  - Removal of vessels, 115-30-13
  - Sanitation devices, 115-30-12
  - Steering and sailing requirements, 115-30-7
- Camping, utility, and other fees, 115-2-3
- Commercial use of wildlife, 115-17-1 et seq.
  - Feral pigeons, commercial harvest of, 115-17-21

**Wildlife and Parks, Kansas Department of—Cont.**

Commercial use of wildlife—Cont.

- Fish,
  - Harvest of, 115-17-13
    - Legal equipment and taking, 115-17-11
    - Permit, 115-17-10
- Fish bait,
  - Harvest of, 115-17-1, 115-17-5
  - Legal equipment, 115-17-4
  - Permit, 115-17-3
  - Sale, 115-17-2, 115-7-2a
- Game animals, sale and purchase of, 115-17-15
- Mussels, 115-17-7
  - Harvest of, 115-17-7, 115-17-9
  - Permit, 115-17-6, 115-17-14
  - Taking methods, 115-17-8
- Prairie rattlesnake,
  - Commercial use, 115-17-16
  - Legal equipment, methods of take, 115-17-19
  - Open area, limits, 115-17-18
  - Permits, 115-17-17, 115-17-20
- Crows, legal equipment, methods of take, 115-20-1
- Dangerous regulated animals, 115-20-5, 115-20-6
- Definitions, 115-1-1
- Doves, migratory; legal equipment, taking methods, and possession, 115-20-7
- Endangered, non-game species, 115-15-1 et seq.
  - Recovery plans; procedures, 115-15-4
  - Special permits and enforcement actions, 115-15-3
- Exotic wildlife, 115-20-3
- Falconry, 115-14-1 et seq.
  - Acquisitions of raptors, 115-14-9
  - Equipment, 115-14-6
  - Examination, 115-14-4
  - Facilities, equipment, care requirements, and inspections, 115-14-13
  - Facilities and inspection, 115-14-5
  - Federal regulations, 115-14-1
  - General provisions, 115-14-11
  - Permit classes and requirements, 115-14-3
  - Permit expiration and renewal, 115-14-7
  - Permits, 115-14-2
  - Permits, applications, and examinations, 115-14-12
  - Provisions, other, 115-14-10
  - Reports, 115-14-8
  - Taking, banding, transporting, and possessing raptors, 115-14-14
  - Transfers, trading, and sale of raptors, 115-14-15
- Fees, registration and other charges, 115-2-1 et seq.
- Fish, frogs, turtles, 115-7-1 et seq.
  - Bullfrogs, methods of take, 115-7-5
- Fishing,
  - Bait, 115-7-6
  - Bass fishing tournaments, 115-7-8, 115-7-9
  - Fish and minnows, taking and use of, 115-7-3
  - General procedures, 115-7-1, 115-7-2
  - Missouri river license requirements, 115-7-7
  - Special provisions, 115-7-10
  - Processing, possession, 115-7-4
  - Turtles, methods of take, 115-7-5
- Fur dealer license, 115-6-1
- Furbearers and coyotes, 115-5-1, 115-5-2
  - Management units, 115-5-3
  - Nonresident bobcat hunting, 115-5-4
  - Otter management units, 115-5-3a

**Wildlife and Parks, Kansas Department of—Cont.**

- Game birds, 115-3-1
- Game breeders, 115-12-1
  - Permit requirements, 115-12-3
- Guides, commercial, 115-21-1 et seq.
  - Application, examination, restrictions, 115-21-1
  - Provisional, 115-21-3
  - Reporting requirements, 115-21-2
  - Use of department lands and waters, 115-21-4
- Hunting, general,
  - Big game, 115-4-2, 115-4-11, 115-4-12
  - Clothing requirements, 115-4-8
  - Deer, management units, 115-4-6, 115-4-6a
    - Landowner deer management program, 115-4-14
    - Permits; descriptions and restrictions, 115-4-13
  - Equipment, legal methods of take,
    - Antelope, 115-4-3
    - Big game, 115-4-4
    - Crows, 115-20-1
    - Deer, 115-4-5
    - Elk, 115-4-7
    - Rabbits, hares, and squirrels, 115-3-2
  - Possession of salvaged carcass, 115-4-9
  - Seasons—Article 25—contact Kansas Department of Wildlife and Parks
  - Shooting hours, 115-4-10
  - Turkey, 115-4-1, 115-4-2, 115-4-4a
- Lands and waters, 115-8-1 et seq.
  - Bait, 115-8-6
  - Bait; hunting, 115-8-23
  - Blinds, stands, and decoys, 115-8-2
  - Camping, 115-8-9
  - Commercial guiding, 115-8-24
  - Construction, littering, and prohibited activities, 115-8-20
  - Dogs, non-commercial, training, 115-8-4
  - Domestic animals, livestock, 115-8-11
  - Electric-assisted bicycles, 115-8-13a
  - Fireworks, discharge and public display, 115-8-14
  - Hunting, furharvesting, and discharge of firearms, 115-8-1
  - Motorized vehicles, aircraft,
    - Authorized operation, 115-8-13
  - Operations on department lands, concession, 115-8-22
  - Personal conduct on lands and waters, 115-8-19
  - Pets, 115-8-10
  - Seining, 115-8-6
  - Steel shot, 115-8-3
  - Swimming, 115-8-8
  - Target practice, trapping, 115-8-1
  - Trash disposal, 115-8-18
  - Wildlife, stocking, releasing, 115-8-12
- Licenses, permits, stamps, and other issues, 115-9-1 et seq.
  - Duplicate, issuance of, 115-9-2
  - Electronic, 115-9-9
  - License,
    - Effective date, 115-9-5
    - Lifetime, 115-9-3
    - Purchase of, 115-9-4
    - Vehicle permit display, 115-9-6
  - Migratory bird harvest information program, 115-9-8
  - Not required, general activities, 115-9-7

## **Wildlife and Parks, Kansas Department of—Cont.**

- Local government outdoor recreation grant program; application and criteria, 115-35-1
- Motor vehicle permit fees, 115-2-2
- Permits, special, 115-18-1 et seq.
  - Disabled persons,
    - Crossbow and locking draws use, big game, 115-18-7
  - Disability assistance permit, 115-18-15
  - Educational bird hunt, 115-18-17
  - Floatline fishing permit, 115-18-21
  - Furharvester license, 115-18-9
  - Game animals, sport fish, and migratory game birds, retrieval and possession of, 115-18-8
  - Geese, light, conservation order, 115-18-16
  - Geese, dark, permits and restrictions, 115-18-13
  - Hand fishing, 115-18-18
  - Importation and possession of certain wildlife, 115-18-10
  - Nontoxic shot; statewide, 115-18-14
  - Paddlefish, 115-18-19
  - Raptor propagation, 115-18-2
  - Rehabilitation of wildlife, permit, 115-18-1, 115-18-12
  - School motor vehicle permit exemption, 115-18-6a
  - Senior pass valid for hunting and fishing, 115-18-22
  - Special motor vehicle permit, 115-18-5
  - Tournament black bass pass, 115-18-20
  - Vehicle permits, hunting, 115-18-4
- Possession of certain wildlife, 115-20-4
- Rabbits, hares, squirrels, 115-3-2
- Shooting areas, controlled, 115-11-1 et seq.
  - License application, 115-11-1
  - Operational requirements, 115-11-2
- Special surety bond programs, 115-10-1 et seq.
  - Authorized, 115-10-2
  - Authorized amount, 115-10-6
  - Effect of loss on vendor agent authority, 115-10-5
  - Procedure, 115-10-3
  - Reduction or increase, 115-10-7
  - Term of effect and renewal, 115-10-4
  - Termination, 115-10-8
- Sport shooting ranges, 115-22-1
- Training dogs and field trial events, 115-13-1 et seq.
  - Field trial permits,
    - Furbearers and coyotes, 115-13-4
    - Small game, 115-13-3
  - General provisions, 115-13-1
  - Non-commercial, 115-13-2
  - Pen-raised, banded birds; recapture, 115-13-5
- Wildlife, certain, 115-20-2
- Wildlife damage control, 115-16-1 et seq.
  - Big game, 115-16-4
  - Control permits,
    - Application and reporting requirements, 115-16-6
    - Nuisance bird, 115-16-3
    - Operational requirements, 115-16-5
    - Prairie dog, 115-16-2
  - Cyanide gas gun permit, application, 115-16-1

## **Withholding Tax**

Department of Revenue, Agency 92

## **Workers Compensation, Division of, Department of Labor, Agency 51**

- Appeals,
  - Applications for review, 51-18-3
  - Extensions of time, 51-18-5
  - Review by board, 51-18-2
  - Time schedule; summary calendar, 51-18-4
  - Voluntary dismissals, 51-18-6
- Assignment of compensation, prohibition, 51-21-1
- Attorneys, 51-4-1
- Award, review and modification of, 51-19-1
- Death cases, minors, guardian, 51-10-6
- Disability, measurement of, 51-7-2 et seq.
  - Compensation, computation of, 51-7-8
  - Injuries not covered by schedule, 51-7-3
  - Kidney, loss of, 51-7-6
  - Testicles, loss of, 51-7-5
- Eye injuries, 51-8-2 et seq.
  - Compensation basis, 51-8-9
  - Evaluation method, 51-8-2
  - Partial losses, 51-8-4
  - Secondary visual efficiency,
    - Compensation formula, one eye, 51-8-6
    - Coordinate function, loss of, 51-8-7
    - Hearing loss, 51-8-10
    - Measurement, 51-8-5
  - Visual factors, primary, limits of, 51-8-3
- Fees, 51-2-1 et seq.
  - Administrative, 51-2-1
  - Interpreters, 51-2-6
  - Local administrative judges, 51-2-5
  - Reporter, fees, 51-2-2
  - Transcript, 51-2-4
- Filing methods; service, 51-17-2
- Forms, 51-1-1 et seq.
  - Handicapped employees, notice, 51-1-22
  - Submissions; electronic filing (E-filing) system, 51-1-26
- Injuries occurring inside or outside the state of Kansas,
  - Notices, 51-12-2
- Insurance, self-insurance, 51-14-4
- Medical and hospital services, 51-9-2 et seq.
  - Fees, 51-9-7
    - Appliances, 51-9-2
  - Medical bills, reports, and treatment, 51-9-10
  - Medical treatment, refusal to submit, 51-9-5
  - Physician, neutral, 51-9-6
  - Resolution of disputed charge for or utilization of treatment or service of health care provider or facility,
    - Hearing officer, 51-9-12
    - Methods and review, 51-9-14
    - Procedures, 51-9-13
  - Submission of data, 51-9-15, 51-9-16
  - Trading partner profiles, 51-9-17
  - Transportation to obtain, 51-9-11
- Rehabilitation, 51-24-1 et seq.
  - Definitions, 51-24-3
  - Physical, 51-24-2
- Qualifications,
  - Counselor, evaluator and job placement specialist, 51-24-5
  - Medical or physical rehabilitation services, 51-24-7
  - Private training facility, 51-24-6

**Workers Compensation, Div. of, Dept. of Labor—Cont.**

Rehabilitation—Cont.

Qualifications—Cont.

Vendor, 51-24-4

Standard of conduct,

Penalties for violations of, 51-24-10

Procedure for reviewing and processing  
complaints of violations of, 51-24-9

Vocational rehabilitation vendors and  
professionals, for, 51-24-8

Vocational, 51-24-1

Termination of compensable cases, 51-3-1 et seq.

Closing by joint petition and stipulation, 51-3-16

Disapproval, 51-3-3

Evidence, medical record, 51-3-9

Final receipt and release of liability, 51-3-2

Disapproving, 51-3-3

Setting aside, 51-3-4

Out-of-state accidents, venue, 51-3-6

Payments, 51-3-17

Preliminary hearings, 51-3-5a

Pretrial stipulations, 51-3-8

Setting aside agreement, 51-3-4

Submission letters, 51-3-5

**Workers Compensation, Div. of, Dept. of Labor—Cont.**

Termination of compensable cases—Cont.

Termination, methods of, 51-3-1

Time, computation, and extension, 51-17-1

Waiver of liability, 51-21-1

Workers' Compensation Act, employer's election to  
come under, 51-13-1

Workers' compensation fund, 51-15-2

Department of Labor, Agency 49

**Working Conditions**

Department of Labor, Agency 49

**X**

**X-ray**

Department of Health and Environment, Agency 28

**Y**

**Youth Centers**

Admissions, 30-25-2