2016 SUPPLEMENT

to the

KANSAS ADMINISTRATIVE REGULATIONS

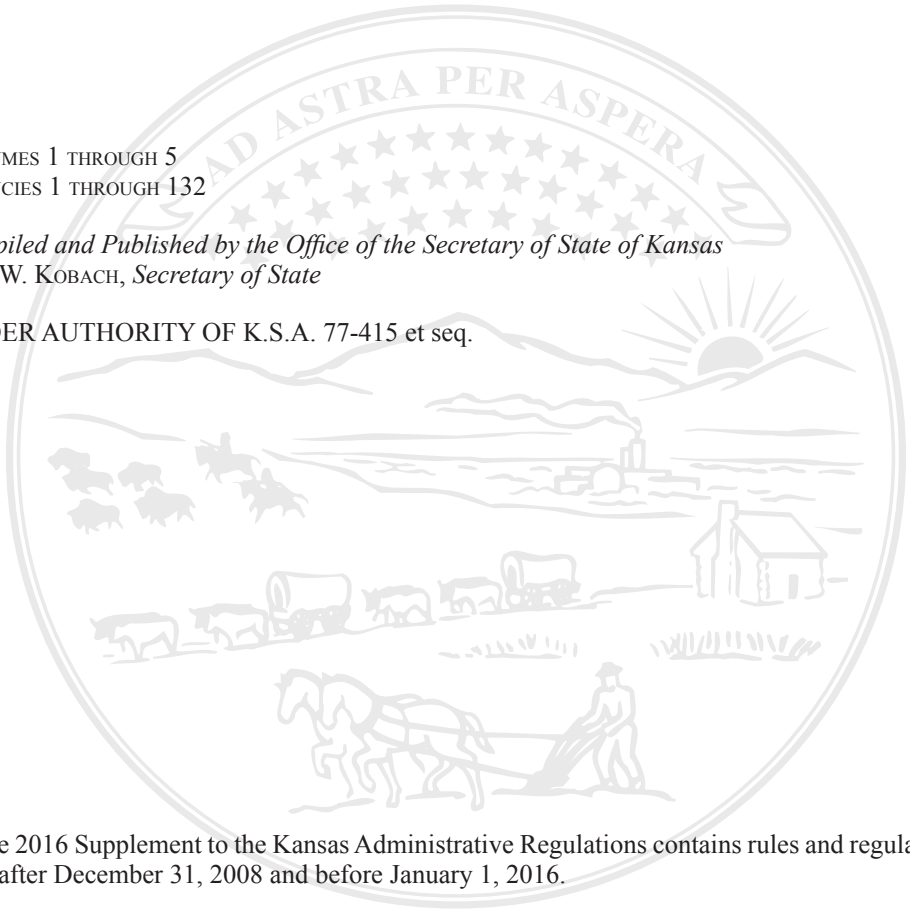
Volumes 1-5

Book 2 of 2
Agencies 84-132

2016 Supplement

to the

Kansas Administrative Regulations



VOLUMES 1 THROUGH 5
AGENCIES 1 THROUGH 132

Compiled and Published by the Office of the Secretary of State of Kansas
KRIS W. KOBACH, *Secretary of State*

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

The 2016 Supplement to the Kansas Administrative Regulations contains rules and regulations filed after December 31, 2008 and before January 1, 2016.

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

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AUTHENTICATION OF RULES AND REGULATIONS

THIS IS TO CERTIFY That we, Derek Schmidt, Attorney General of and for the State of Kansas, and Kris W. Kobach, Secretary of State of and for the State of Kansas, pursuant to K.S.A. 77-429 have examined and compared this 2016 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 132 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 October, 2016.

Derek Schmidt

DEREK SCHMIDT,
Attorney General

Kris W. Kobach

[SEAL]

KRIS W. KOBACH,
Secretary of State

EXPLANATORY PREFACE

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

Volumes of the Kansas Administrative Regulations are sold by the Elections/Legislative Matters Division of the Office of the Secretary of State, First Floor, Memorial Hall, 120 SW 10th Ave., Topeka, KS 66612-1594, (785) 368-6356.

Kris W. Kobach, *Secretary of State*

COMMENTARY

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

The 2016 Supplement contains rules and regulations filed after Dec. 31, 2008 and before Jan. 1, 2016. Regulations filed on and after Jan. 1, 2016 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 that contains the most recent version of the particular regulation. To receive a copy or subscribe to the Kansas Register, write to the Secretary of State's Office, Kansas Register, First Floor, Memorial Hall, 120 SW 10th Ave., Topeka, KS 66612, or call (785) 296-0082.

The history at the end of each regulation cites the authorizing and implementing statute(s). Any subsequent action follows. 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 Dec. 11, 1990 and the amendment became effective on Dec. 31, 1990. If the "T number" is not included in an action on a regulation, the regulation was filed as a permanent regulation. 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. 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.

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 the Index to Regulations in the most current Kansas Register, next check the current K.A.R. Supplement, and finally check the current K.A.R. volume. *If the regulation is found at any of these sequential steps, stop and consider that version the most recent.*

General Rules: *Volumes replace earlier volumes.*
Supplements replace earlier supplements.
Supplements are additions that "supplement" current volumes.

For example, the 2016 Supplement supplements the 2009 Volumes. At printing, the current publications are the 2009 Kansas Administrative Regulations, Volumes 1-5, and the 2016 Supplement. The 2016 Supplement contains rules and regulations filed after Dec. 31, 2008 and before Jan. 1, 2016. Subsequent regulations are published in the Kansas Register and found using the Kansas Register's index to the K.A.R. When an individual volume is published, it replaces the same volume of an earlier year. For example, a 2009 Volume 2 would replace a 2006 Volume 2.

Any questions regarding the K.A.R. may be directed to the Secretary of State's Office by calling (785) 296-4564. Questions regarding the filing procedure may be directed to the Kansas Administrative Regulations Director at (785) 296-2114. For purchasing inquiries call (785) 368-6356. Questions concerning the subject matter of a regulation should be directed to the agency administering the regulation.

Kris W. Kobach, *Secretary of State*

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Agency 84
Public Employee Relations Board

Articles

84-2. PROCEDURE.

Article 2.—PROCEDURE

84-2-1. Service of pleadings. (a) Method, proof, complaints, orders, and other processes and papers of the board. Service of pleadings and orders shall be conducted in accordance with K.S.A. 77-531, and amendments thereto. Complaints, decisions, orders, and other processes and papers of the board may be served personally, by certified mail, by telefacsimile machine, by electronic mail, or by leaving a copy in the proper office or place of business of persons to be served. The return by the individual serving any of these documents, setting forth the manner of service, shall be proof of service. The return post office receipt, when certified and mailed as specified in this subsection, shall be proof of service.

(b) Service by a party. The moving party and respondent in any action shall be required to file the original and five copies of any pleadings with the board or its designee in person, by certified mail, by telefacsimile machine, or by electronic mail. If a party files any pleading with the board by telefacsimile machine or by electronic mail, the party shall file the original and five copies of the pleading with the board either in person or by certified mail within five days of electronically filing the pleading. The moving party shall also cause a copy of the pleading to be served, by regular mail or in person, upon all other parties of record with a statement of certification of service appearing upon the pleading.

(c) Service upon attorney. If a party appears by the party's attorney, all papers other than the complaint, notice of original hearings, and decisions and orders may be served as provided in subsection (d), upon the party's attorney with the same force and effect as though served upon the party.

(d) Service by the board. Once a party has been permitted to intervene in a pending action, upon request of the intervening party the other parties shall be ordered by the board, its designee, or the presiding officer to serve upon the intervening party copies of all pleadings of the other parties filed with the board before the date of intervention. (Authorized by K.S.A. 2007 Supp. 75-4323; implementing K.S.A. 77-519; effective, E-72-29, Sept. 29, 1972; effective Jan. 1, 1973; amended May 1, 1975; amended July 30, 1990; amended June 19, 2009.)

Agency 85

Abstracters' Board of Examiners

Articles

85-4. Licensee Fee.
85-7. Examination Fees.

Article 4.—LICENSE FEE

85-4-1. License fee. The annual fee for each abstracter's license shall be $75.00. (Authorized by K.S.A. 74-3901; implementing K.S.A. 2013 Supp. 58-2801; effective, T-86-8, April 1, 1985; effective May 1, 1986; amended Nov. 13, 1989; amended March 13, 2015.)

Article 7.—EXAMINATION FEES

85-7-1. Examination fees. (a) The fee for the examination shall be $75.00.

(b) If an applicant does not pass the examination the first time, the applicant's fee for a second examination shall be $50.00. (Authorized by K.S.A. 74-3901; implementing K.S.A. 58-2805; effective, T-86-8, April 1, 1985; effective May 1, 1986; amended Nov. 13, 1989; amended March 13, 2015.)

Agency 86
Kansas Real Estate Commission

Articles

86-1. Application and Examination.

Article 1.—APPLICATION AND EXAMINATION

86-1-5. Fees. (a) Each applicant shall pay a fee in an amount equal to the actual cost of the examination and the administration of the examination to the testing service designated by the commission.

(b) Each applicant shall submit the following fees for licensure to the commission:

(1) For submission of an application for an original salesperson's or broker's license, a fee of $15;

(2) for an original salesperson's license, a prorated fee based on a two-year amount of $125;

(3) for an original broker's license, a prorated fee based on a two-year amount of $175;

(4) for renewal of a salesperson's license, a two-year fee of $125;

(5) for renewal of a broker's license, a two-year fee of $175;

(6) for reinstatement of a license that has been deactivated or that has been canceled pursuant to K.S.A. 58-3047(c), and amendments thereto, or due to termination of a salesperson or associate broker, a fee of $15;

(7) for reinstatement of each license canceled pursuant to K.S.A. 58-3047(d) or (f), and amendments thereto, a fee of $7.50;

(8) for a duplicate license, a fee of $10;

(9) for certification of licensure to another jurisdiction, a fee of $10;

(10) for each branch office, a fee of $25;

(11) for each primary office of a company created or established by a supervising broker, a fee of $25;

(12) for certification of a licensee's education history under K.S.A. 58-3046a, and amendments thereto, a fee of $10;

(13) for certification of licensure of a professional corporation, a fee of $10; and

(14) for each additional primary or branch office at which a salesperson or an associate broker, supervising broker, or branch broker is associated or employed, if the person is associated or employed by more than one primary or branch office, a fee of $10, which shall be paid by the salesperson or broker.

(c)(1) Each applicant for an original salesperson's or broker's license shall pay a fee of $60 for the cost of submission of the applicant's fingerprints to the Kansas bureau of investigation for the purpose of obtaining a criminal history check conducted by the Kansas bureau of investigation and the federal bureau of investigation and for the commission's reasonable costs of administering the criminal history check program.

(2) Each licensee shall pay a fee of $60, upon request of the commission, for the cost of submission of the licensee's fingerprints to the Kansas bureau of investigation for the purpose of obtaining a criminal history check conducted by the Kansas bureau of investigation and the federal bureau of investigation and for the commission's reasonable costs of administering the criminal history check program in connection with any investigation.

(d)(1)(A) For each original salesperson's license, the applicant shall pay a prorated fee that is calculated by multiplying $5.00 by the number of months that remain in the applicant's two-year license cycle.

(B) For each original broker's license, the applicant shall pay a prorated fee that is calculated by multiplying $7.00 by the number of months that remain in the applicant's two-year license cycle.

(2) The number of months that remain in the applicant's two-year license cycle shall be determined beginning with the month following the date on which the applicant's application is received by the commission through the applicable expiration month, as specified in K.A.R. 86-1-3.

(e) Each entity seeking course approval pursuant to K.S.A. 58-3046a, and amendments thereto, shall submit the following applicable fee or fees to the commission:

(1) For approval of a course of instruction submitted by a course provider pursuant to K.S.A. 58-3046a, and amendments thereto, a fee of $50; and

(2) for renewal of an approved course of instruction pursuant to K.S.A. 58-3046a, and amendments thereto, a fee of $15.

(f) Each licensee seeking approval of a course of instruction pursuant to K.S.A. 58-3046a(k), and

amendments thereto, shall pay a fee of $10 to the commission. This regulation shall be effective on and after December 1, 2015. (Authorized by K.S.A. 2014 Supp. 58-3063, as amended by L. 2015, ch. 21, sec. 6; implementing K.S.A. 2014 Supp. 58-3039 and 58-3063, as amended by L. 2015, ch. 21, sec. 6; effective Jan. 1, 1966; amended, E-73-30, Sept. 28, 1973; amended Jan. 1, 1974; amended, E-74-50, Sept. 13, 1974; amended May 1, 1975; amended, E-81-18, July 16, 1980; amended May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended, T-86-10, May 1, 1985; amended May 1, 1986; amended, T-87-32, Nov. 19, 1986; amended May 1, 1987; amended Sept. 26, 1988; amended July 31, 1991; amended Dec. 20, 1993; amended July 31, 1996; amended, T-86-10-1-97, Oct. 1, 1997; amended Oct. 24, 1997; amended March 13, 1998; amended, T-86-7-2-07, July 2, 2007; amended Nov. 16, 2007; amended Dec. 1, 2015.)

Agency 88
Kansas Board of Regents

Articles

88-3. Guidelines for the Determination of Residency for Fee Purposes.
88-24. General Education Development (GED) Test.
88-26. Community Colleges, Technical Colleges and Washburn Institute of Technology.
88-28. Private and Out-of-State Postsecondary Education Institutions.
88-29. Qualified Admission.
88-29a. State University Admissions.
88-29b. University of Kansas Admissions.
88-30. Student Health Insurance Program.

Article 3.—GUIDELINES FOR THE DETERMINATION OF RESIDENCY FOR FEE PURPOSES

88-3-8a. Military personnel and veterans. (a) "Armed forces" and "veteran" shall have the meanings specified in K.S.A. 2015 Supp. 48-3601, and amendments thereto.

(b) The resident fee privilege shall be accorded to any person who meets the following conditions:

(1) Is enrolled at any state educational institution, as defined by K.S.A. 76-711 and amendments thereto; and

(2) meets one of the following conditions:

(A) Is currently serving in the armed forces or is a veteran of the armed forces who is eligible for benefits under the federal post-9/11 veterans educational assistance act or any other federal law authorizing educational benefits for veterans; or

(B) is the spouse or dependent child of a person who qualities for resident tuition rates and fees pursuant to paragraph (b)(2)(A) or who, if qualifying through a veteran, is eligible for benefits under the federal post-9/11 veterans educational assistance act or any other federal law authorizing educational benefits for veterans.

(c) This regulation shall not be construed to prevent a person covered by this regulation from acquiring or retaining a bona fide residence in Kansas.

(d) Each person seeking the resident fee privilege pursuant to this regulation shall be responsible for providing the appropriate office at the state educational institution at which the person seeks admission or is enrolling with the information and written documentation necessary to verify that the person meets the applicable requirements of K.S.A. 2015 Supp. 48-3601 and K.S.A. 76-729, and amendments thereto, and this regulation. This documentation shall include the following:

(1) If claiming current status in the armed forces, written documentation verifying that status;

(2) if claiming veteran status, the following:

(A) Written documentation verifying that the veteran qualities for benefits under the federal post-9/11 veterans educational assistance act or any other federal law authorizing educational benefits for veterans;

(B) written documentation verifying that the veteran lives or will live in Kansas while attending the state educational institution; and

(C) a letter signed by the veteran attesting an intent to become a resident of Kansas;

(3) if claiming spouse or dependent child status based upon the relationship to a current member of the armed forces, the following:

(A) Written documentation verifying the required relationship to the current member of the armed forces; and

(B) written documentation verifying that the member of the armed forces is currently serving; and

(4) if claiming spouse or dependent child status based upon a relationship with a veteran, the following:

(A) Written documentation verifying the required relationship to the veteran;

(B) written documentation verifying that the spouse or dependent child qualities for benefits under the federal post-9/11 veterans educational assistance act or any other federal law authorizing educational benefits for veterans;

(C) written documentation verifying that the spouse or dependent child of the veteran lives or will live in Kansas while that person is a student attending the state educational institution; and

(D) a written letter signed by the spouse or dependent child of the veteran, attesting that the spouse or dependent child intends to become a resident of Kansas. (Authorized by K.S.A. 76-730; implementing K.S.A. 2015 Supp. 76-729 and K.S.A. 76-730; effective July 27, 2007; amended Jan. 18, 2013; amended, T-88-8-10-15, Aug. 10, 2015; amended Dec. 18, 2015.)

88-3-12. (Authorized by K.S.A. 76-730; implementing K.S.A. 2006 Supp. 76-729, as amended by 2007 HB 2425, §1 and 2007 HB 2185, §10; effective Nov. 14, 1988; amended Nov. 18, 1991; amended July 27, 2007; revoked, T-88-8-10-15, Aug. 10, 2015; revoked Dec. 18, 2015.)

Article 24.—GENERAL EDUCATION DEVELOPMENT (GED) TEST

88-24-1. Eligibility to take GED test. (a) Each applicant to take the general education development (GED) test shall meet the following requirements:

(1) Be neither currently enrolled at nor graduated from an accredited public, private, denominational, or parochial high school in the United States or Canada; and

(2) be 16 years of age or older.

(b) In addition to meeting the requirements specified in subsection (a), each applicant who is 16 or 17 years old shall meet the following requirements:

(1) Provide one of the following:

(A) Written permission from a parent or legal guardian; or

(B) written proof of legal emancipation; and

(2) provide proof of meeting one of the following requirements:

(A) Have participated in a final counseling session conducted by the school district where the applicant currently resides and signed a disclaimer pursuant to K.S.A. 72-1111(b)(2), and amendments thereto;

(B) have disenrolled from an alternative education program approved by a Kansas unified school district;

(C) have graduated or disenrolled from a program of instruction approved by the state board of education pursuant to K.S.A. 72-1111(g), and amendments thereto; or

(D) be exempt from compulsory attendance pursuant to a court order. (Authorized by and implementing K.S.A. 2009 Supp. 72-4530; effective Oct. 18, 2002; amended July 27, 2007; amended Oct. 15, 2010.)

88-24-2. Test score requirements. Each applicant who meets the test score requirements shall be issued a Kansas state high school diploma. The test score requirements shall be a minimum standard score of 150 on each test in the battery and a cumulative standard score of at least 600 on all four of the tests in the battery. (Authorized by and implementing K.S.A. 2014 Supp. 72-4530; effective Oct. 18, 2002; amended July 27, 2007; amended April 10, 2015.)

Article 26.—COMMUNITY COLLEGES, TECHNICAL COLLEGES AND WASHBURN INSTITUTE OF TECHNOLOGY

88-26-1. Definitions. (a) "Board staff" and "staff" mean the designees of the president and chief executive officer of the state board.

(b) "Community college" has the meaning specified in K.S.A. 74-3201b, and amendments thereto.

(c) "Course of study" and "program" mean a curriculum, the completion of which qualifies a student to receive a degree or a career technical certificate or to engage in a particular field of employment.

(d) "Distance education course" means any course in which faculty and students are physically separated in place or time and in which two-thirds or more of the instruction is provided by means other than face-to-face instruction.

(e) "Distance education program" means any program in which 50 percent or more of the program is delivered by means of distance education courses.

(f) "Institution" means a community college, a technical college, or the Washburn institute of technology.

(g) "Non-accredited private secondary school" means a school that meets all of the following conditions:

(1) The school regularly offers education at the secondary level.

(2) Attendance at the school satisfies the requirements of the compulsory school attendance laws of Kansas.

(3) The school is not accredited by the state board of education.

(h) "Out-of-state or foreign student" means a student who is not a resident of the state of Kansas.

(i) "President and chief executive officer of the state board" means the chief executive officer as described in K.S.A. 74-3203a, and amendments thereto.

(j) "Satisfactory progress" means the progress required by an institution's reasonable satisfactory academic progress policy.

(k) "State aid" means any funds appropriated by the Kansas legislature to the state board for allocation or distribution to institutions.

(l) "State board" means Kansas board of regents.

(m) "Technical college" means any technical college designated pursuant to K.S.A. 72-4472, 72-4473, 72-4474, 72-4475, 72-4477, or 72-4477a, and amendments thereto.

(n) "Washburn institute of technology" means the area vocational school that is affiliated with Washburn university pursuant to K.S.A. 72-4479, and amendments thereto. (Authorized by K.S.A. 72-7514, K.S.A. 74-32,140, and K.S.A. 2014 Supp. 74-32,141; implementing K.S.A. 2014 Supp. 71-201, K.S.A. 71-406, 71-407, K.S.A. 2014 Supp. 71-1803, 72-4480, K.S.A. 74-32,140, and K.S.A. 2014 Supp. 74-32,141; effective Oct. 29, 2004; amended April 10, 2015.)

88-26-2. Accreditation. (a) Accreditation by the higher learning commission of the north central association of colleges and schools shall be presumptive evidence that the criteria specified in subsection (b) are met.

(b) To be approved by the board for purposes of qualifying to receive state aid, each institution shall be required to meet the following minimum standards:

(1) The curriculum reasonably and adequately ensures achievement of the stated objectives for which the curriculum is offered. The institution shall have policies and procedures in place to evaluate and ensure the quality of its educational programs.

(2) The faculty members hold the credentials appropriate to the academic program offered as follows:

(A) Each faculty member shall possess an academic degree that is relevant to what the individual is teaching and that is at least one level above the level at which the individual is teaching. Alternatively, for each faculty member employed based on equivalent experience, the institution shall establish criteria for minimum equivalent experience that will be used in the appointment process.

(B) Each instructor, including instructors in dual-credit, contractual, and collaborative programs, shall be appropriately credentialed.

(3) The institution makes available to its students support services appropriate for its mission, including advising, academic records, financial aid, and placement, each of which shall meet the following conditions:

(A) The services are readily available and evaluated periodically to determine their overall effectiveness.

(B) The extent of the services provided by the institution and any associated cost to the student are stated in the catalog and other appropriate publications.

(4) The facilities and environs are safe and support learning appropriate for the curriculum.

(5) The institution owns or has secured access to the learning resources and services necessary to support the learning expected of its students, including laboratories, libraries, performance spaces, and clinical practice sites.

(6) The financial resources of the institution are sufficient to reasonably and adequately support its current operations, meet its stated objectives, and continue to do so in the foreseeable future.

(7) The institution engages in systematic and integrated planning. Processes allow the institution to enhance its strengths and minimize its weaknesses in the face of a changing environment.

(8) The institution's governance and administrative structures promote effective leadership and support collaborative processes that enable the institution to fulfill its mission. The governance structure is consistent with the institution's stated objectives and provides for the following:

(A) The governing board is knowledgeable about the institution, provides oversight for the institution's financial and academic policies and practices, and meets its legal and fiduciary responsibilities.

(B) The institution enables the involvement of its administration, faculty, staff, and students in setting academic requirements, policy, and processes through effective structures for contribution and collaborative effort.

(9) The institution operates with integrity in its financial, academic, personnel, and auxiliary functions. The institution demonstrates integrity in the relationship with its internal and external constituents.

(A) The academic freedom of both students and faculty is upheld to the extent permitted by law and governing board policy.

(B) Due process is recognized in the institutional operations.

(C) The institution's practices are consistent with its published procedures.

(D) The institution accurately portrays its practices, services, and programs.

(E) The institution meets all applicable federal and state requirements.

(c) The loss of accreditation by an institution, or for Washburn institute of technology, its affiliated university, shall be presumptive evidence of failure to adhere to the minimum standards set by the board. Each institution that loses its accreditation shall be subject to the loss of state aid unless the institution demonstrates that it meets the minimum standards specified in subsection (b). (Authorized by K.S.A 72-7514, K.S.A. 74-32,140, and K.S.A. 2014 Supp. 74-32,141; implementing K.S.A. 2014

Supp. 71-601, 71-620, K.S.A. 71-801, K.S.A. 2014 Supp. 71-1803, 72-4480, K.S.A. 74-32,140, and K.S.A. 2014 Supp. 74-32,141; effective Oct. 29, 2004; amended April 10, 2015.)

88-26-3. Admissions. To be academically eligible for admission to any community college or technical college or to the Washburn institute of technology, each applicant shall be required to meet one of the following criteria:

(a) Be a graduate of an accredited high school, a graduate of a non-accredited private secondary school, or a recipient of a state-issued or state-recognized high school equivalency credential;

(b)(1) Be enrolled in either an accredited high school or a non-accredited private secondary school, at either of the following:

(A) The tenth-grade, eleventh-grade, or twelfth-grade level; or

(B) the ninth-grade level if the applicant is classified by a school district as gifted, as defined in K.A.R. 91-40-1; and

(2)(A) Have an ACT or SAT score at or above the national average, or have a cumulative high school GPA of 3.0 or above; or

(B) have been determined by the community college or technical college or the Washburn institute of technology, after evaluating the applicant's educational credentials, to be able to benefit from the courses in which the applicant wishes to enroll; or

(c)(1) Be 18 years of age or older; and

(2) have been determined by the community college or technical college or the Washburn institute of technology, after evaluating the applicant's educational credentials, to be able to benefit from the courses in which the applicant wishes to enroll. (Authorized by K.S.A. 72-7514, 74-32,140, and K.S.A. 2014 Supp. 74-32,141; implementing K.S.A. 71-801, 72-4469, K.S.A. 2014 Supp. 72-4470a, K.S.A. 74-32,140, and K.S.A. 2014 Supp. 74-32,141; effective Oct. 29, 2004; amended April 10, 2015.)

88-26-4. Credit. (a) Transfer credit. Each institution shall accept credits from all courses that are substantially equivalent to those offered at the institution, including courses that have been determined by the state board through the alignment process or the transfer and articulation process to be substantially equivalent. Any institution accepting transfer credit may evaluate the applicability of the credit towards meeting program requirements. Any institution may award credit for other documented learning experiences.

(b) Advanced standing. Any institution may award credit for advanced standing based on the policies adopted by that institution's governing board.

(c) Credit for lecture, laboratory, and other classes. Each institution shall record one semester hour of credit for any student attending a lecture class, if the student has made satisfactory progress in the class and the class consists of at least 750 minutes of class instruction, plus time allocated for a final exam. Each institution shall record one semester hour of credit for any student attending a laboratory class, if the student has made satisfactory progress in the class and the class consists of at least 1,125 minutes. Each institution shall record one semester hour of credit for any student who completes at least 2,700 minutes in on-the-job training, internships, or clinical experiences in health occupations. The number of semester hours of credit recorded for each distance education course shall be assigned by the institution that provided the course, based on the amount of time needed to achieve the course competencies in a face-to-face format. (Authorized by K.S.A. 72-7514, 74-32,140, and K.S.A. 2014 Supp. 74-32,141; implementing K.S.A. 2014 Supp. 71-601, K.S.A. 71-801, 74-32,140, and K.S.A. 2014 Supp. 74-32,141; effective Oct. 29, 2004; amended April 10, 2015.)

88-26-5. Graduation or completion requirements. (a) Any community college may award the associate in arts degree, the associate in science degree, or the associate in general studies degree to each student who has satisfactorily completed 60 or more credit hours in a curriculum that parallels that of a Kansas public university for freshmen and sophomores.

(b) Any community college or technical college may award the associate in applied science degree to each student who has satisfactorily completed a program in a career technical curriculum consisting of at least 60 credit hours but not more than 68 credit hours, in which at least 15 credit hours in general education and at least 30 credit hours in the area of specialized preparation are required. The 68-credit-hour maximum shall not apply to any programs having external accreditation or industry requirements that exceed the 68-credit-hour limit.

(c) Any institution may grant a career technical certificate to each student who has satisfactorily completed any technical program that is less than 60 credit hours in length but is more than 15 credit hours.

(d) Any institution may award a certificate of completion to each student who has satisfactorily

completed a course of study not exceeding 15 credit hours. (Authorized by K.S.A. 72-7514, 74-32,140, and K.S.A. 2014 Supp. 74-32,141; implementing K.S.A. 71-801, 74-32,140, and K.S.A. 2014 Supp. 74-32,141; effective Oct. 29, 2004; amended April 10, 2015.)

88-26-6. Approval of programs. (a)(1) Except as specified in paragraph (a)(2), each program to be offered by an institution shall be required to be approved by the state board before the program is actually offered by the institution. The institution shall submit an application for approval of the program to the state board.

(2) If an associate in applied science degree program has been approved by the state board in accordance with paragraph (a)(1), the institution may subsequently offer within the program a separate certificate of completion or a separate career technical certificate based on credits earned within that program.

(b) The application for approval shall provide information that establishes each of the following:

(1) There is a documented state, regional, or local need for the proposed program.

(2) The institution has the physical and human resources to deliver the program.

(3) The delivery of the program is financially feasible for the state and the institution.

(4) The program does not unnecessarily duplicate any existing programs of the other institutions within the state.

(c) Upon receipt of an application, the application shall be reviewed by board staff, and a determination shall be made whether the requirements specified in subsection (b) have been met.

(d) If the board staff determines that the requirements specified in subsection (b) have been met, the program shall be recommended by the board staff for approval by the state board. The institution shall be notified by the board staff, in writing, of the recommendation.

(e) If the board staff determines that the information provided does not meet all of the requirements specified in subsection (b), the institution shall be notified by the board staff, in writing, of the determination, which shall include in the notice the reason or reasons for the determination. The institution shall also be notified by the board staff of the right to request a review of the determination. (Authorized by K.S.A. 72-7514, K.S.A. 74-32,140, and K.S.A. 2014 Supp. 74-32,141; implementing K.S.A. 71-801; effective Oct. 29, 2004; amended April 10, 2015.)

88-26-7. Residence determination for state aid purposes. (a) Each institution shall determine residency, for state aid purposes, pursuant to statutes or regulations that apply to determination of residency by the institutions, including, for community colleges, K.S.A. 71-406 and K.S.A. 71-407 and amendments thereto. The factors that may be considered in determining residency for state aid purposes shall include, when applicable or appropriate, a Kansas driver's license, evidence of payment of Kansas real estate taxes, payment of Kansas income taxes, reliance on Kansas sources for support, acceptance of permanent employment in Kansas, ownership of a home in Kansas, registration to vote in Kansas, and commitment to an educational program that indicates an intent to maintain a permanent presence in Kansas upon graduation.

(b) The governing board of each institution shall consider L. 2015, ch. 76, sec. 3, and amendments thereto, when setting tuition rates based on residency. (Authorized by K.S.A. 71-406, 72-7514, 74-32,140, and K.S.A. 2014 Supp. 74-32,141; implementing K.S.A. 71-406, 71-407, K.S.A. 2014 Supp. 71-620, 71-1803, and 72-4480; effective Oct. 29, 2004; amended April 10, 2015; amended, T-88-8-10-15, Aug. 10, 2015; amended Dec. 18, 2015.)

88-26-8. Determination of student residency. (a) For purposes of state aid, the president of each institution shall designate a person, referred to in this regulation as the "admissions officer," to determine the residency of each student enrolled in the institution.

(b) The enrollment forms of each institution shall include questions that enable the admissions officer to identify the residency of each student for state aid purposes. (Authorized by K.S.A. 71-406, 72-7514, 74-32,140, and K.S.A. 2014 Supp. 74-32,141; implementing K.S.A. 71-406, 71-407, K.S.A. 2014 Supp. 71-620, 71-1803, 72-4480; effective Oct. 29, 2004; amended April 10, 2015.)

88-26-9, 88-26-10, and 88-26-11. (Authorized by and implementing K.S.A. 71-201, K.S.A. 2003 Supp. 71-301a, K.S.A. 2003 Supp. 71-403, K.S.A. 72-7514, and K.S.A. 74-32,140; effective Oct. 29, 2004; revoked April 10, 2015.)

88-26-12. (Authorized by and implementing K.S.A. 71-201, K.S.A. 2003 Supp. 71-306, K.S.A. 72-7514, and K.S.A. 74-32,140; effective Oct. 29, 2004; revoked April 10, 2015.)

88-26-13. (Authorized by and implementing K.S.A. 71-201, K.S.A. 2003 Supp. 71-301a, K.S.A. 2003 Supp. 71-403, K.S.A. 72-7514, and K.S.A. 74-32,140; effective Oct. 29, 2004; revoked April 10, 2015.)

88-26-14. (Authorized by and implementing K.S.A. 71-201, K.S.A. 71-301a, as amended by 2003 HB 2343, § 10, and K.S.A. 71-403, as amended by 2003 HB 2343, § 17; effective Oct. 29, 2004; revoked April 10, 2015.)

88-26-15, 88-26-16. (Authorized by and implementing K.S.A. 71-201, K.S.A. 2003 Supp. 71-301a, K.S.A. 2003 Supp. 71-403, K.S.A. 72-7514, and K.S.A. 74-32,140; effective Oct. 29, 2004; revoked April 10, 2015.)

Article 28.—PRIVATE AND OUT-OF-STATE POSTSECONDARY EDUCATION INSTITUTIONS

88-28-1. Definitions. The following terms, wherever used in this article, shall have the meanings specified in this regulation: (a) "Academic year" means instruction consisting of at least 24 semester credit hours over a period of two semesters or the equivalent.

(b) "Associate's degree" means a postsecondary degree consisting of at least 60 semester credit hours or the equivalent of college-level coursework. This term shall include the following types of associate's degree:

(1) "Associate in applied science degree" means a technical-oriented or occupational-oriented associate's degree that meets the following conditions:

(A) Is granted to each student who successfully completes a program that emphasizes preparation in the applied arts and sciences for careers, typically at the technical or occupational level; and

(B) requires at least 15 semester credit hours in general education and at least 30 semester credit hours or the equivalent in the technical content area.

(2) "Associate in arts degree" means an associate's degree that meets the following conditions:

(A) Is granted to each student who successfully completes a program that emphasizes the liberal arts; and

(B) requires at least 30 semester credit hours or the equivalent in general education, including English, mathematics, humanities, communications, physical sciences, and social and behavioral sciences, or any combination of these subjects.

(3) "Associate in general studies degree" means an associate's degree that meets the following conditions:

(A) Is granted to each student who successfully completes a program that emphasizes a broad range of knowledge; and

(B) requires at least 24 semester credit hours or the equivalent in general education.

(4) "Associate in science degree" means an associate's degree that meets the following conditions:

(A) Is granted to each student who successfully completes a program that emphasizes either mathematics or the biological or physical sciences, or both; and

(B) requires at least 30 semester credit hours or the equivalent in general education.

(c) "Bachelor's degree" and "baccalaureate" mean a degree that meets the following conditions:

(1) Requires the equivalent of at least four academic years of college-level coursework in the liberal arts, sciences, or professional fields meeting the following conditions:

(A) Requires at least 120 semester credit hours or the equivalent;

(B) includes at least 45 semester credit hours or the equivalent in upper-division courses; and

(C) requires at least 60 semester credit hours or the equivalent from institutions that confer a majority of degrees at or above the baccalaureate level; and

(2) requires a distinct specialization, which is known as a "major," that requires either of the following:

(A) At least one academic year, or the equivalent in part-time study, of work in the major subject and at least one academic year, or the equivalent in part-time study, in related subjects; or

(B) at least two academic years, or the equivalent in part-time study, in closely related subjects within a liberal arts interdisciplinary program.

(d) "Catalog" means a document delivered in print or on-line containing the elements specified in K.A.R. 88-28-2.

(e) "Closure of an institution" or "closure" means the practice of no longer allowing students access to the institution to receive instruction. Closure of an institution occurs on the calendar day immediately following the last day on which students are allowed access to the institution to receive instruction.

(f) "Degree program" means a course of study that meets the following conditions:

(1) Leads to an associate's degree, a bachelor's degree, a master's degree, an intermediate (specialist) degree, a first professional degree, or a doctor's degree; and

(2) consists of at least 30 semester credit hours or the equivalent of coursework in a designated academic discipline area.

(g) "Doctor's degree" means a degree that may include study for a closely related master's degree and that meets the following conditions:

(1) Is granted to each student who successfully completes an intensive, scholarly program requiring the equivalent of at least three academic years beyond the bachelor's degree;

(2) requires a demonstration of mastery of a significant body of knowledge through successful completion of either of the following:

(A) A comprehensive examination; or

(B) a professional examination, the successful completion of which may be required in order to be admitted to professional practice in Kansas; and

(3) requires evidence, in the form of a doctoral dissertation, of competence in independent basic or applied research that involves the highest levels of knowledge and expertise.

(h) "Enrollment agreement" means a written contract between an institution and a student in which the institution agrees to provide instruction to the student for a fee. Each valid enrollment agreement shall meet the requirements of K.A.R. 88-28-7.

(i) "Enrollment period" means the period of time specified in an enrollment agreement during which instruction, including any examinations given, is to be provided to a student.

(j) "Entering an institution" means commencing class attendance by a student at an on-site institution or first submitting a lesson by a student for evaluation in a distance education program.

(k) "First professional degree" means a degree that meets the following conditions:

(1) Is granted to each student who successfully completes study beyond the fulfillment of undergraduate requirements, as approved by the state board;

(2) requires the equivalent of at least five academic years of study, including work towards a bachelor's degree; and

(3) includes a specialization in a professional field.

(l) "Honorary degree" means a special degree awarded as an honor that is bestowed upon a person without completion of the usual requirements.

(m) "Intermediate (specialist) degree" means a degree, including an educational specialist degree, granted to each student who successfully completes a program requiring the equivalent of at least one academic year beyond the master's degree in a professional field.

(n) "Master's degree" means a degree that meets the following conditions:

(1) Is granted to each student who successfully completes a program in the liberal arts and sciences or in a professional field beyond a bachelor's degree;

(2) requires the equivalent of at least one academic year in a curriculum specializing in a single discipline or single occupational or professional area; and

(3) culminates in a demonstration of mastery, which may include one or more of the following:

(A) A research thesis;

(B) a work of art; or

(C) the solution of an applied professional problem.

(o) "Program" means either of the following:

(1) A course or series of courses leading to a certificate, diploma, or degree; or

(2) training that prepares a person for a field of endeavor in a business, trade, technical, or industrial occupation.

(p) "Upper-division course" means any course with content and teaching appropriate for students in their third and fourth academic years or for other students with an adequate background in the subject. (Authorized by and implementing K.S.A. 2009 Supp. 74-32,165; effective Oct. 20, 2006; amended March 18, 2011.)

88-28-6. Fees. Fees for certificates of approval, registration of representatives, and certain transcripts shall be collected by the state board in accordance with this regulation.

(a) For institutions domiciled or having their principal place of business within the state of Kansas, the following fees shall apply:

(1) Initial application fees:

(A) Non-degree-granting institution..... $1,000

(B) Degree-granting institution $2,000

(2) Initial evaluation fee, in addition to initial application fees:

(A) Non-degree level..... $750

(B) Associate degree level..... $1,000

(C) Baccalaureate degree level..... $2,000

(D) Master's degree level $3,000

(E) Professional and doctoral degree levels..... $4,000

(3) Renewal application fees:

(A) Non-degree-granting institution..... 2% of gross tuition but not less than $500 and not more than $10,000

(B) Degree-granting institution ..... 2% of gross tuition, but not less than $1,200 and not more than $10,000

(4) New program submission fees, for each new program:

(A) Non-degree program $100
(B) Associate degree program $250
(C) Baccalaureate degree program $500
(D) Master's degree program $750
(E) Professional and doctoral degree programs $1,500
(5) Program modification fee, for each program $100
(6) Branch campus site fees, for each branch campus site:
(A) Initial non-degree-granting institution $1,000
(B) Initial degree-granting institution..... $2,000
(7) Renewal branch campus site fees, for each branch campus site:
(A) Non-degree-granting institution..... 2% of gross tuition, but not less than $500 and not more than $10,000
(B) Degree-granting institution ..... 2% of gross tuition, but not less than $1,200 and not more than $10,000
(8) On-site branch campus review fee, for each branch campus site $100
(9) Representative fees:
(A) Initial registration..... $200
(B) Renewal of registration $10
(10) Late submission of renewal of application fee $125
(11) Student transcript copy fee $10
(12) Returned check fee $50
(13) Changes in institution profile fees:
(A) Change of institution name $50
(B) Change of institution location $50
(C) Change of ownership only $50
(b) For institutions domiciled or having their principal place of business outside the state of Kansas, the following fees shall apply:
(1) Initial application fees:
(A) Non-degree-granting institution..... $3,000
(B) Degree-granting institution $4,000
(2) Initial evaluation fee, in addition to initial application fees:
(A) Non-degree level $1,500
(B) Associate degree level $2,000
(C) Baccalaureate degree level $3,000
(D) Master's degree level $4,000
(E) Professional and doctoral degree levels $5,000
(3) Renewal application fees:
(A) Non-degree-granting institution..... 3% of gross tuition received or derived from Kansas students, but not less than $1,800 and not more than $10,000
(B) Degree-granting institution ..... 3% of gross tuition received or derived from Kansas students, but not less than $2,400 and not more than $10,000
(4) New program submission fees, for each new program:
(A) Non-degree program $250
(B) Associate degree program $500
(C) Baccalaureate degree program $750
(D) Master's degree program $1,000
(E) Professional and doctoral degree programs $2,000
(5) Program modification fee, for each program $100
(6) Branch campus site fees, for each branch campus site:
(A) Initial non-degree-granting institution $3,000
(B) Initial degree-granting institution..... $4,000
(7) Renewal branch campus site fees, for each branch campus site:
(A) Non-degree-granting institution..... 3% of gross tuition received or derived from Kansas students, but not less than $1,800 and not more than $10,000
(B) Degree-granting institution ..... 3% of gross tuition received or derived from Kansas students, but not less than $2,400 and not more than $10,000
(8) On-site branch campus review, fee for each branch campus site $500
(9) Representative fees:
(A) Initial registration..... $350
(B) Renewal of registration $10
(10) Late submission of renewal of application fee $125
(11) Student transcript copy fee $10
(12) Returned check fee $50
(13) Changes in institution profile fees:
(A) Change of institution name $50
(B) Change of institution location $50
(C) Change of ownership only $50

(Authorized by and implementing K.S.A. 2014 Supp. 74-32,181; effective Oct. 20, 2006; amended April 16, 2010; amended, T-88-7-20-11, July 20, 2011; amended Oct. 21, 2011; amended April 10, 2015.)

Article 29.—QUALIFIED ADMISSION

88-29-1. Definitions. This regulation shall be applicable to each state educational institution's review of applicants before the 2016 summer session. Each of the following terms, wherever used in

this article or in article 29a, shall have the meaning specified in this regulation:

(a) "Accredited high school" means one or more educational institutions that provide secondary instruction to students in grades 9, 10, 11, and 12 and that are designated accredited by a regional accrediting agency recognized by the United States department of education, by the Kansas state board of education, or by an agency with standards equivalent to those of the United States department of education or the Kansas state board of education.

(b) "Admission" means the permission given by the admission officer of a state educational institution to an applicant to enroll as a degree-seeking student in a state educational institution.

(c) "Admission category" means one of the admission categories adopted by a state educational institution pursuant to K.A.R. 88-29-3.

(d) "Complete application file" means the entire set of the following student records that have been received in the admission office of a state educational institution:

(1) A completed application to the state educational institution;

(2) verification that all applicable application fees have been paid;

(3) an official copy of the final transcript from each high school attended, including a transcript documenting graduation from high school, or a high school equivalency credential;

(4) when required pursuant to K.A.R. 88-29-5, K.A.R. 88-29a-5, K.A.R. 88-29-7, or K.A.R. 88-29a-7, an official copy of all ACT or SAT scores; and

(5) any other materials required by the state educational institution for advising or placement purposes.

(e) "Degree-seeking student" means a student who has been accepted for enrollment at a state educational institution and who has formally indicated to the state educational institution the intent to complete a program of study that is designated by the United States department of education as a program that is eligible for federal financial aid.

(f) "Earned a high school equivalency credential with at least the prescribed minimum scores" means one of the following:

(1) Took the GED test on or after January 1, 2014, with an overall score of at least 680 points and a minimum score of 150 points on each subset;

(2) took the high school equivalency test (HiSET) on or after January 1, 2014, with an overall score of at least 75 points and a minimum score of 8 points on each subtest;

(3) took the GED test on or after January 1, 2002 and before January 1, 2014, with an overall score of at least 2,550 points and a minimum score of 510 points on each subtest; or

(4) took the GED test before January 1, 2002, with an overall score of at least 250 points and a minimum score of 50 points on each subtest.

(g) "Exception window for nonresident freshman class admissions" means a method by which any state educational institution, pursuant to K.A.R. 88-29-8c or K.A.R. 88-29a-8c, may admit a person who is not a resident of Kansas, who does not meet the applicable requirements specified in K.A.R. 88-29-4, K.A.R. 88-29-7, K.A.R. 88-29a-7, K.A.R. 88-29-7a, or K.A.R. 88-29a-7a, and who is not eligible for admission pursuant to the exception window for nonresident transfer admissions.

(h) "Exception window for nonresident transfer admissions" means a method by which any state educational institution, pursuant to K.A.R. 88-29-8b,may admit a person who is not a resident of Kansas and who has earned at least 24 transferable college credit hours but who is not eligible for admission pursuant to K.A.R. 88-29-4.

(i) "Exception window for resident freshman class admissions" means a method by which any state educational institution, pursuant to K.A.R. 88-29-8 or K.A.R. 88-29a-8, may admit a Kansas resident who does not meet the applicable requirements specified in K.A.R. 88-29-4 through 88-29-6, K.A.R. 88-29a-5, or K.A.R. 88-29a-6 and who is not eligible for admission pursuant to the exception window for resident transfer admissions.

(j) "Exception window for resident transfer admissions" means a method by which any state educational institution, pursuant to K.A.R. 88-29-8a, may admit a Kansas resident who has earned at least 24 transferable college credit hours but who is not eligible for admission pursuant to K.A.R. 88-29-4.

(k) "Institution of higher education" means an educational institution in any state, territory, or country that meets all of the following criteria:

(1) Meets one of the following requirements:

(A) Offers a course of instruction designated by the United States department of education as a program that is eligible for federal financial aid; or

(B) offers a course of instruction that is equivalent to a program designated by the United States department of education as a program that is eligible for federal financial aid;

(2) is legally authorized within the state, territory, or country that appears on the transcript to provide a program of education beyond secondary education; and

(3) meets one of the following requirements:

(A) Is accredited by an accrediting agency or association that is recognized by the United States department of education or an international accrediting agency; or

(B) has been granted preaccreditation status by an accrediting agency or association that is recognized by either the United States department of education or an international accrediting agency.

(l) "Integrated course" means a course that redistributes the content of two or more qualified admission precollege curriculum courses into a nontraditional combination. A nontraditional combination may combine the content of qualified admission algebra I and qualified admission geometry over a period of four semesters in a sequence of courses titled integrated math I and II.

(m) "Kansas resident" means a person determined to be a resident for fee purposes, pursuant to K.S.A. 76-729 and amendments thereto.

(n) "Non-accredited private secondary school" has the meaning specified in K.A.R. 88-26-1, which may include a home school.

(o) "Non-degree-seeking student" means a student who has been accepted for enrollment in a state educational institution and who has formally indicated to the state educational institution the intent to enroll for self-enrichment or other reasons, excluding the intent to complete a course of study that is designated by the United States department of education as a program that is eligible for federal financial aid.

(p) "Precollege," when used to describe a course or curriculum, means a type of course or curriculum offered at an accredited high school that meets both of the following conditions:

(1) The course or curriculum is designed for a student performing at or above the student's grade level as determined by standardized testing.

(2) The content and requirements of the course or curriculum have been determined by the board of regents or the board's designee to reflect a pace of instruction, intensity and depth of material, level of abstraction, and application of critical thinking necessary to prepare students for study at state educational institutions.

(q) "State educational institution" has the meaning specified in K.S.A. 76-711, and amendments thereto.

(r) "Transferable college credit hours" means postsecondary coursework that an admitting state educational institution will accept.

(s) "Unit" means a measure of secondary credit that may be awarded to a student for satisfactory completion of a particular course or subject, as determined by the local school district.

This regulation shall have no force and effect on and after June 1, 2016. (Authorized by and implementing K.S.A. 2014 Supp. 76-717; effective Aug. 1, 2007; amended, T-88-6-26-09, July 1, 2009; amended Nov. 13, 2009; amended July 22, 2011; amended April 13, 2012; amended Feb. 1, 2013; amended April 24, 2015.)

88-29-3. Categories of admission. (a) In the admission policies of each state educational institution, which are required by K.A.R. 88-29-9 and K.A.R. 88-29a-9, each state educational institution shall adopt the regular admission category, which shall include any applicant who is given permission from the state educational institution to enroll as a degree-seeking student at the state educational institution without any conditions or restrictions other than that the student will be subject to all policies of the state educational institution.

(b) In the admission policies of each state educational institution, which are required by K.A.R. 88-29-9 and K.A.R. 88-29a-9, any state educational institution may adopt one or more admission categories in addition to the regular admission category specified in subsection (a). These additional categories shall be limited to the following:

(1) The temporary admission category, which shall include any applicant who is given permission from the state educational institution to enroll as a degree-seeking student at the state educational institution for a specified period of time not to exceed one calendar year, during which period the student shall be required to provide the state educational institution with the student's complete application file; and

(2) the provisional admission category, which shall include any applicant who is given permission from the state educational institution to enroll as a degree-seeking student at the state educational institution for a probationary period of time, subject to restrictions that may include any of the following requirements:

(A) The applicant shall enroll only in a limited number of credit hours each semester as specified by the state educational institution;

(B) the applicant shall enroll in the developmental or college preparatory courses specified by the state educational institution;

(C) the applicant shall participate in an advising program specified by the state educational institution;

(D) the applicant shall achieve a certain specified grade point average specified by the state educa-

tional institution at the end of a period of time specified by the state educational institution; and

(E) the applicant shall meet any other provisions established in the state educational institution's admission policy for provisional admission established in accordance with K.A.R. 88-29-9 or K.A.R. 88-29a-9.

(c) A student in the regular admission category shall not be in any other admission category.

(d) The temporary and provisional admission categories shall not be mutually exclusive. Each student who is not in the regular admission category shall be admitted into any other category or categories of admission adopted by the state educational institution for which the student is eligible. (Authorized by and implementing K.S.A. 2010 Supp. 76-717; effective Aug. 1, 2007; amended July 22, 2011.)

88-29-4. Qualifications required for the admission of an applicant with 24 or more transferable credit hours. (a) The requirements established in this regulation shall apply to any applicant who has earned 24 or more credit hours from an institution of higher education that are transferable to a state educational institution. If an applicant to whom this regulation is applicable does not meet the requirements of this regulation, the applicant may be admitted by means of the exception window for resident transfer admissions described in K.A.R. 88-29-8a or the exception window for nonresident transfer admissions described in K.A.R. 88-29-8b.

(b) Each state educational institution shall admit any Kansas resident who meets the following criteria:

(1) Has earned 24 or more credit hours from an institution of higher education that are transferable to a state educational institution; and

(2) has earned a cumulative grade point average of 2.0 or higher on a 4.0 scale in all postsecondary coursework.

(c) Any state educational institution may admit a nonresident who meets the following criteria:

(1) Has earned 24 or more credit hours from an institution of higher education that are transferable to a state educational institution; and

(2) has earned a cumulative grade point average of 2.0 or higher on a 4.0 scale in all postsecondary coursework. (Authorized by and implementing K.S.A. 2010 Supp. 76-717; effective Aug. 1, 2007; amended, T-88-6-26-09, July 1, 2009; amended Nov. 13, 2009; amended July 22, 2011.)

88-29-5. Qualifications required for the admission of a Kansas resident who is under the age of 21. This regulation shall be applicable to each state educational institution's review of applicants before the 2015 summer session.

(a) The requirements established in this regulation shall apply to any applicant who is a Kansas resident and is under the age of 21, except that the requirements shall not apply to any applicant who has earned 24 or more credit hours from an institution of higher education that are transferable to a state educational institution. If an applicant to whom this regulation is applicable does not meet the requirements of this regulation, the applicant may be admitted by means of the exception window for resident freshman class admissions described in K.A.R. 88-29-8.

(b) Each state educational institution shall admit any Kansas resident under the age of 21 who meets both of the following requirements:

(1) Has graduated from an accredited high school in Kansas or, pursuant to K.S.A. 72-116 and amendments thereto, an accredited high school located out of state; and

(2) meets at least one of the following criteria:

(A) Has achieved a composite score on the ACT of at least 21;

(B) has ranked in the top third of the applicant's high school class upon completion of seven or eight semesters; or

(C) has completed the qualified admission precollege curriculum described in K.A.R. 88-29-11, or its functional equivalent described in K.A.R. 88-29-18, with a minimum grade point average of 2.0 on a 4.0 scale.

(c) Each state educational institution shall admit any Kansas resident under the age of 21 who meets both of the following requirements:

(1) Has graduated from a non-accredited private secondary school; and

(2) has achieved a composite score on the ACT of at least 21.

(d) Each state educational institution shall admit any Kansas resident who is under the age of 21 and who has earned a high school equivalency credential with at least the prescribed minimum scores, as defined in K.A.R. 88-29-1. (Authorized by and implementing K.S.A. 2014 Supp. 76-717; effective Aug. 1, 2007; amended, T-88-6-26-09, July 1, 2009; amended Nov. 13, 2009; amended July 22, 2011; amended April 13, 2012; amended April 24, 2015.)

88-29-6. Qualifications required for the admission of a Kansas resident who is 21 or older. This regulation shall be applicable to each state educational institution's review of applicants before the 2015 summer session.

(a) The requirements established in this regulation shall apply to any applicant who is a Kansas resident and who will be 21 or older on the first day of classes at the state educational institution to which the student is applying, except that the requirements shall not apply to any applicant who has earned 24 or more credit hours from an institution of higher education that are transferable to a state educational institution. If an applicant to whom this regulation is applicable does not meet the requirements of this regulation, the applicant may be admitted by means of the exception window described in K.A.R. 88-29-8.

(b) Each state educational institution shall admit any Kansas resident who is 21 or older and who meets one of the following criteria:

(1) Has graduated from an accredited high school in Kansas or, pursuant to K.S.A. 72-116 and amendments thereto, an accredited high school located out of state;

(2) has graduated from a non-accredited private secondary school; or

(3) has earned a high school equivalency credential with at least the prescribed minimum scores, as defined in K.A.R. 88-29-1. (Authorized by and implementing K.S.A. 2014 Supp. 76-717; effective Aug. 1, 2007; amended July 22, 2011; amended April 13, 2012; amended April 24, 2015.)

88-29-7. Qualifications required for the admission of a nonresident who is under the age of 21. This regulation shall be applicable to each state educational institution's review of applicants before the 2015 summer session.

(a) The requirements established in this regulation shall apply to any applicant who is a nonresident and is under the age of 21, except that the requirements shall not apply to any applicant who has earned 24 or more transferable college credit hours. If an applicant to whom this regulation is applicable does not meet the requirements prescribed in this regulation, the applicant may be admitted by means of the exception window for nonresident freshman class admissions described in K.A.R. 88-29-8c.

(b) Any state educational institution may admit any nonresident who is under the age of 21 and who meets both of the following requirements:

(1) Has graduated from an accredited high school; and

(2) meets at least one of the following criteria:

(A) Achieved a composite score on the ACT of at least 21;

(B) ranked in the top third of the applicant's high school class upon completion of seven or eight semesters; or

(C) completed the qualified admission precollege curriculum described in K.A.R. 88-29-11, or its functional equivalent described in K.A.R. 88-29-19, with a minimum grade point average of at least 2.5 on a 4.0 scale.

(c) Any state educational institution may admit any nonresident who is under the age of 21 and who meets both of the following requirements:

(1) Has graduated from a non-accredited private secondary school; and

(2) has achieved a composite score on the ACT of at least 21.

(d) Any state educational institution may admit any nonresident who is under the age of 21 and who meets both of the following requirements:

(1) Has earned a high school equivalency credential with at least the prescribed minimum scores, as defined in K.A.R. 88-29-1; and

(2) has achieved a composite score on the ACT of at least 21.

This regulation shall have no force and effect on and after June 1, 2015. (Authorized by and implementing K.S.A. 2014 Supp. 76-717; effective Aug. 1, 2007; amended, T-88-6-26-09, July 1, 2009; amended Nov. 13, 2009; amended July 22, 2011; amended April 13, 2012; amended Feb. 1, 2013; amended April 24, 2015.)

88-29-7a. Qualifications required for the admission of a nonresident who is 21 or older. This regulation shall be applicable to each state educational institution's review of applicants before the 2015 summer session.

(a) The requirements of this regulation shall apply to any applicant who is a nonresident and who will be 21 or older on the first day of classes at the state educational institution to which the student is applying, except that this regulation shall not apply to any applicant who has earned 24 or more credit hours from an institution of higher education that are transferable to a state educational institution. If an applicant to whom this regulation is applicable does not meet the requirements of this regulation, the applicant may be admitted by means of the exception window described in K.A.R. 88-29-8c.

(b) Any state educational institution may admit any nonresident who is 21 or older and who meets one of the following criteria:

(1) Has graduated from an accredited high school; or

(2) has earned a high school equivalency credential with at least the prescribed minimum scores, as defined in K.A.R. 88-29-1. (Authorized by and implementing K.S.A. 2014 Supp. 76-717; effective July 22, 2011; amended April 13, 2012; amended April 24, 2015.)

88-29-8. The exception window for resident freshman class admissions. This regulation shall be applicable to each state educational institution's review of applicants before the 2015 summer session. (a) Any state educational institution may admit any Kansas resident who does not meet the applicable requirements specified in K.A.R. 88-29-5 or K.A.R. 88-29-6 and who has earned fewer than 24 transferable college credit hours by means of the exception window for resident freshman class admissions. The maximum number of students admitted by means of this exception window shall be calculated as follows:

(1) The total number of admitted new students who have earned fewer than 24 transferable college credit hours, regardless of admission category, shall be counted on the twentieth day of the fall, spring, and summer sessions of each academic year.

(2) The maximum number of admissions calculated using the exception window shall be equal to 10 percent of the sum of the three numbers counted in paragraph (a)(1).

(b) In determining which students to admit as exceptions pursuant to this regulation, the state educational institution shall give preference to persons who are in military service, as defined in K.S.A. 76-717 and amendments thereto.

(c) If the state educational institution exceeds the allotted number of admissions using this exception window, the excess over the allowable total number of exceptions shall be subtracted from the subsequent year's allowable total number of exceptions for resident freshman class admissions.

(d) Beginning with students admitted for the 2013 fall session, each state educational institution shall require each student who is admitted as an exception to the minimum qualified admission standards pursuant to this regulation to adopt an individual plan for success, before enrollment, and subsequently review that individual plan for success, as required by K.S.A. 76-717 and amendments thereto. (Authorized by K.S.A. 76-712 and K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11; implementing K.S.A. 76-725 and K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11; effective Aug. 1, 2007; amended, T-88-6-26-09, July 1, 2009; amended Nov. 13, 2009; amended July 22, 2011; amended Feb. 1, 2013.)

88-29-8a. The exception window for resident transfer admissions. Any state educational institution may admit any Kansas resident who has earned 24 or more transferable college credit hours, but who does not meet the applicable requirements specified in K.A.R. 88-29-4, by means of the exception window for resident transfer admissions.

(a) The maximum number of students admitted by means of this exception window shall be calculated as follows:

(1) The total number of admitted new resident students who have earned at least 24 transferable college credit hours, regardless of admission category, shall be counted on the twentieth day of the fall, spring, and summer sessions of each academic year.

(2) The maximum number of admissions calculated using this exception window shall be equal to 10 percent of the sum of the three numbers counted in paragraph (a)(1).

(b) In determining which students to admit as exceptions pursuant to this regulation, the state educational institution shall give preference to persons who are in military service, as defined in K.S.A. 76-717 and amendments thereto.

(c) If the state educational institution exceeds the allotted number of admissions using this exception window, the excess over the allowable total number of exceptions shall be subtracted from the subsequent year's allowable total number of exceptions for resident transfer admissions.

(d) Beginning with students admitted for the 2013 fall session, each state educational institution shall require each student who is admitted as an exception to the minimum qualified admission standards pursuant to this regulation to adopt an individual plan for success, before enrollment, and subsequently review that individual plan for success, as required by K.S.A. 76-717 and amendments thereto. (Authorized by K.S.A. 76-712 and K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11; implementing K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11, and K.S.A. 76-725; effective, T-88-6-26-09, July 1, 2009; effective Nov. 13, 2009; amended Feb. 1, 2013.)

88-29-8b. The exception window for nonresident transfer admissions. Any state educational institution may admit any nonresident who has earned 24 or more transferable college credit hours, but who does not meet the applicable requirements specified in K.A.R. 88-29-4, by means of the exception window for nonresident transfer admissions.

(a) The maximum number of students admitted by means of this exception window shall be calculated as follows:

(1) The total number of admitted new nonresident students who have earned at least 24 transferable college credit hours, regardless of admission category, shall be counted on the twentieth day of the fall, spring, and summer sessions of each academic year.

(2) The maximum number of admissions calculated using this exception window shall be equal to 10 percent of the sum of the three numbers counted in paragraph (a)(1).

(b) In determining which students to admit as exceptions pursuant to this regulation, the state educational institution shall give preference to persons who are in military service, as defined in K.S.A. 76-717 and amendments thereto.

(c) If the state educational institution exceeds the allotted number of admissions using this exception window, the excess over the allowable total number of exceptions shall be subtracted from the subsequent year's allowable total number of exceptions for nonresident transfer admissions.

(d) Beginning with students admitted for the 2013 fall session, each state educational institution shall require each student who is admitted as an exception to the minimum qualified admission standards pursuant to this regulation to adopt an individual plan for success, before enrollment, and subsequently review that individual plan for success, as required by K.S.A. 76-717 and amendments thereto. (Authorized by K.S.A. 76-712 and K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11; implementing K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11, and K.S.A. 76-725; effective, T-88-6-26-09, July 1, 2009; effective Nov. 13, 2009; amended Feb. 1, 2013.)

88-29-8c. The exception window for nonresident freshman class admissions. This regulation shall be applicable to each state educational institution's review of applicants before the 2015 summer session. (a) Any state educational institution may admit any nonresident who does not meet the applicable requirements specified in K.A.R. 88-29-7 or K.A.R. 88-29-7a and who has earned fewer than 24 transferable college credit hours, by means of the exception window for nonresident freshman class admissions. The maximum number of students admitted by means of this exception window shall be calculated as follows:

(1) The total number of admitted new nonresident students who have earned fewer than 24 transferable college credit hours, regardless of admission category, shall be counted on the twentieth day of the fall, spring, and summer sessions of each academic year.

(2) The maximum number of admissions that may be made using this exception window shall be equal to 10 percent of the sum of the three numbers counted in paragraph (a)(1) or 50 students, whichever is greater.

(b) In determining which students to admit as exceptions pursuant to this regulation, the state educational institution shall give preference to persons who are in military service, as defined in K.S.A. 76-717 and amendments thereto.

(c) If the state educational institution exceeds the allotted number of admissions using this exception window, the excess over the allowable total number of exceptions shall be subtracted from the subsequent year's allowable total number of exceptions for nonresident freshman class admissions.

(d) Beginning with students admitted for the 2013 fall session, each state educational institution shall require each student who is admitted as an exception to the minimum qualified admission standards pursuant to this regulation to adopt an individual plan for success, before enrollment, and subsequently review that individual plan for success, as required by K.S.A. 76-717 and amendments thereto. (Authorized by K.S.A. 76-712 and K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11; implementing K.S.A. 76-725 and K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11; effective July 22, 2011; amended Feb. 1, 2013.)

88-29-9. Admission policies for state educational institutions. This regulation shall be applicable to each state educational institution's review of applicants before the 2015 summer session. The chancellor or president of each state educational institution or a designee shall establish admission policies that meet all of the following requirements:

(a) The policies shall not conflict with the provisions of this article.

(b) The policies shall specify the materials required for a complete application file.

(c) The policies shall address the enrollment of both degree-seeking and non-degree-seeking students as well as each student's transition from degree-seeking to non-degree-seeking status or from non-degree-seeking to degree-seeking status. Policies shall mandate that each non-degree-seeking student who applies to enroll as a degree-seeking student shall be admitted only if one of the following conditions is met:

(1) The student meets the applicable requirements specified in K.A.R. 88-29-4 through 88-29-7.

(2) The student is admitted by means of the exception window for resident freshmen class admissions described in K.A.R. 88-29-8.

(3) The student is admitted by means of the exception window for resident transfer admissions described in K.A.R. 88-29-8a.

(4) The student is admitted by means of the exception window for nonresident transfer admissions described in K.A.R. 88-29-8b.

(5) The student is admitted by means of the exception window for nonresident freshman class admissions described in K.A.R. 88-29-8c.

(d) The policies shall include an explanation of the exception windows and the state educational institution's method to determine which applicants would be admitted if there were more applicants than the state educational institution is allowed under K.A.R. 88-29-8, K.A.R. 88-29-8a, K.A.R. 88-29-8b, or K.A.R. 88-29-8c.

(e) The policies may include the establishment of subcategories of non-degree-seeking students.

(f) The policies shall include a statement indicating whether the state educational institution will consider, in the admission decision, any postsecondary credit from an institution that is not accredited and has not been granted preaccreditation status by an agency recognized by the United States department of education or by an equivalent international agency. If the state educational institution considers these credits, the admission decision shall be made in accordance with K.A.R. 88-29-4.

(g) The policies shall include a statement of whether the state educational institution enrolls students in the temporary or provisional admission category.

(1) If the state educational institution enrolls any students in the temporary admission category, the policies shall include all of the following:

(A) A description of requirements for exiting the temporary admission category and entering another admission category;

(B) a statement that a temporarily admitted student may be denied admission to a specific degree program;

(C) a statement that each student who fails to exit from the temporary admission category within the specified period of time shall be disenrolled;

(D) a statement that each applicant who is admitted in the temporary admission category pursuant to K.A.R. 88-29-10(a)(2) or K.A.R. 88-29-10(b)(2) shall be allowed to exit from the temporary admission category and enter the regular admission category only upon verification of high school graduation; and

(E) a statement that each applicant who is admitted into the temporary admission category pursuant to K.A.R. 88-29-10(b)(3) shall be allowed to exit the temporary admission category and enter the regular admission category only upon verification that the applicant meets both of the following requirements:

(i) Remained in the top third of the class after the applicant's seventh semester or returned to the top third of the applicant's class during the eighth semester; and

(ii) graduated from high school.

(2) If the state educational institution enrolls any students in the provisional admission category, the policies shall include all of the following:

(A) A description of requirements for exiting the provisional admission category and entering another admission category;

(B) a statement that any student admitted in the provisional admission category may be denied admission to a specific degree program; and

(C) a statement that each student who fails to exit from the provisional admission category within the period of time specified by the state educational institution shall be disenrolled.

(3) The state educational institution's policy shall mandate that a student who meets the criteria for both the temporary and provisional admission categories shall not be granted regular admission until the student fulfils the requirements for exiting each of the categories in which the student is initially enrolled.

(h) The admission policy of each state educational institution shall be required to be approved in advance by the board of regents. (Authorized by and implementing K.S.A. 2010 Supp. 76-717; effective Aug. 1, 2007; amended, T-88-6-26-09, July 1, 2009; amended Nov. 13, 2009; amended July 22, 2011.)

88-29-10. Methods for state educational institutions to use when evaluating qualifications for admission. This regulation shall be applicable to each state educational institution's review of applicants before the 2015 summer session.

(a) Each admission officer at a state educational institution shall consider an applicant's ACT or SAT scores as follows:

(1) A documented score of 980 on the SAT, excluding the writing portion of the SAT, shall be deemed the equivalent of a composite score of 21 on the ACT for purposes of this article.

(2) A documented composite score of 21 or above on the ACT may be used to admit an applicant in the temporary admission category after the applicant's completion of the sixth high school semester, without further review of the applicant's materials.

(3) The admission officer shall consider the applicant's best composite ACT score for admission decisions.

(4) If an applicant has taken both the ACT and SAT, the admission officer shall consider the applicant's better score on the two tests for admission decisions.

(b) Each admission officer at a state educational institution shall consider class rank as follows:

(1) If class rank cannot be determined, the admission officer shall not admit an applicant under this criterion.

(2) If an applicant's documented class rank is in the top third of the applicant's class after the applicant's seventh semester of high school, the class rank may be used to admit an applicant into the temporary admission category without further review of the applicant's materials.

(3) If an applicant's documented class rank is in the top third of the applicant's class after the applicant's sixth semester of high school, the class rank may be used to admit an applicant into the temporary admission category without further review of the applicant's materials.

(c) If the high school has not already calculated the grade point average in the qualified admission precollege curriculum and provided that information on the official high school transcript, each admission officer at a state educational institution shall calculate grade point average in the qualified admission precollege curriculum as follows:

(1) The admission officer shall ensure that the requirements of K.A.R. 88-29-11 are met before calculating grade point average.

(2) The admission officer shall calculate a grade point average only for approved qualified admission precollege curriculum courses appearing on the official high school transcript.

(3) The admission officer shall consider a course to be part of the approved qualified admission precollege curriculum only if the course was approved by the board of regents staff, in accordance with procedures established by the board of regents or the board's designee, for the semester and year in which the applicant completed the course and if the applicant earned a grade of D or better.

(4) The admission officer shall consider a course to be part of the approved qualified admission precollege curriculum only if the course code that appears on the official high school transcript is the same as the course code of the approved course.

(5)(A) If the high school transcript reports grades on a four-point scale, the admission officer shall calculate grade point averages in the approved qualified admission precollege curriculum by assigning four points to a grade of A, three points to a grade of B, two points to a grade of C, and one point to a grade of D. Pluses and minuses shall not be considered in the calculation.

(B) If the high school transcript reports grades on a scale other than a four-point scale, the admission officer shall mathematically convert the grades to a four-point scale and assign points as described in paragraph (b)(5)(A).

(6) The admission officer shall consider grades of P or pass as follows:

(A) If the high school transcript indicates that a P is equivalent to a grade of D or higher, the admission officer shall assign one grade point to each grade of P.

(B) If the high school transcript indicates that a P is equivalent to a grade of C or higher, the admission officer shall assign two grade points to each grade of P.

(C) If the high school transcript does not indicate the minimum letter grade corresponding to a P, the admission officer shall assign one grade point to each grade of P.

(7) If an applicant has retaken an approved qualified admission precollege course, the admission officer shall use the highest grade when calculating the grade point average for the approved qualified admission precollege curriculum.

(8) If an applicant has taken a college course to meet the requirements for the approved qualified admission precollege curriculum and if this college course appears on the applicant's official high school transcript, the admission officer shall calculate the grade for the college course, for purposes of

determining the precollege curriculum grade point average, as follows:

(A) Each college course with three or more credit hours, but no more than five credit hours, shall be treated as a one-unit high school course.

(B) Each college course with more than five credit hours shall be treated as a two-unit high school course.

(d) If functional equivalents are substituted for courses in the qualified admission precollege curriculum in one or more disciplines, the admission officer of a state educational institution shall not assign a grade point value to the functional equivalents when calculating the qualified admission precollege curriculum grade point average.

(e) At the time of admission of an applicant, the state educational institution shall notify the applicant of each of the following:

(1) The category or categories in which the applicant is admitted;

(2) any enrollment restrictions associated with the applicant's category or categories of admission; and

(3) the requirements for removing any enrollment restrictions associated with the applicant's category or categories of admission. (Authorized by and implementing K.S.A. 2011 Supp. 76-717; effective Aug. 1, 2007; amended July 22, 2011; amended April 13, 2012.)

88-29-11. Requirements for the qualified admission precollege curriculum. This regulation shall be applicable to each applicant graduating from high school in academic year 2013-2014 or earlier. In order to admit any applicant under the qualified admission precollege curriculum criteria, each state educational institution shall require the applicant to provide an official high school transcript documenting completion of the approved qualified admission precollege curriculum that meets the following requirements:

(a) For each student graduating from high school before 2010, the transcript shall indicate the following distribution of courses:

(1) Four units of approved qualified admission English courses, with the content described in K.A.R. 88-29-14;

(2) three units of approved qualified admission mathematics courses that have the content described in K.A.R. 88-29-15 and that meet the following requirements:

(A) Are at or above the level of qualified admission algebra I; and

(B) were taken during ninth through twelfth grades;

(3) three units of approved qualified admission natural science courses that have the content described in K.A.R. 88-29-16 and that meet the following requirements:

(A) The three units shall be selected from any of the following courses, with at least one unit in each selected course:

(i) Qualified admission biology;

(ii) qualified admission advanced biology;

(iii) qualified admission chemistry;

(iv) qualified admission physics;

(v) qualified admission earth-space science; or

(vi) qualified admission principles of technology; and

(B) at least one unit shall be selected from a qualified admission chemistry course or a qualified admission physics course; and

(4) three units of approved qualified admission social science courses that have the content described in K.A.R. 88-29-17 and that are distributed according to the following requirements:

(A) At least ½ unit shall be a qualified admission United States government course;

(B) at least ½ unit shall be selected from any of the following courses:

(i) Qualified admission world history;

(ii) qualified admission world geography; or

(iii) qualified admission international relations;

(C) at least one unit shall be a qualified admission United States history course;

(D) up to one unit shall be selected from any of the following courses:

(i) A qualified admission anthropology course;

(ii) a qualified admission current social issues course;

(iii) a qualified admission economics course;

(iv) a qualified admission race and ethnic group relations course;

(v) a qualified admission sociology course;

(vi) a qualified admission psychology course;

(vii) a qualified admission United States history course; or

(viii) a qualified admission United States government course;

(E) a ½-unit course shall not be used to fulfill more than one requirement of this regulation for more than one discipline in the qualified admissions precollege curriculum; and

(F) a one-unit course may be used to fulfill two ½-unit requirements of this regulation.

(b) For each student graduating from high school in 2010 and thereafter but before academic year 2014-2015, the qualified admission precollege

curriculum shall consist of courses that are among those listed in the document titled "Kansas board of regents precollege curriculum courses approved for university admissions," revised March 11, 2014, which is hereby adopted by reference. The qualified admission precollege curriculum shall consist of the following distribution of courses:

(1) Four units of approved qualified admission English courses that include reading, writing, and literature;

(2) three units of approved qualified admission mathematics courses that meet the following requirements:

(A) Each course shall be completed in the ninth through twelfth grades; and

(B) each course shall be selected from any of the following courses:

(i) Qualified admission algebra I;

(ii) qualified admission geometry;

(iii) qualified admission algebra II;

(iv) any mathematics course that has qualified admission algebra II as a prerequisite; or

(v) any other course approved by the chief executive officer of the board of regents or the chief executive officer's designee;

(3) three units of approved qualified admission natural science courses that meet the following requirements:

(A) The three units shall be selected from any of the following courses:

(i) Qualified admission biology;

(ii) qualified admission advanced biology;

(iii) qualified admission chemistry;

(iv) qualified admission physics;

(v) qualified admission earth-space science;

(vi) qualified admission principles of technology; or

(vii) any other courses approved by the chief executive officer of the board of regents or the chief executive officer's designee; and

(B) at least one unit shall be selected from a qualified admission chemistry course or a qualified admission physics course; and

(4) three units of approved qualified admission social science courses that are distributed according to the following requirements:

(A) At least ½ unit shall be a qualified admission United States government course;

(B) at least ½ unit shall be selected from any of the following courses:

(i) Qualified admission world history;

(ii) qualified admission world geography; or

(iii) qualified admission international relations;

(C) at least one unit shall be a qualified admission United States history course;

(D) not more than one unit shall be selected from any of the following courses:

(i) Qualified admission anthropology;

(ii) qualified admission current social issues;

(iii) qualified admission economics;

(iv) qualified admission psychology;

(v) qualified admission race and ethnic group relations;

(vi) qualified admission sociology;

(vii) qualified admission United States history;

(viii) qualified admission United States government; or

(ix) any other courses approved by the chief executive officer of the board of regents or the chief executive officer's designee;

(E) a ½-unit course shall not be used to fulfill more than one requirement of this regulation for more than one discipline in the qualified admissions precollege curriculum; and

(F) a one-unit course may be used to fulfill two ½-unit requirements of this regulation. (Authorized by and implementing K.S.A. 2014 Supp. 76-717; effective Aug. 1, 2007; amended, T-88-6-26-09, July 1, 2009; amended Nov. 13, 2009; amended July 22, 2011; amended Oct. 19, 2012; amended April 24, 2015.)

88-29-12. Establishment of a qualified admission precollege curriculum by an accredited high school in Kansas. (a) Any accredited high school in Kansas may establish a qualified admission precollege curriculum. Failure to establish a qualified admission precollege curriculum shall render the high school's graduates ineligible for admission to a state educational institution under the qualified admission precollege curriculum criteria specified in K.A.R. 88-29-5, K.A.R. 88-29a-5, K.A.R. 88-29-7, and K.A.R. 88-29a-7. If an accredited high school establishes a qualified admission precollege curriculum, the curriculum shall meet the requirements of this regulation.

(b) Each course to be included in an accredited high school's qualified admission precollege curriculum shall be approved in advance by the chief executive officer of the board of regents or the chief executive officer's designee. Each accredited high school in Kansas that desires to establish and maintain a qualified admission precollege curriculum shall submit materials to the board of regents in accordance with procedures established and distributed to Kansas accredited high schools by the

board of regents or the board's designee. Failure to submit materials in a timely manner may disqualify the high school's students for admission to a state educational institution under the qualified admission precollege curriculum criteria specified in K.A.R. 88-29-5, K.A.R. 88-29a-5, K.A.R. 88-29-7, and K.A.R. 88-29a-7.

(c) Each course for inclusion in an accredited high school's qualified admission precollege curriculum shall be approved according to the following procedures:

(1) A course shall be approved only if it is among those courses listed in "Kansas board of regents precollege curriculum courses approved for university admissions," as adopted by reference in K.A.R. 88-29-11.

(2) Two ½-unit courses may be approved to fulfill one unit of the qualified admission precollege curriculum.

(3) Any college course offered by an eligible institution of higher education may be approved for inclusion in an accredited high school's qualified admission precollege curriculum if the course meets all of the following conditions:

(A) The course is among those listed in "Kansas board of regents precollege curriculum courses approved for university admissions," as adopted by reference in K.A.R. 88-29-11.

(B) The number of credit hours for the college course is three or more.

(C) The college course appears on the official high school transcript.

(d) The list of courses that have been approved to be included in the qualified admission precollege curriculum for each accredited high school in Kansas shall be available from the board.

(e) Upon receipt of information that a course does not meet the requirements specified in subsection (c), the content of that course may be reviewed by the chief executive officer of the board of regents or the chief executive officer's designee to determine whether it should be approved. (Authorized by and implementing K.S.A. 2010 Supp. 76-717; effective Aug. 1, 2007; amended, T-88-6-26-09, July 1, 2009; amended Nov. 13, 2009; amended July 22, 2011.)

88-29-18. Functional equivalents of the qualified admission precollege curriculum; residents. In order to admit an applicant under the criterion of successful completion of the functional equivalent of the qualified admission precollege curriculum, the admission officer of each state educational institution shall require each applicant who is a Kansas resident and who graduated from high school in academic year 2013-2014 or earlier to meet one or more of the sets of requirements specified in subsections (a) through (d). An admission officer of a state educational institution shall not grant any exception to this regulation.

(a) To demonstrate successful completion of the functional equivalent of the qualified admission precollege English courses described in K.A.R. 88-29-11, each applicant shall provide both of the following:

(1) Documentation on the official high school transcript of completion of any three units of high school English with no grade lower than a C; and

(2) official documentation of achievement of at least one of the following:

(A) A score of three or higher in either of the following college board advanced placement (AP) courses:

(i) Language and composition; or

(ii) literature and composition; or

(B) a grade of B or higher in a general education English course taken before high school graduation and either offered by or accepted in transfer by a state educational institution.

(b) To demonstrate successful completion of the functional equivalent of the qualified admission precollege mathematics courses as described in K.A.R. 88-29-11, each applicant shall provide both of the following:

(1) Documentation on the official high school transcript of completion of any two units of high school mathematics courses with no grade lower than a C; and

(2) official documentation of achievement of at least one of the following:

(A) A score of three or higher in any of the following college board advanced placement (AP) courses:

(i) Calculus AB; or

(ii) calculus BC; or

(B) a grade of C or higher in a general education mathematics course taken before high school graduation and either offered by or accepted in transfer by a state educational institution.

(c) To demonstrate successful completion of the functional equivalent of the qualified admission precollege natural science courses described in K.A.R. 88-29-11, each applicant shall provide both of the following:

(1) Documentation on the official high school transcript of completion of any two units of high school science courses with no grade less than a C; and

(2) official documentation of achievement of at least one of the following:

(A) A score of three or higher in any of the following college board advanced placement (AP) courses:

(i) Biology;

(ii) chemistry; or

(iii) physics B; or

(B) a grade of C or higher in a general education natural science laboratory course taken before high school graduation and either offered by or accepted in transfer by a state educational institution.

(d) To demonstrate successful completion of the functional equivalent of the qualified admission precollege social science courses described in K.A.R. 88-29-11, each applicant shall provide both of the following:

(1) Documentation on the official high school transcript of completion of any two units of high school social science courses with no grade lower than a C; and

(2) official documentation of achievement of at least one of the following:

(A) A score of three or higher in any of the following college board advanced placement (AP) courses:

(i) Microeconomics;

(ii) macroeconomics;

(iii) comparative government and policies;

(iv) United States government and policies;

(v) European history;

(vi) United States history; or

(vii) psychology; or

(B) a grade of B or higher in a general education social science course taken before high school graduation and either offered by or accepted in transfer by a state educational institution. (Authorized by and implementing K.S.A. 2010 Supp. 76-717; effective Aug. 1, 2007; amended, T-88-6-26-09, July 1, 2009; amended Nov. 13, 2009; amended July 22, 2011.)

88-29-19. Functional equivalents of the qualified admission precollege curriculum; nonresidents. In order to admit an applicant under the criterion of successful completion of the functional equivalent of the precollege curriculum, the admission officer of each state educational institution shall require each applicant who is not a resident of Kansas and who graduated from high school in academic year 2013-2014 or earlier to meet one or more of the sets of requirements specified in subsections (a) through (e). An admission officer of a state educational institution shall not grant any exception to this regulation.

(a) To demonstrate successful completion of the functional equivalent of the qualified admission precollege English courses described in K.A.R. 88-29-11, each applicant shall provide both of the following:

(1) Documentation on the official high school transcript of completion of any three units of high school English with no grade lower than a C and at least one grade of B or higher; and

(2) official documentation of achievement of at least one of the following:

(A) A score of three or higher in either of the following college board advanced placement (AP) courses:

(i) Language and composition; or

(ii) literature and composition; or

(B) a grade of B or higher in a general education English course taken before high school graduation and either offered by or accepted in transfer by a state educational institution.

(b) To demonstrate successful completion of the functional equivalent of the qualified admission precollege mathematics courses described in K.A.R. 88-29-11, each applicant shall provide both of the following:

(1) Documentation on the official high school transcript of completion of any two units of high school mathematics courses with no grade lower than a C and at least one grade of B or higher; and

(2) official documentation of achievement of at least one of the following:

(A) A score of three or higher in either of the following college board advanced placement (AP) courses:

(i) Calculus AB; or

(ii) calculus BC; or

(B) a grade of C or better in a general education mathematics course taken before high school graduation and either offered by or accepted in transfer by a state educational institution.

(c) To demonstrate successful completion of the functional equivalent of the qualified admission precollege natural science courses described in K.A.R. 88-29-11, each applicant shall provide both of the following:

(1) Documentation on the official high school transcript of completion of any two units of high school science courses with no grade less than a C and at least one grade of B or higher; and

(2) official documentation of achievement of at least one of the following:

(A) A score of three or higher in any of the following college board advanced placement (AP) courses:

(i) Biology;

(ii) chemistry; or

(iii) physics B; or

(B) a grade of C or higher in a general education natural science laboratory course taken before high

school graduation and either offered by or accepted in transfer by a state educational institution.

(d) To demonstrate successful completion of the functional equivalent of the qualified admission precollege social science courses described in K.A.R. 88-29-11, each applicant shall provide both of the following:

(1) Documentation on the official high school transcript of completion of any two units of high school social science course with no grade lower than a C and at least one grade of B or higher; and

(2) official documentation of achievement of at least one of the following:

(A) A score of three or higher in any of the following college board advanced placement (AP) courses:

(i) Microeconomics;

(ii) macroeconomics;

(iii) comparative government and policies;

(iv) United States government and policies;

(v) European history;

(vi) United States history; or

(vii) psychology; or

(B) a grade of B or higher in a general education social science course taken before high school graduation and either offered by or accepted in transfer by a state educational institution.

(e) To demonstrate successful completion of the functional equivalent of all of the courses described in K.A.R. 88-29-11, each applicant who has attended an accredited high school located outside the United States shall provide official documentation of a study in mathematics, science, literature, and composition and completion of this study at a level that exceeds the minimum graduation standards of that accredited high school. (Authorized by and implementing K.S.A. 2010 Supp. 76-717; effective Aug. 1, 2007; amended, T-88-6-26-09, July 1, 2009; amended Nov. 13, 2009; amended July 22, 2011.)

Article 29a.—STATE UNIVERSITY ADMISSIONS

88-29a-1. Definitions. This regulation shall be applicable to each state educational institution's review of applications beginning with the 2016 summer session. Each of the following terms, wherever used in this article or in article 29, shall have the meaning specified in this regulation:

(a) "Accredited high school" means one or more educational institutions that provide secondary instruction to students in grades 9, 10, 11, and 12 and that are designated accredited by a regional accrediting agency recognized by the United States department of education, by the Kansas state board of education, or by an agency with standards equivalent to those of the United States department of education or the Kansas state board of education.

(b) "Admission" means the permission given by the admission officer of a state educational institution to an applicant to enroll as a degree-seeking student in a state educational institution.

(c) "Admission category" means one of the admission categories adopted by a state educational institution pursuant to K.A.R. 88-29-3.

(d) "Complete application file" means the entire set of the following student records that have been received in the admission office of a state educational institution:

(1) A completed application to the state educational institution;

(2) verification that all applicable application fees have been paid;

(3) an official copy of the final transcript from each high school attended, including a transcript documenting graduation from high school, or a high school equivalency credential;

(4) when required pursuant to K.A.R. 88-29a-5 or K.A.R. 88-29a-7, an official copy of all ACT or SAT scores; and

(5) any other materials required by the state educational institution for advising or placement purposes.

(e) "Degree-seeking student" means a student who has been accepted for enrollment at a state educational institution and who has formally indicated to the state educational institution the intent to complete a program of study that is designated by the United States department of education as a program that is eligible for federal financial aid.

(f) "Earned a high school equivalency credential with at least the prescribed minimum scores" means one of the following:

(1) Took the GED test on or after January 1, 2014, with an overall score of at least 680 points and a minimum score of 150 points on each subset;

(2) took the high school equivalency test (HiSET) on or after January 1, 2014, with an overall score of at least 75 points and a minimum score of 8 points on each subtest;

(3) took the GED test on or after January 1, 2002 and before January 1, 2014, with an overall score of at least 2,550 points and a minimum score of 510 points on each subtest; or

(4) took the GED test before January 1, 2002, with an overall score of at least 250 points and a minimum score of 50 points on each subtest.

(g) "Exception window for nonresident freshman class admissions" means a method by which any state educational institution, pursuant to K.A.R. 88-29a-8c, may admit a person who is not a resident of Kansas, who does not meet the applicable requirements specified in K.A.R. 88-29-4, K.A.R. 88-29a-7, or K.A.R. 88-29a-7a, and who is not eligible for admission pursuant to the exception window for nonresident transfer admissions.

(h) "Exception window for nonresident transfer admissions" means a method by which any state educational institution, pursuant to K.A.R. 88-29-8b,may admit a person who is not a resident of Kansas and who has earned at least 24 transferable college credit hours but who is not eligible for admission pursuant to K.A.R. 88-29-4.

(i) "Exception window for resident freshman class admissions" means a method by which any state educational institution, pursuant to K.A.R. 88-29a-8, may admit a Kansas resident who does not meet the applicable requirements specified in K.A.R. 88-29-4, K.A.R. 88-29a-5, or K.A.R. 88-29a-6 and who is not eligible for admission pursuant to the exception window for resident transfer admissions.

(j) "Exception window for resident transfer admissions" means a method by which any state educational institution, pursuant to K.A.R. 88-29-8a, may admit a Kansas resident who has earned at least 24 transferable college credit hours but who is not eligible for admission pursuant to K.A.R. 88-29-4.

(k) "Institution of higher education" means an educational institution in any state, territory, or country that meets all of the following criteria:

(1) Meets one of the following requirements:

(A) Offers a course of instruction designated by the United States department of education as a program that is eligible for federal financial aid; or

(B) offers a course of instruction that is equivalent to a program designated by the United States department of education as a program that is eligible for federal financial aid;

(2) is legally authorized within the state, territory, or country that appears on the transcript to provide a program of education beyond secondary education; and

(3) meets one of the following requirements:

(A) Is accredited by an accrediting agency or association that is recognized by the United States department of education or an international accrediting agency; or

(B) has been granted preaccreditation status by an accrediting agency or association that is recognized by either the United States department of education or an international accrediting agency.

(l) "Integrated course" means a course that redistributes the content of two or more qualified admission precollege curriculum courses into a nontraditional combination. A nontraditional combination may combine the content of qualified admission algebra I and qualified admission geometry over a period of four semesters in a sequence of courses titled integrated math I and II.

(m) "Kansas resident" means a person determined to be a resident for fee purposes, pursuant to K.S.A. 76-729 and amendments thereto.

(n) "Non-accredited private secondary school" has the meaning specified in K.A.R. 88-26-1. This term may include a home school.

(o) "Non-degree-seeking student" means a student who has been accepted for enrollment in a state educational institution and who has formally indicated to the state educational institution the intent to enroll for self-enrichment or other reasons, excluding the intent to complete a course of study that is designated by the United States department of education as a program that is eligible for federal financial aid.

(p) "Precollege," when used to describe a course or curriculum, means a type of course or curriculum offered at an accredited high school that meets both of the following conditions:

(1) The course or curriculum is designed for a student performing at or above the student's grade level as determined by standardized testing.

(2) The content and requirements of the course or curriculum have been determined by the board of regents or the board's designee to reflect a pace of instruction, intensity and depth of material, level of abstraction, and application of critical thinking necessary to prepare students for study at state educational institutions.

(q) "State educational institution" has the meaning specified in K.S.A. 76-711, and amendments thereto, except that, as used in this article or in article 29, the term shall not include the university of Kansas.

(r) "Transferable college credit hours" means postsecondary coursework that an admitting state educational institution will accept.

(s) "Unit" means a measure of secondary credit that may be awarded to a student for satisfactory completion of a particular course or subject, as determined by the local school district. (Authorized by and implementing K.S.A. 2014 Supp. 76-717; effective Feb. 1, 2013; amended April 24, 2015.)

88-29a-2. Scope. This regulation shall be applicable to each state educational institution's review of applications beginning with the 2015 summer session. Unless expressly stated as applicable to non-degree-seeking students, this article shall apply only to undergraduate degree-seeking students at any state educational institution. (Authorized by and implementing K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11; effective Feb. 1, 2013.)

88-29a-5. Qualifications required for the admission of a Kansas resident who is under the age of 21. This regulation shall be applicable to each state educational institution's review of applicants beginning with the 2015 summer session.

(a) The requirements in this regulation shall apply to any applicant who is a Kansas resident and is under the age of 21, except that the requirements shall not apply to any applicant who has earned 24 or more credit hours from an institution of higher education that are transferable to a state educational institution. If an applicant to whom this regulation is applicable does not meet the requirements of this regulation, the applicant may be admitted by means of the exception window for resident freshman class admissions described in K.A.R. 88-29a-8.

(b) Each state educational institution shall admit any Kansas resident under the age of 21 who meets the following requirements:

(1) Has graduated from an accredited high school in Kansas or, pursuant to K.S.A. 72-116 and amendments thereto, an accredited high school located out of state;

(2) has completed one of the following with a minimum grade point average of 2.0 on a 4.0 scale:

(A) The qualified admission precollege curriculum described in K.A.R. 88-29a-11;

(B) the Kansas scholars curriculum established pursuant to K.A.R. 88-13-3; or

(C) for eligible applicants, the qualified admission precollege curriculum functional equivalent described in K.A.R. 88-29a-18 (a) through (e) or in K.A.R. 88-29a-18(f);

(3) meets at least one of the following criteria:

(A) Has achieved a composite score on the ACT of at least 21; or

(B) has ranked in the top third of the applicant's high school class upon completion of seven or eight semesters; and

(4) has achieved a minimum cumulative GPA of 2.0 on a 4.0 scale on all transferable college credit hours.

(c) Each state educational institution shall admit any Kansas resident under the age of 21 who meets the following requirements:

(1) Has graduated from a non-accredited private secondary school;

(2) has completed one of the following:

(A) Coursework equivalent to the qualified admission precollege curriculum as described in K.A.R. 88-29a-11; or

(B) coursework equivalent to the Kansas scholars curriculum established pursuant to K.A.R. 88-13-3;

(3) has achieved a composite score on the ACT of at least 21; and

(4) has achieved a minimum cumulative GPA of 2.0 on a 4.0 scale on all transferable college credit hours.

(d) Each state educational institution shall admit any Kansas resident who is under the age of 21 and who meets the following requirements:

(1) Has earned a high school equivalency credential with at least the prescribed minimum scores, as defined in K.A.R. 88-29-1;

(2) has achieved a composite score on the ACT of at least 21; and

(3) has achieved a minimum cumulative GPA of 2.0 on a 4.0 scale on all transferable college credit hours. (Authorized by and implementing K.S.A. 2014 Supp. 76-717; effective July 22, 2011; amended April 13, 2012; amended April 24, 2015.)

88-29a-6. Qualifications required for the admission of a Kansas resident who is 21 or older. This regulation shall be applicable to each state educational institution's review of applicants beginning with the 2015 summer session.

(a) The requirements in this regulation shall apply to any applicant who is a Kansas resident and who will be 21 or older on the first day of classes at the state educational institution to which the student is applying, except that the requirements shall not apply to any applicant who has earned 24 or more credit hours from an institution of higher education that are transferable to a state educational institution. If an applicant to whom this regulation is applicable does not meet the requirements of this regulation, the applicant may be admitted by means of the exception window described in K.A.R. 88-29a-8.

(b) Each state educational institution shall admit any Kansas resident who is 21 or older and who meets one of the following criteria:

(1) Has graduated from an accredited high school in Kansas or, pursuant to K.S.A. 72-116 and amendments thereto, an accredited high school located out of state;

(2) has graduated from a non-accredited private secondary school; or

(3) has earned a high school equivalency credential with at least the prescribed minimum scores, as defined in K.A.R. 88-29-1. (Authorized by and implementing K.S.A. 2014 Supp. 76-717; effective July 22, 2011; amended April 13, 2012; amended April 24, 2015.)

88-29a-7. Qualifications required for the admission of a nonresident who is under the age of 21. This regulation shall be applicable to each state educational institution's review of applicants beginning with the 2015 summer session.

(a) The requirements in this regulation shall apply to any applicant who is a nonresident and is under the age of 21, except that the requirements shall not apply to any applicant who has earned 24 or more transferable college credit hours. If an applicant to whom this regulation is applicable does not meet the requirements in this regulation, the applicant may be admitted by means of the exception window for nonresident freshman class admissions described in K.A.R. 88-29a-8c.

(b) Any state educational institution may admit any nonresident under the age of 21 who meets the following requirements:

(1) Has graduated from an accredited high school;

(2) has completed one of the following with a minimum grade point average of 2.5 on a 4.0 scale:

(A) The qualified admission precollege curriculum described in K.A.R. 88-29a-11;

(B) the Kansas scholars curriculum established pursuant to K.A.R. 88-13-3; or

(C) the qualified admission precollege curriculum functional equivalent described in K.A.R. 88-29a-19;

(3) meets at least one of the following criteria:

(A) Has achieved a composite score on the ACT of at least 21; or

(B) has ranked in the top third of the applicant's high school class upon completion of seven or eight semesters; and

(4) has achieved a minimum cumulative GPA of 2.0 on a 4.0 scale on all transferable college credit hours.

(c) Any state educational institution may admit any nonresident under the age of 21 who meets the following requirements:

(1) Has graduated from a non-accredited private secondary school;

(2) has completed one of the following with a minimum grade point average of 2.5 on a 4.0 scale:

(A) Coursework equivalent to the qualified admission precollege curriculum as described in K.A.R. 88-29a-11; or

(B) coursework equivalent to the Kansas scholars curriculum established pursuant to K.A.R. 88-13-3;

(3) has achieved a composite score on the ACT of at least 21; and

(4) has achieved a minimum cumulative GPA of 2.0 on a 4.0 scale on all transferable college credit hours.

(d) Any state educational institution may admit any nonresident under the age of 21 who meets the following requirements:

(1) Has earned a high school equivalency credential with at least the prescribed minimum scores, as defined in K.A.R. 88-29-1 or K.A.R. 88-29a-1;

(2) has achieved a composite score on the ACT of at least 21; and

(3) has achieved a minimum cumulative GPA of 2.0 on a 4.0 scale on all transferable college credit hours. (Authorized by and implementing K.S.A. 2014 Supp. 76-717; effective July 22, 2011; amended April 13, 2012; amended Feb. 1, 2013; amended April 24, 2015.)

88-29a-7a. Qualifications required for the admission of a nonresident who is 21 or older. This regulation shall be applicable to each state educational institution's review of applicants beginning with the 2015 summer session.

(a) The requirements of this regulation shall apply to any applicant who is a nonresident and who will be 21 or older on the first day of classes at the state educational institution to which the student is applying, except that this regulation shall not apply to any applicant who has earned 24 or more credit hours from an institution of higher education that are transferable to a state educational institution. If an applicant to whom this regulation is applicable does not meet the requirements of this regulation, the applicant may be admitted by means of the exception window described in K.A.R. 88-29a-8c.

(b) Any state educational institution may admit any nonresident who is 21 or older and who meets one of the following criteria:

(1) Has graduated from an accredited high school; or

(2) has earned a high school equivalency credential with at least the prescribed minimum scores, as defined in K.A.R. 88-29-1. (Authorized by and implementing K.S.A. 2014 Supp. 76-717; effective July 22, 2011; amended April 13, 2012; amended April 24, 2015.)

88-29a-8. The exception window for resident freshman class admissions. This regulation shall be applicable to each state educational institution's review of applicants beginning with the 2015 summer session. (a) Any state educational institution may admit any Kansas resident who does not meet the applicable requirements specified in K.A.R. 88-29a-5 or K.A.R. 88-29a-6 and who has earned fewer than 24 transferable college credit hours by means of the exception window for resident freshman class admissions. The maximum number of students admitted by means of this exception window shall be calculated as follows:

(1) The total number of admitted new students who have earned fewer than 24 transferable college credit hours, regardless of admission category, shall be counted on the twentieth day of the fall, spring, and summer sessions of each academic year.

(2) The maximum number of admissions calculated using this exception window shall be equal to 10 percent of the sum of the three numbers counted in paragraph (a)(1).

(b) In determining which students to admit as exceptions pursuant to this regulation, the state educational institution shall give preference to persons who are in military service, as defined in K.S.A. 76-717 and amendments thereto.

(c) If the state educational institution exceeds the allotted number of admissions using this exception window, the excess over the allowable total number of exceptions shall be subtracted from the subsequent year's allowable total number of exceptions for resident freshman class admissions.

(d) Each state educational institution shall require each student who is admitted as an exception to the minimum qualified admission standards pursuant to this regulation to adopt an individual plan for success, before enrollment, and subsequently review that individual plan for success, as required by K.S.A. 76-717 and amendments thereto. (Authorized by and implementing K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11; effective July 22, 2011; amended Feb. 1, 2013.)

88-29a-8c. The exception window for nonresident freshman class admissions. This regulation shall be applicable to each state educational institution's review of applicants beginning with the 2015 summer session. (a) Any state educational institution may admit any nonresident who does not meet the applicable requirements specified in K.A.R. 88-29a-7 or K.A.R. 88-29a-7a and who has earned fewer than 24 transferable college credit hours, by means of the exception window for nonresident freshman class admissions. The maximum number of students admitted by means of this exception window shall be calculated as follows:

(1) The total number of admitted new nonresident students who have earned fewer than 24 transferable college credit hours, regardless of admission category, shall be counted on the twentieth day of the fall, spring, and summer sessions of each academic year.

(2) The maximum number of admissions that may be made using this exception window shall be equal to 10 percent of the sum of the three numbers counted in paragraph (a)(1) or 50 students, whichever is greater.

(b) In determining which students to admit as exceptions pursuant to this regulation, the state educational institution shall give preference to persons who are in military service, as defined in K.S.A. 76-717 and amendments thereto.

(c) If the state educational institution exceeds the allotted number of admissions using this exception window, the excess over the allowable total number of exceptions shall be subtracted from the subsequent year's allowable total number of exceptions for nonresident freshman class admissions.

(d) Each state educational institution shall require each student who is admitted as an exception to the minimum qualified admission standards pursuant to this regulation to adopt an individual plan for success, before enrollment, and subsequently review that individual plan for success, as required by K.S.A. 76-717 and amendments thereto. (Authorized by and implementing K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11; effective July 22, 2011; amended Feb. 1, 2013.)

88-29a-9. Admission policies for state educational institutions. This regulation shall be applicable to each state educational institution's review of applicants beginning with the 2015 summer session. The chancellor or president of each state educational institution or a designee shall establish admission policies that meet all of the following requirements:

(a) The policies shall not conflict with the provisions of this article.

(b) The policies shall specify the materials required for a complete application file.

(c) The policies shall address the enrollment of both degree-seeking and non-degree-seeking students as well as each student's transition from degree-seeking to non-degree-seeking status or from

non-degree-seeking to degree-seeking status. Policies shall mandate that each non-degree-seeking student who applies to enroll as a degree-seeking student shall be admitted only if one of the following conditions is met:

(1) The student meets the applicable requirements specified in K.A.R. 88-29-4 through 88-29-7a and K.A.R. 88-29a-5 through 88-29a-7.

(2) The student is admitted by means of the exception window for resident freshmen class admissions described in K.A.R. 88-29a-8.

(3) The student is admitted by means of the exception window for resident transfer admissions described in K.A.R. 88-29-8a.

(4) The student is admitted by means of the exception window for nonresident transfer admissions described in K.A.R. 88-29-8b.

(5) The student is admitted by means of the exception window for nonresident freshman class admissions described in K.A.R. 88-29a-8c.

(d) The policies shall include an explanation of the exception windows and the state educational institution's method to determine which applicants would be admitted if there were more applicants than the state educational institution is allowed under K.A.R. 88-29a-8, K.A.R. 88-29-8a, K.A.R. 88-29-8b, or K.A.R. 88-29a-8c.

(e) The policies may include the establishment of subcategories of non-degree-seeking students.

(f) The policies shall include a statement indicating whether the state educational institution will consider, in the admission decision, any postsecondary credit from an institution that is not accredited and has not been granted preaccreditation status by an agency recognized by the United States department of education or by an equivalent international agency. If the state educational institution considers these credits, the admission decision shall be made in accordance with K.A.R. 88-29-4.

(g) The policies shall include a statement of whether the state educational institution enrolls students in the temporary or provisional admission category.

(1) If the state educational institution enrolls any students in the temporary admission category, the policies shall include all of the following:

(A) A description of requirements for exiting the temporary admission category and entering another admission category;

(B) a statement that a temporarily admitted student may be denied admission to a specific degree program;

(C) a statement that each student who fails to exit from the temporary admission category within the specified period of time shall be disenrolled;

(D) a statement that each applicant who is admitted in the temporary admission category pursuant to K.A.R. 88-29a-10(a)(2) or K.A.R. 88-29a-10(b)(2) shall be allowed to exit from the temporary admission category and enter the regular admission category only upon verification of high school graduation; and

(E) a statement that each applicant who is admitted into the temporary admission category pursuant to K.A.R. 88-29a-10(b)(3) shall be allowed to exit the temporary admission category and enter the regular admission category only upon verification that the applicant meets both of the following requirements:

(i) Remained in the top third of the class after the applicant's seventh semester or returned to the top third of the applicant's class during the eighth semester; and

(ii) graduated from high school.

(2) If the state educational institution enrolls any students in the provisional admission category, the policies shall include all of the following:

(A) A description of requirements for exiting the provisional admission category and entering another admission category;

(B) a statement that any student admitted in the provisional admission category may be denied admission to a specific degree program; and

(C) a statement that each student who fails to exit from the provisional admission category within the period of time specified by the state educational institution shall be disenrolled.

(3) The state educational institution's policy shall mandate that a student who meets the criteria for both the temporary and provisional admission categories shall not be granted regular admission until the student fulfils the requirements for exiting each of the categories in which the student is initially enrolled.

(h) The admission policy of each state educational institution shall be required to be approved in advance by the board of regents. (Authorized by and implementing K.S.A. 2010 Supp. 76-717; effective July 22, 2011.)

88-29a-10. Methods for state educational institutions to use when evaluating qualifications for admission. This regulation shall be applicable to each state educational institution's review of applicants beginning with the 2015 summer session.

(a) Each admission officer at a state educational institution shall consider an applicant's ACT or SAT scores as follows:

(1) A documented score of 980 on the SAT, excluding the writing portion of the SAT, shall be deemed the equivalent of a composite score of 21 on the ACT for purposes of this article.

(2) A documented composite score of 21 or above on the ACT may be used to admit an applicant in the temporary admission category after the applicant's completion of the sixth high school semester, without further review of the applicant's materials.

(3) The admission officer shall consider the applicant's best composite ACT score for admission decisions.

(4) If an applicant has taken both the ACT and SAT, the admission officer shall consider the applicant's better score on the two tests for admission decisions.

(b) Each admission officer at a state educational institution shall consider class rank as follows:

(1) If class rank cannot be determined, the admission officer shall not admit an applicant under this criterion.

(2) If an applicant's documented class rank is in the top third of the applicant's class after the applicant's seventh semester of high school, the class rank may be used to admit an applicant into the temporary admission category without further review of the applicant's materials.

(3) If an applicant's documented class rank is in the top third of the applicant's class after the applicant's sixth semester of high school, the class rank may be used to admit an applicant into the temporary admission category without further review of the applicant's materials.

(c) If the high school has not already calculated the grade point average in the qualified admission precollege curriculum and provided that information on the official high school transcript, each admission officer at a state educational institution shall calculate grade point average in the qualified admission precollege curriculum for any applicant seeking admission pursuant to K.A.R. 88-29a-11, as follows:

(1) The admission officer shall ensure that the requirements of K.A.R. 88-29a-11 are met before calculating grade point average.

(2) The admission officer shall calculate a grade point average only for approved qualified admission precollege curriculum courses appearing on the official high school transcript.

(3) The admission officer shall consider a course to be part of the approved qualified admission precollege curriculum only if the course was approved in accordance with K.A.R. 88-29a-11 for the semester and year in which the applicant completed the course and if the applicant earned a grade of D or better.

(4) The admission officer shall consider a course to be part of the approved qualified admission precollege curriculum only if the course code that appears on the official high school transcript is the same as the course code of the approved course.

(5)(A) If the high school transcript reports grades on a four-point scale, the admission officer shall calculate grade point averages in the approved qualified admission precollege curriculum by assigning four points to a grade of A, three points to a grade of B, two points to a grade of C, and one point to a grade of D. Pluses and minuses shall not be considered in the calculation.

(B) If the high school transcript reports grades on a scale other than a four-point scale, the admission officer shall mathematically convert the grades to a four-point scale and assign points as described in paragraph (c)(5)(A).

(6) The admission officer shall consider grades of P or pass as follows:

(A) If the high school transcript indicates that a P is equivalent to a grade of D or higher, the admission officer shall assign one grade point to each grade of P.

(B) If the high school transcript indicates that a P is equivalent to a grade of C or higher, the admission officer shall assign two grade points to each grade of P.

(C) If the high school transcript does not indicate the minimum letter grade corresponding to a P, the admission officer shall assign one grade point to each grade of P.

(7) If an applicant has retaken an approved qualified admission precollege course, the admission officer shall use the highest grade when calculating the grade point average for the approved qualified admission precollege curriculum.

(8) If an applicant has taken a college course to meet the requirements for the approved qualified admission precollege curriculum and if this college course appears on the applicant's official high school transcript, the admission officer shall calculate the grade for the college course, for purposes of determining the precollege curriculum grade point average, as follows:

(A) Each college course with three or more credit hours, but no more than five credit hours, shall be treated as a one-unit high school course.

(B) Each college course with more than five credit hours shall be treated as a two-unit high school course.

(d) If the high school has not already calculated the grade point average in the Kansas scholars

curriculum and provided that information on the official high school transcript, each admission officer at a state educational institution shall calculate grade point average in the Kansas scholars curriculum for any applicant seeking admission pursuant to K.A.R. 88-13-3, as follows:

(1) The admission officer shall ensure that the requirements established pursuant to K.A.R. 88-13-3 are met before calculating grade point average.

(2) The admission officer shall calculate a grade point average only for approved Kansas scholars curriculum courses appearing on the official high school transcript.

(3) The admission officer shall consider a course to be part of the approved Kansas scholars curriculum only if the course was approved in accordance with guidelines established pursuant to K.A.R. 88-13-3 and if the applicant earned a grade of D or better.

(4)(A) If the high school transcript reports grades on a four-point scale, the admission officer shall calculate grade point averages in the approved Kansas scholars curriculum by assigning four points to a grade of A, three points to a grade of B, two points to a grade of C, and one point to a grade of D. Pluses and minuses shall not be considered in the calculation.

(B) If the high school transcript reports grades on a scale other than a four-point scale, the admission officer shall mathematically convert the grades to a four-point scale and assign points as described in paragraph (c)(5)(A).

(5) The admission officer shall consider grades of P or pass as follows:

(A) If the high school transcript indicates that a P is equivalent to a grade of D or higher, the admission officer shall assign one grade point to each grade of P.

(B) If the high school transcript indicates that a P is equivalent to a grade of C or higher, the admission officer shall assign two grade points to each grade of P.

(C) If the high school transcript does not indicate the minimum letter grade corresponding to a P, the admission officer shall assign one grade point to each grade of P.

(6) If an applicant has retaken an approved Kansas scholars course, the admission officer shall use the highest grade when calculating the grade point average for the approved Kansas scholars curriculum.

(7) If an applicant has taken a college course to meet the requirements for the approved Kansas scholars curriculum and this college course appears on the applicant's official high school transcript, the admission officer shall calculate the grade in the college course, for purposes of determining the Kansas scholars curriculum grade point average, as follows:

(A) Each college course with at least three but no more than five credit hours shall be treated as a one-unit high school course.

(B) Each college course with more than five credit hours shall be treated as a two-unit high school course.

(e) If the high school has not already calculated the grade point average in the qualified admission precollege curriculum and provided that information on the official high school transcript, each admission officer at a state educational institution shall calculate grade point average in the qualified admission precollege curriculum for any resident applicant seeking admission pursuant to K.A.R. 88-29a-18(a) through (e), as follows:

(1) The admission officer shall ensure that the requirements of K.A.R. 88-29a-18(a) through (e) are met before calculating grade point average.

(2) The admission officer shall calculate the grade point average of approved qualified admission precollege curriculum courses taken from an accredited Kansas high school as described in paragraphs (c)(2) through (c)(8)(B).

(3) The admission officer shall calculate the grade point average of college preparatory courses taken from a high school located outside the state of Kansas as follows:

(A) The applicant shall have earned a grade of D or better.

(B)(i) If the high school transcript reports grades on a four-point scale, the admission officer shall calculate grade point averages in the qualified admission precollege curriculum by assigning four points to a grade of A, three points to a grade of B, two points to a grade of C, and one point to a grade of D. Pluses and minuses shall not be considered in the calculation.

(ii) If the high school transcript reports grades on a scale other than a four-point scale, the admission officer shall mathematically convert the grades to a four-point scale and assign points as described in paragraph (c)(5)(A).

(4) The admission officer shall consider grades of P or pass as follows:

(A) If the high school transcript indicates that a P is equivalent to a grade of D or higher, the admission officer shall assign one grade point to each grade of P.

(B) If the high school transcript indicates that a P is equivalent to a grade of C or higher, the admis-

sion officer shall assign two grade points to each grade of P.

(C) If the high school transcript does not indicate the minimum letter grade corresponding to a P, the admission officer shall assign one grade point to each grade of P.

(5) If an applicant has retaken a qualified admission precollege course, the admission officer shall use the highest grade when calculating the grade point average for the qualified admission precollege curriculum.

(6) If an applicant has taken a college course to meet the requirements for the qualified admission precollege curriculum and this college course appears on the applicant's official high school transcript, the admission officer shall calculate the grade in the college course, for purposes of determining the precollege curriculum grade point average, as follows:

(A) Each college course with at least three but no more than five credit hours shall be treated as a one-unit high school course.

(B) Each college course with more than five credit hours shall be treated as a two-unit high school course.

(f) For any resident applicant seeking admission pursuant to K.A.R. 88-29a-18(f), the admission officer shall calculate the grade point average in the qualified admission precollege curriculum as follows:

(1) The admission officer shall ensure that the requirements of K.A.R. 88-29a-18(f) are met before calculating grade point average.

(2) The admission officer shall calculate the grade point average of qualified admission precollege curriculum courses taken from an accredited Kansas high school as described in paragraphs (c)(2) through (c)(8)(B).

(3) The admission officer shall calculate the grade point average of college preparatory courses taken from high schools located outside the state of Kansas as described in paragraphs (e)(3) through (e)(6)(B).

(4) The admission officer shall calculate the grade point average of qualified admission precollege curriculum courses taken after high school graduation as described in paragraphs (e)(6)(A) and (e)(6)(B).

(g) If the high school has not already calculated the grade point average in the college preparatory curriculum established by the state in which the applicant is a resident and provided that information on the official high school transcript, each admission officer at a state educational institution shall calculate grade point average for that state's college preparatory curriculum for any nonresident applicant seeking admission pursuant to K.A.R. 88-29a-19(a) as follows:

(1) The admission officer shall ensure that the requirements of K.A.R. 88-29a-19(a) are met before calculating grade point average.

(2) The admission officer shall calculate a grade point average only for college preparatory courses appearing on the official high school transcript.

(3) The admission officer shall consider a course to be part of the approved college preparatory curriculum only if the applicant earned a grade of D or better.

(4)(A) If the high school transcript reports grades on a four-point scale, the admission officer shall calculate grade point averages in the approved college preparatory curriculum by assigning four points to a grade of A, three points to a grade of B, two points to a grade of C, and one point to a grade of D. Pluses and minuses shall not be considered in the calculation.

(B) If the high school transcript reports grades on a scale other than a four-point scale, the admission officer shall mathematically convert the grades to a four-point scale and assign points as described in paragraph (c)(5)(A).

(5) The admission officer shall consider grades of P or pass as follows:

(A) If the high school transcript indicates that a P is equivalent to a grade of D or higher, the admission officer shall assign one grade point to each grade of P.

(B) If the high school transcript indicates that a P is equivalent to a grade of C or higher, the admission officer shall assign two grade points to each grade of P.

(C) If the high school transcript does not indicate the minimum letter grade corresponding to a P, the admission officer shall assign one grade point to each grade of P.

(6) If an applicant has retaken a college preparatory course, the admission officer shall use the highest grade when calculating the grade point average for the college preparatory curriculum.

(7) If an applicant has taken a college course to meet the requirements for the college preparatory curriculum and this college course appears on the applicant's official high school transcript, the admission officer shall calculate the grade in the college course, for purposes of determining the college preparatory curriculum grade point average, as follows:

(A) Each college course with at least three but no more than five credit hours shall be treated as a one-unit high school course.

(B) Each college course with more than five credit hours shall be treated as a two-unit high school course.

(h) At the time of admission of an applicant, the state educational institution shall notify the applicant of each of the following:

(1) The category or categories in which the applicant is admitted;

(2) any enrollment restrictions associated with the applicant's category or categories of admission; and

(3) the requirements for removing any enrollment restrictions associated with the applicant's category or categories of admission. (Authorized by and implementing K.S.A. 2011 Supp. 76-717; effective July 22, 2011; amended April 13, 2012.)

88-29a-11. Requirements for the qualified admission precollege curriculum. This regulation shall be applicable to each state educational institution's review of applicants beginning with the academic year 2014-2015 summer session. In order to admit any applicant under the qualified admission precollege curriculum criteria, each state educational institution shall require the applicant to provide an official high school transcript documenting completion of the approved qualified admission precollege curriculum specified in this regulation.

For each student graduating from high school in academic year 2014-2015 and thereafter, the qualified admission precollege curriculum shall consist of courses that are among those listed in "Kansas board of regents precollege curriculum courses approved for university admissions," as adopted by reference in K.A.R. 88-29-11. The qualified admission precollege curriculum shall consist of the following distribution of courses:

(a) One of the following:

(1) Four units of approved qualified admission English courses, which shall include reading, writing, and literature; or

(2) four units of approved qualified admission English courses, of which three and ½ units shall include reading, writing, and literature and ½ unit of speech;

(b)(1) If the student has achieved the ACT or SAT college readiness math benchmark, three units of approved qualified admission mathematics courses that meet the following requirements:

(A) The course shall be completed in the ninth through twelfth grades; and

(B) the course shall be selected from any of the following courses:

(i) Qualified admission algebra I;

(ii) qualified admission geometry;

(iii) qualified admission algebra II;

(iv) any mathematics course that has qualified admission algebra II as a prerequisite; or

(v) any other course approved by the chief executive officer of the board of regents or the chief executive officer's designee; or

(2) if the student has not achieved the ACT or SAT college readiness math benchmark, four units of approved qualified admission mathematics courses, one of which shall be taken in the year the student graduates high school, that meet the following requirements:

(A) The course shall be completed in the ninth through twelfth grades;

(B) at least three of the courses shall be selected from any of the following courses:

(i) Qualified admission algebra I;

(ii) qualified admission geometry;

(iii) qualified admission algebra II;

(iv) any mathematics course that has qualified admission algebra II as a prerequisite; or

(v) any other course approved by the chief executive officer of the board of regents or the chief executive officer's designee; and

(C) the fourth unit may be selected from any other mathematics courses prescribed by the local school district and designed to prepare students for college;

(c) three units of approved qualified admission natural science courses that meet the following requirements:

(1) The three units shall be selected from any of the following courses:

(A) Qualified admission biology;

(B) qualified admission advanced biology;

(C) qualified admission chemistry;

(D) qualified admission physics;

(E) qualified admission earth-space science;

(F) qualified admission principles of technology; or

(G) any other course approved by the chief executive officer of the board of regents or the chief executive officer's designee; and

(2) at least one unit shall be selected from a qualified admission chemistry course or a qualified admission physics course;

(d) three units of approved qualified admission social science courses, which shall include instruction in United States history, United States government, and geography; and

(e) three units of elective courses selected from any of the following categories:

(1) English;

(2) mathematics;

(3) natural science;

(4) social science;

(5) foreign language;

(6) personal finance;

(7) speech, debate, or forensics;

(8) journalism;

(9) computer or information systems;

(10) fine arts;

(11) career and technical education; or

(12) any other course approved by the chief executive officer of the board of regents or the chief executive officer's designee. (Authorized by and implementing K.S.A. 2011 Supp. 76-717; effective July 22, 2011; amended April 13, 2012.)

88-29a-18. Functional equivalents of the qualified admission precollege curriculum; residents. In order to admit an applicant under the criterion of successful completion of the functional equivalent of the precollege curriculum, the admission officer of each state educational institution shall require each applicant who is a resident of Kansas and who graduates from high school in academic year 2014-2015 or later to meet the requirements specified in subsections (a) through (e) or in subsection (f). An admission officer of a state educational institution shall not grant any exception to this regulation. The admission officer shall utilize subsections (a) through (e) only for resident applicants who have completed 15 or fewer quarters of high school in Kansas.

(a) To demonstrate successful completion of the functional equivalent of the qualified admission precollege English courses described in K.A.R. 88-29a-11, each applicant shall provide documentation on the official high school transcript of completion of any four units of high school English. A general education English course consisting of three or more semester hours taken before high school graduation and either offered by or accepted in transfer by a state educational institution may be substituted for one unit of high school English. The course shall be documented on the official high school transcript.

(b) To demonstrate successful completion of the functional equivalent of the qualified admission precollege natural science courses described in K.A.R. 88-29a-11, each applicant shall provide documentation on the official high school transcript of completion of any three units of high school natural science courses chosen from one of the following areas:

(1) Biology;

(2) chemistry;

(3) physics;

(4) earth or space science;

(5) principles of technology;

(6) integrated science;

(7) physical science; or

(8) environmental science.

A general education natural science course consisting of three or more semester hours taken before high school graduation and either offered by or accepted in transfer by a state educational institution may be substituted for one unit of high school natural science. The course shall be documented on the official high school transcript.

(c) To demonstrate successful completion of the functional equivalent of the qualified admission precollege social science courses described in K.A.R. 88-29a-11, each applicant shall provide documentation on the official high school transcript of completion of any three units of high school social science courses that meet Kansas high school graduation requirements.

A general education social science course consisting of three or more semester hours taken before high school graduation and either offered by or accepted in transfer by a state educational institution may be substituted for one unit of high school social science. The course shall be documented on the official high school transcript.

(d) To demonstrate successful completion of the functional equivalent of the qualified admission precollege elective courses described in K.A.R. 88-29a-11, each applicant shall provide documentation on the official high school transcript of completion of any three units of fine arts, computer or information systems, foreign languages, personal finance, speech, debate, forensics, journalism, career and technical education courses, or units of English, mathematics, social science, or natural science that are in addition to those required in subsections (a) through (c) and subsection (e).

A general education course consisting of three or more semester hours in English, mathematics, social science, natural science, fine arts, computer or information systems, foreign language, personal finance, speech, debate, forensics, journalism, or career and technical education taken before high school graduation and either offered by or accepted in transfer by a state educational institution may

be substituted for one unit of high school electives. The course shall be documented on the official high school transcript.

(e) Each applicant shall provide official documentation of successful completion of the math requirements specified in K.A.R. 88-29a-11(b)(1) or (b)(2).

(f) Any admission officer may utilize this subsection for any resident applicant who, upon high school graduation, has met most but not all of the precollege curriculum requirements specified in K.A.R. 88-29a-11, or the functional equivalents specified in subsections (a) through (e). Any resident applicant not meeting the precollege curriculum requirements of K.A.R. 88-29a-11, or the functional equivalents specified in subsections (a) through (e), may complete college credit courses to meet the unfulfilled precollege curriculum requirements, if all the following requirements are met:

(1) The course shall be transferable to a state educational institution.

(2) The course shall be three or more semester hours.

(3) The course shall be in the same subject area as the identified deficiency.

(4) The applicant shall submit documentation on the official college transcript of completion of the course. (Authorized by and implementing K.S.A. 2011 Supp. 76-717; effective July 22, 2011; amended April 13, 2012.)

88-29a-19. Functional equivalents of the qualified admission precollege curriculum; nonresidents. In order to admit an applicant under the criterion of successful completion of the functional equivalent of the precollege curriculum, the admission officer of each state educational institution shall require each applicant who is not a resident of Kansas and who graduates from high school in academic year 2014-2015 or later to meet at least one of the sets of requirements specified in subsections (a) and (b). An admission officer of a state educational institution shall not grant any exception to this regulation.

To demonstrate successful completion of the functional equivalent of the qualified admission precollege curriculum described in K.A.R. 88-29a-11, each applicant shall provide one of the following:

(a) Documentation on the official high school transcript of completion of the college preparatory curriculum established by the state in which the applicant is a resident. This option may be used only if the resident state's college preparatory curriculum is at least as rigorous as that required by K.A.R. 88-29a-11; or

(b) official documentation of achievement of all four ACT college readiness benchmarks. (Authorized by and implementing K.S.A. 2011 Supp. 76-717; effective July 22, 2011; amended April 13, 2012.)

Article 29b.—UNIVERSITY OF KANSAS ADMISSIONS

88-29b-1. Definitions. This regulation shall be applicable to the university of Kansas' review of applications beginning with the 2016 summer session. Each of the following terms, wherever used in this article, shall have the meaning specified in this regulation:

(a) "Accredited high school" means one or more educational institutions that provide secondary instruction to students in grades 9, 10, 11, and 12 and that are designated accredited by a regional accrediting agency recognized by the United States department of education, by the Kansas state board of education, or by an agency with standards equivalent to those of the United States department of education or the Kansas state board of education.

(b) "Admission" means the permission given by the admission officer of the university of Kansas to an applicant to enroll as a degree-seeking student in the university of Kansas.

(c) "Admission category" means one of the admission categories adopted by the university of Kansas pursuant to K.A.R. 88-29b-3.

(d) "Complete application file" means the entire set of the following student records that have been received in the admission office of the university of Kansas:

(1) A completed application to the university of Kansas;

(2) verification that all applicable application fees have been paid;

(3) an official copy of the final transcript from each high school attended, including a transcript documenting graduation from high school, or a high school equivalency credential;

(4) when required pursuant to K.A.R. 88-29a-5, K.A.R. 88-29b-5, K.A.R. 88-29a-7, or K.A.R. 88-29b-7, an official copy of all ACT or SAT scores; and

(5) any other materials required by the university of Kansas for advising or placement purposes.

(e) "Degree-seeking student" means a student who has been accepted for enrollment at the university of Kansas and who has formally indicated

to the university of Kansas the intent to complete a program of study that is designated by the United States department of education as a program that is eligible for federal financial aid.

(f) "Earned a high school equivalency credential with at least the prescribed minimum scores" means one of the following:

(1) Took the GED test on or after January 1, 2014, with an overall score of at least 680 points and a minimum score of 150 points on each subset;

(2) took the high school equivalency test (HiSET) on or after January 1, 2014, with an overall score of at least 75 points and a minimum score of 8 points on each subtest;

(3) took the GED test on or after January 1, 2002 and before January 1, 2014, with an overall score of at least 2,550 points and a minimum score of 510 points on each subtest; or

(4) took the GED test before January 1, 2002, with an overall score of at least 250 points and a minimum score of 50 points on each subtest.

(g) "Exception window for nonresident freshman class admissions" means a method by which the university of Kansas, pursuant to K.A.R. 88-29b-8c, may admit a person who is not a resident of Kansas, who does not meet the applicable requirements specified in K.A.R. 88-29-4, K.A.R. 88-29b-4, K.A.R. 88-29a-7, K.A.R. 88-29b-7, K.A.R. 88-29a-7a, or K.A.R. 88-29b-7a, and who is not eligible for admission pursuant to the exception window for nonresident transfer admissions.

(h) "Exception window for nonresident transfer admissions" means a method by which the university of Kansas, pursuant to K.A.R. 88-29b-8b, may admit a person who is not a resident of Kansas and has earned at least 24 transferable college credit hours but who is not eligible for admission pursuant to K.A.R. 88-29-4 or K.A.R. 88-29b-4.

(i) "Exception window for resident freshman class admissions" means a method by which the university of Kansas, pursuant to K.A.R. 88-29b-8, may admit a Kansas resident who does not meet the applicable requirements specified in K.A.R. 88-29-4, K.A.R. 88-29b-4, K.A.R. 88-29a-5, K.A.R. 88-29b-5, K.A.R. 88-29a-6, or K.A.R. 88-29b-6 and who is not eligible for admission pursuant to the exception window for resident transfer admissions.

(j) "Exception window for resident transfer admissions" means a method by which the university of Kansas, pursuant to K.A.R. 88-29b-8a, may admit a Kansas resident who has earned at least 24 transferable college credit hours but is not eligible for admission pursuant to K.A.R. 88-29-4 or K.A.R. 88-29b-4.

(k) "Institution of higher education" means an educational institution in any state, territory, or country that meets all of the following criteria:

(1) Meets one of the following requirements:

(A) Offers a course of instruction designated by the United States department of education as a program that is eligible for federal financial aid; or

(B) offers a course of instruction that is equivalent to a program designated by the United States department of education as a program that is eligible for federal financial aid;

(2) is legally authorized within the state, territory, or country that appears on the transcript to provide a program of education beyond secondary education; and

(3) meets one of the following requirements:

(A) Is accredited by an accrediting agency or association that is recognized by the United States department of education or an international accrediting agency; or

(B) has been granted preaccreditation status by an accrediting agency or association that is recognized by either the United States department of education or an international accrediting agency.

(l) "Integrated course" means a course that redistributes the content of two or more qualified admission precollege curriculum courses into a nontraditional combination. A nontraditional combination may combine the content of qualified admission algebra I and qualified admission geometry over a period of four semesters in a sequence of courses titled integrated math I and II.

(m) "Kansas resident" means a person determined to be a resident for fee purposes, pursuant to K.S.A. 76-729 and amendments thereto.

(n) "Non-accredited private secondary school" has the meaning specified in K.A.R. 88-26-1. This term may include a home school.

(o) "Non-degree-seeking student" means a student who has been accepted for enrollment at the university of Kansas and who has formally indicated to the university the intent to enroll for self-enrichment or other reasons, excluding the intent to complete a course of study that is designated by the United States department of education as a program that is eligible for federal financial aid.

(p) "Precollege," when used to describe a course or curriculum, means a type of course or curriculum offered at an accredited high school that meets both of the following conditions:

(1) The course or curriculum is designed for a student performing at or above the student's grade level as determined by standardized testing.

(2) The content and requirements of the course or curriculum have been determined by the board of regents or the board's designee to reflect a pace of instruction, intensity and depth of material, level of abstraction, and application of critical thinking necessary to prepare students for study at state educational institutions.

(q) "State educational institution" has the meaning specified in K.S.A. 76-711, and amendments thereto.

(r) "Transferable college credit hours" means postsecondary coursework that the university of Kansas will accept.

(s) "Unit" means a measure of secondary credit that may be awarded to a student for satisfactory completion of a particular course or subject, as determined by the local school district. (Authorized by and implementing K.S.A. 2014 Supp. 76-717; effective Feb. 1, 2013; amended April 24, 2015.)

88-29b-2. Scope. This regulation shall be applicable to the university of Kansas' review of applications beginning with the 2016 summer session. Unless expressly stated as applicable to non-degree-seeking students, this article shall apply only to undergraduate degree-seeking students at the university of Kansas. (Authorized by and implementing K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11; effective Feb. 1, 2013.)

88-29b-3. Categories of admission. This regulation shall be applicable to the university of Kansas' review of applicants beginning with the 2016 summer session.

(a) In the admission policies that are required by K.A.R. 88-29b-9, the university of Kansas shall adopt the regular admission category, which shall include any applicant who is given permission from the university to enroll as a degree-seeking student at the university without any conditions or restrictions other than that the student will be subject to all policies of the university.

(b) In the admission policies that are required by K.A.R. 88-29b-9, the university of Kansas may adopt one or more admission categories in addition to the regular admission category specified in subsection (a). These additional categories shall be limited to the following:

(1) The temporary admission category, which shall include any applicant who is given permission from the university to enroll as a degree-seeking student at the university for a specified period of time not to exceed one calendar year, during which period the student shall be required to provide the university with the student's complete application file; and

(2) the provisional admission category, which shall include any applicant who is given permission from the university to enroll as a degree-seeking student at the university for a probationary period of time, subject to restrictions that may include any of the following requirements:

(A) The applicant shall enroll only in a limited number of credit hours each semester as specified by the university;

(B) the applicant shall enroll in the developmental or college preparatory courses specified by the university;

(C) the applicant shall participate in an advising program specified by the university;

(D) the applicant shall achieve a certain specified grade point average specified by the university at the end of a period of time specified by the university; and

(E) the applicant shall meet any other provisions established in the university's admission policy for provisional admission established in accordance with K.A.R. 88-29b-9.

(c) A student in the regular admission category shall not be in any other admission category.

(d) The temporary and provisional admission categories shall not be mutually exclusive. Each student who is not in the regular admission category shall be admitted into any other category or categories of admission adopted by the university for which the student is eligible. (Authorized by and implementing K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11; effective Feb. 1, 2013.)

88-29b-4. Qualifications required for the admission of an applicant with 24 or more transferable college credit hours. This regulation shall be applicable to the university of Kansas' review of applications beginning with the 2016 summer session.

(a) The requirements established in this regulation shall apply to any applicant who has earned 24 or more transferable college credit hours. If an applicant to whom this regulation is applicable does not meet the requirements of subsection (b) or paragraph (d)(1) and does not meet the requirements of K.A.R. 88-29-4, the applicant may be admitted by means of the exception window for resident transfer admissions described in K.A.R. 88-29b-8a or the exception window for nonresident transfer admissions described in K.A.R. 88-29b-8b. Applicants who are admitted pursuant to subsection (c) or paragraph (d)(2) and who do not meet the

requirements of K.A.R. 88-29-4 may be admitted only by means of the exception window for resident transfer admissions described in K.A.R. 88-29b-8a or the exception window for nonresident transfer admissions described in K.A.R. 88-29b-8b.

(b) The university of Kansas shall admit any Kansas resident who submits an application for admission to the university on or before July 1 of the academic year for which the student is applying and who meets the following criteria:

(1) Has earned 24 or more transferable college credit hours; and

(2) has earned a cumulative grade point average of 2.5 or higher on a 4.0 scale in all transferable postsecondary coursework.

(c)(1) The university of Kansas may admit any Kansas resident applicant who meets the following conditions:

(A)(i) Submits an application for admission to the university after July 1 of the academic year for which the student is applying; or

(ii) submits an application for admission on or before July 1 but does not meet the criteria specified in subsection (b); and

(B) is recommended for admission by the university's admission review committee.

(2) The admission review committee shall consider the following factors in making admission recommendations:

(A) The applicant's completed coursework in relation to the admission standards in K.A.R. 88-29-4;

(B) the applicant's grade point average in all postsecondary coursework;

(C) the degree of difficulty of the applicant's postsecondary coursework;

(D) the applicant's grade trend;

(E) the applicant's ability to enhance the cultural, economic, or geographic diversity of the university;

(F) the applicant's academic potential;

(G) any outstanding talent in a particular area that the applicant has demonstrated;

(H) the applicant's personal challenges or family circumstances that have affected academic performance;

(I) the applicant's eligibility for and likelihood of benefitting from organized support services available at the university; and

(J) any other factors that the admission review committee deems appropriate and that have been included in the university's admission policies established pursuant to K.A.R. 88-29b-9.

(d) The university of Kansas may admit any nonresident applicant who meets one of the following conditions:

(1) Submits an application for admission to the university on or before July 1 of the academic year for which the student is applying and meets the following conditions:

(A) Has earned 24 or more transferable college credit hours; and

(B) has earned a cumulative grade point average of 2.5 or higher on a 4.0 scale in all transferable postsecondary coursework;

(2) submits an application for admission to the university after July 1 of the academic year for which the student is applying and is recommended for admission by the university's admission review committee upon consideration of the factors listed in paragraph (c)(2); or

(3) submits an application for admission on or before July 1, does not meet the criteria specified in paragraph (d)(1), and is recommended for admission by the university's admission review committee upon consideration of the factors listed in paragraph (c)(2). (Authorized by and implementing K.S.A. 2014 Supp. 76-717; effective Feb. 1, 2013; amended April 24, 2015.)

88-29b-5. Qualifications required for the admission of a Kansas resident who is under the age of 21. This regulation shall be applicable to the university of Kansas' review of applicants beginning with the 2016 summer session.

(a) The requirements in this regulation shall apply to any applicant who is a Kansas resident and is under the age of 21, except that the requirements shall not apply to any applicant who has earned 24 or more transferable college credit hours. If an applicant to whom this regulation is applicable does not meet the requirements of subsections (b), (c), and (d) and does not meet the requirements of K.A.R. 88-29a-5, the applicant may be admitted by means of the exception window for resident freshman class admissions described in K.A.R. 88-29b-8. Any applicant who is admitted pursuant to subsection (e) and does not meet the requirements of K.A.R. 88-29a-5 may be admitted only by means of the exception window for resident freshman class admissions described in K.A.R. 88-29b-8.

(b) The university of Kansas shall admit any Kansas resident under the age of 21 who submits an application for admission to the university on or before February 1 and meets either of the following requirements:

(1)(A) Has graduated from an accredited high school in Kansas or, pursuant to K.S.A. 72-116 and amendments thereto, an accredited high school located out of state, with a minimum cumulative grade point average of 3.0 on a 4.0 scale;

(B) has completed one of the following with a minimum grade point average of 2.0 on a 4.0 scale:

(i) The qualified admission precollege curriculum described in K.A.R. 88-29a-11;

(ii) the Kansas scholars curriculum established pursuant to K.A.R. 88-13-3; or

(iii) for eligible applicants, the qualified admission precollege curriculum functional equivalent described in K.A.R. 88-29a-18 (a) through (e) or in K.A.R. 88-29a-18(f);

(C) has achieved a composite score on the ACT of at least 24; and

(D) has achieved a minimum cumulative GPA of 2.5 on a 4.0 scale on all transferable college credit hours; or

(2)(A) Has graduated from an accredited high school in Kansas or, pursuant to K.S.A. 72-116 and amendments thereto, an accredited high school located out of state, with a minimum cumulative grade point average of 3.25 on a 4.0 scale;

(B) has completed one of the following with a minimum grade point average of 2.0 on a 4.0 scale:

(i) The qualified admission precollege curriculum described in K.A.R. 88-29a-11;

(ii) the Kansas scholars curriculum established pursuant to K.A.R. 88-13-3; or

(iii) for eligible applicants, the qualified admission precollege curriculum functional equivalent described in K.A.R. 88-29a-18 (a) through (e) or in K.A.R. 88-29a-18(f);

(C) has achieved a composite score on the ACT of at least 21; and

(D) has achieved a minimum cumulative GPA of 2.5 on a 4.0 scale on all transferable college credit hours.

(c) The university of Kansas shall admit any Kansas resident under the age of 21 who submits an application for admission to the university on or before February 1 and meets either of the following requirements:

(1)(A) Has graduated from a non-accredited private secondary school with a minimum cumulative grade point average of 3.0 on a 4.0 scale;

(B) has completed one of the following:

(i) Coursework equivalent to the qualified admission precollege curriculum as described in K.A.R. 88-29a-11; or

(ii) coursework equivalent to the Kansas scholars curriculum established pursuant to K.A.R. 88-13-3;

(C) has achieved a composite score on the ACT of at least 24; and

(D) has achieved a minimum cumulative GPA of 2.5 on a 4.0 scale on all transferable college credit hours; or

(2)(A) Has graduated from a non-accredited private secondary school with a minimum cumulative grade point average of 3.25 on a 4.0 scale;

(B) has completed one of the following:

(i) Coursework equivalent to the qualified admission precollege curriculum as described in K.A.R. 88-29a-11; or

(ii) coursework equivalent to the Kansas scholars curriculum established pursuant to K.A.R. 88-13-3;

(C) has achieved a composite score on the ACT of at least 21; and

(D) has achieved a minimum cumulative GPA of 2.5 on a 4.0 scale on all transferable college credit hours.

(d) The university of Kansas shall admit any Kansas resident under the age of 21 who submits an application for admission to the university on or before February 1 and who meets the following requirements:

(1) Has earned a high school equivalency credential with at least the prescribed minimum scores, as defined in K.A.R. 88-29b-1;

(2) has achieved a composite score on the ACT of at least 21; and

(3) has achieved a minimum cumulative GPA of 2.5 on a 4.0 scale on all transferable college credit hours.

(e)(1) The university of Kansas may admit any Kansas resident under the age of 21 who meets the following conditions:

(A)(i) Submits an application for admission to the university after February 1; or

(ii) submits an application for admission on or before February 1 but does not meet the criteria specified in subsections (b), (c), and (d); and

(B) is recommended for admission by the university's admission review committee.

(2) The admission review committee shall consider the following factors in making admission recommendations:

(A) The applicant's completed coursework in relation to the admission standards in K.A.R. 88-29a-5;

(B) the applicant's academic performance, including the following:

(i) Grade point average in all high school coursework;

(ii) ACT scores; and

(iii) high school class rank;

(C) the degree of difficulty of the applicant's high school coursework;

(D) the applicant's grade trend;

(E) the applicant's ability to enhance the cultural, economic, or geographic diversity of the university;

(F) the applicant's academic potential;

(G) any outstanding talent in a particular area that the applicant has demonstrated;

(H) the applicant's successful completion of advanced placement, international baccalaureate, and dual-credit coursework while in high school;

(I) specification of whether the applicant is a first-generation postsecondary student;

(J) the applicant's personal challenges or family circumstances that have affected academic performance;

(K) the applicant's eligibility for and likelihood of benefitting from organized support services available at the university; and

(L) any other factors that the admission review committee deems appropriate and that have been included in the university's admission policies established pursuant to K.A.R. 88-29b-9. (Authorized by and implementing K.S.A. 2014 Supp. 76-717; effective Feb. 1, 2013; amended April 24, 2015.)

88-29b-6. Qualifications required for the admission of a Kansas resident who is 21 or older. This regulation shall be applicable to the university of Kansas' review of applicants beginning with the 2016 summer session.

(a) The requirements in this regulation shall apply to any applicant who is a Kansas resident and who will be 21 or older on the first day of classes at the university of Kansas, except that the requirements shall not apply to any applicant who has earned 24 or more transferable college credit hours. If an applicant to whom this regulation is applicable does not meet the requirements of subsection (b) and does not meet the requirements of K.A.R. 88-29a-6, the applicant may be admitted by means of the exception window for resident freshman class admissions described in K.A.R. 88-29b-8. Any applicant who is admitted pursuant to subsection (c) and does not meet the requirements of K.A.R. 88-29a-6 may be admitted only by means of the exception window for resident freshman class admissions described in K.A.R. 88-29b-8.

(b) The university of Kansas shall admit any Kansas resident who is 21 or older, submits an application for admission to the university on or before February 1, and meets one of the following criteria:

(1) Has graduated from an accredited high school in Kansas or, pursuant to K.S.A. 72-116 and amendments thereto, an accredited high school located out of state;

(2) has graduated from a non-accredited private secondary school; or

(3) has earned a high school equivalency credential with at least the prescribed minimum scores, as defined in K.A.R. 88-29b-1.

(c) The university of Kansas may admit any Kansas resident who is 21 or older and meets the following conditions:

(1)(A) Submits an application for admission to the university after February 1; or

(B) submits an application for admission on or before February 1 but does not meet the criteria specified in subsection (b); and

(2) is recommended for admission by the university's admission review committee upon consideration of the factors listed in K.A.R. 88-29b-5(e)(2). (Authorized by and implementing K.S.A. 2014 Supp. 76-717; effective Feb. 1, 2013; amended April 24, 2015.)

88-29b-7. Qualifications required for the admission of a nonresident who is under the age of 21. This regulation shall be applicable to the university of Kansas' review of applicants beginning with the 2016 summer session.

(a) The requirements in this regulation shall apply to any applicant who is a nonresident and is under the age of 21, except that the requirements shall not apply to any applicant who has earned 24 or more transferable college credit hours. If an applicant to whom this regulation is applicable does not meet the requirements in subsections (b), (c), and (d) and does not meet the requirements of K.A.R. 88-29a-7, the applicant may be admitted by means of the exception window for nonresident freshman class admissions described in K.A.R. 88-29b-8c. Any applicant who is admitted pursuant to subsection (e) and does not meet the requirements of K.A.R. 88-29a-7 may be admitted only by means of the exception window for nonresident freshman class admissions described in K.A.R. 88-29b-8c.

(b) The university of Kansas may admit any nonresident under the age of 21 who submits an application for admission to the university on or before February 1 and meets either of the following requirements:

(1)(A) Has graduated from an accredited high school with a minimum cumulative grade point average of 3.0 on a 4.0 scale;

(B) has completed one of the following with a minimum grade point average of 2.5 on a 4.0 scale:

(i) The qualified admission precollege curriculum described in K.A.R. 88-29a-11;

(ii) the Kansas scholars curriculum established pursuant to K.A.R. 88-13-3; or

(iii) the qualified admission precollege curriculum functional equivalent described in K.A.R. 88-29a-19;

(C) has achieved a composite score on the ACT of at least 24; and

(D) has achieved a minimum cumulative GPA of 2.5 on a 4.0 scale on all transferable college credit hours; or

(2)(A) Has graduated from an accredited high school with a minimum cumulative grade point average of 3.25 on a 4.0 scale;

(B) has completed one of the following with a minimum grade point average of 2.5 on a 4.0 scale:

(i) The qualified admission precollege curriculum described in K.A.R. 88-29a-11;

(ii) the Kansas scholars curriculum established pursuant to K.A.R. 88-13-3; or

(iii) the qualified admission precollege curriculum functional equivalent described in K.A.R. 88-29a-19;

(C) has achieved a composite score on the ACT of at least 21; and

(D) has achieved a minimum cumulative GPA of 2.5 on a 4.0 scale on all transferable college credit hours.

(c) The university of Kansas may admit any nonresident under the age of 21 who submits an application for admission to the university on or before February 1 and meets either of the following requirements:

(1)(A) Has graduated from a non-accredited private secondary school with a minimum cumulative grade point average of 3.0 on a 4.0 scale;

(B) has completed one of the following with a minimum grade point average of 2.5 on a 4.0 scale:

(i) Coursework equivalent to the qualified admission precollege curriculum as described in K.A.R. 88-29a-11; or

(ii) coursework equivalent to the Kansas scholars curriculum established pursuant to K.A.R. 88-13-3;

(C) has achieved a composite score on the ACT of at least 24; and

(D) has achieved a minimum cumulative GPA of 2.5 on a 4.0 scale on all transferable college credit hours; or

(2)(A) Has graduated from a non-accredited private secondary school with a minimum cumulative grade point average of 3.25 on a 4.0 scale;

(B) has completed one of the following with a minimum grade point average of 2.5 on a 4.0 scale:

(i) Coursework equivalent to the qualified admission precollege curriculum as described in K.A.R. 88-29a-11; or

(ii) coursework equivalent to the Kansas scholars curriculum established pursuant to K.A.R. 88-13-3;

(C) has achieved a composite score on the ACT of at least 21; and

(D) has achieved a minimum cumulative GPA of 2.5 on a 4.0 scale on all transferable college credit hours.

(d) The university of Kansas may admit any nonresident under the age of 21 who submits an application for admission to the university on or before February 1 and meets the following requirements:

(1) Has earned a high school equivalency credential with at least the prescribed minimum scores, as defined in K.A.R. 88-29b-1;

(2) has achieved a composite score on the ACT of at least 21; and

(3) has achieved a minimum cumulative GPA of 2.5 on a 4.0 scale on all transferable college credit hours.

(e) The university of Kansas may admit any nonresident under the age of 21 who meets the following conditions:

(1)(A) Submits an application for admission to the university after February 1; or

(B) submits an application for admission on or before February 1 but does not meet the criteria specified in subsections (b), (c), and (d); and

(2) is recommended for admission by the university's admission review committee upon consideration of the factors listed in K.A.R. 88-29b-5(e)(2). (Authorized by and implementing K.S.A. 2014 Supp. 76-717; effective Feb. 1, 2013; amended April 24, 2015.)

88-29b-7a. Qualifications required for the admission of a nonresident who is 21 or older. This regulation shall be applicable to the university of Kansas' review of applicants beginning with the 2016 summer session.

(a) The requirements of this regulation shall apply to any applicant who is a nonresident and who will be 21 or older on the first day of classes at the university of Kansas, except that this regulation shall not apply to any applicant who has earned 24 or more transferable college credit hours. If an applicant to whom this regulation is applicable does not meet the requirements of subsection (b) and does not meet the requirements of K.A.R. 88-29a-7a, the applicant may be admitted by means of the exception window for nonresident freshman class

admissions described in K.A.R. 88-29b-8c. Any applicant who is admitted pursuant to subsection (c) and does not meet the requirements of K.A.R. 88-29a-7a may be admitted only by means of the exception window for nonresident freshman class admissions described in K.A.R. 88-29b-8c.

(b) The university of Kansas may admit any nonresident who is 21 or older, submits an application for admission to the university on or before February 1, and meets one of the following criteria:

(1) Has graduated from an accredited high school; or

(2) has earned a high school equivalency credential with at least the prescribed minimum scores, as defined in K.A.R. 88-29b-1.

(c) The university of Kansas may admit any nonresident who is 21 or older and meets the following conditions:

(1)(A) Submits an application for admission to the university after February 1; or

(B) submits an application for admission on or before February 1 but does not meet the criteria specified in subsection (b); and

(2) is recommended for admission by the university's admission review committee upon consideration of the factors listed in K.A.R. 88-29b-5(e)(2). (Authorized by and implementing K.S.A. 2014 Supp. 76-717; effective Feb. 1, 2013; amended April 24, 2015.)

88-29b-8. The exception window for resident freshman class admissions. This regulation shall be applicable to the university of Kansas' review of applicants beginning with the 2016 summer session. (a) The university of Kansas may admit any Kansas resident who does not meet the applicable requirements specified in K.A.R. 88-29b-5(b), (c), or (d), K.A.R. 88-29b-6, K.A.R. 88-29a-5, or K.A.R. 88-29a-6 and who has earned fewer than 24 transferable college credit hours by means of the exception window for resident freshman class admissions. The maximum number of students admitted by means of this exception window shall be calculated as follows:

(1) The total number of admitted new students who have earned fewer than 24 transferable college credit hours, regardless of admission category, shall be counted on the twentieth day of the fall, spring, and summer sessions of each academic year.

(2) The maximum number of admissions calculated using this exception window shall be equal to 10 percent of the sum of the three numbers counted in paragraph (a)(1).

(b) In determining which students to admit as exceptions pursuant to this regulation, the university of Kansas shall give preference to persons who are in military service, as defined in K.S.A. 76-717 and amendments thereto.

(c) If the university of Kansas exceeds the allotted number of admissions using this exception window, the excess over the allowable total number of exceptions shall be subtracted from the subsequent year's allowable total number of exceptions for resident freshman class admissions.

(d) The university of Kansas shall require each student who is admitted as an exception to the minimum qualified admission standards pursuant to this regulation to adopt an individual plan for success, before enrollment, and subsequently review that individual plan for success, as required by K.S.A. 76-717 and amendments thereto. (Authorized by and implementing K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11; effective Feb. 1, 2013.)

88-29b-8a. The exception window for resident transfer admissions. This regulation shall be applicable to the university of Kansas' review of applications beginning with the 2016 summer session. The university of Kansas may admit any Kansas resident who has earned 24 or more transferable college credit hours, but who does not meet the applicable requirements specified in K.A.R. 88-29b-4(b) or K.A.R. 88-29-4, by means of the exception window for resident transfer admissions.

(a) The maximum number of students admitted by means of this exception window shall be calculated as follows:

(1) The total number of admitted new resident students who have earned at least 24 transferable college credit hours, regardless of admission category, shall be counted on the twentieth day of the fall, spring, and summer sessions of each academic year.

(2) The maximum number of admissions calculated using this exception window shall be equal to 10 percent of the sum of the three numbers counted in paragraph (a)(1).

(b) In determining which students to admit as exceptions pursuant to this regulation, the university of Kansas shall give preference to persons who are in military service, as defined in K.S.A. 76-717 and amendments thereto.

(c) If the university of Kansas exceeds the allotted number of admissions using this exception window, the excess over the allowable total number of exceptions shall be subtracted from the subsequent

year's allowable total number of exceptions for resident transfer admissions.

(d) The university of Kansas shall require each student who is admitted as an exception to the minimum qualified admission standards pursuant to this regulation to adopt an individual plan for success, before enrollment, and subsequently review that individual plan for success, as required by K.S.A. 76-717 and amendments thereto. (Authorized by and implementing K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11; effective Feb. 1, 2013.)

88-29b-8b. The exception window for nonresident transfer admissions. This regulation shall be applicable to the university of Kansas' review of applications beginning with the 2016 summer session. The university of Kansas may admit any nonresident who has earned 24 or more transferable college credit hours, but who does not meet the applicable requirements specified in K.A.R. 88-29b-4(d)(1) or K.A.R. 88-29-4, by means of the exception window for nonresident transfer admissions.

(a) The maximum number of students admitted by means of this exception window shall be calculated as follows:

(1) The total number of admitted new nonresident students who have earned at least 24 transferable college credit hours, regardless of admission category, shall be counted on the twentieth day of the fall, spring, and summer sessions of each academic year.

(2) The maximum number of admissions calculated using this exception window shall be equal to 10 percent of the sum of the three numbers counted in paragraph (a)(1).

(b) In determining which students to admit as exceptions pursuant to this regulation, the university of Kansas shall give preference to persons who are in military service, as defined in K.S.A. 76-717 and amendments thereto.

(c) If the university of Kansas exceeds the allotted number of admissions using this exception window, the excess over the allowable total number of exceptions shall be subtracted from the subsequent year's allowable total number of exceptions for nonresident transfer admissions.

(d) The university of Kansas shall require each student who is admitted as an exception to the minimum qualified admission standards pursuant to this regulation to adopt an individual plan for success, before enrollment, and subsequently review that individual plan for success, as required by K.S.A. 76-717 and amendments thereto. (Authorized by and implementing K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11; effective Feb. 1, 2013.)

88-29b-8c. The exception window for nonresident freshman class admissions. This regulation shall be applicable to the university of Kansas' review of applicants beginning with the 2016 summer session. (a) The university of Kansas may admit any nonresident who does not meet the applicable requirements specified in K.A.R. 88-29b-7(b), (c), or (d), K.A.R. 88-29b-7a(b), K.A.R. 88-29a-7, or K.A.R. 88-29a-7a and who has earned fewer than 24 transferable college credit hours, by means of the exception window for nonresident freshman class admissions. The maximum number of students admitted by means of this exception window shall be calculated as follows:

(1) The total number of admitted new nonresident students who have earned fewer than 24 transferable college credit hours, regardless of admission category, shall be counted on the twentieth day of the fall, spring, and summer sessions of each academic year.

(2) The maximum number of admissions that may be made using this exception window shall be equal to 10 percent of the sum of the three numbers counted in paragraph (a)(1) or 50 students, whichever is greater.

(b) In determining which students to admit as exceptions pursuant to this regulation, the university of Kansas shall give preference to persons who are in military service, as defined in K.S.A. 76-717 and amendments thereto.

(c) If the university of Kansas exceeds the allotted number of admissions using this exception window, the excess over the allowable total number of exceptions shall be subtracted from the subsequent year's allowable total number of exceptions for nonresident freshman class admissions.

(d) The university of Kansas shall require each student who is admitted as an exception to the minimum qualified admission standards pursuant to this regulation to adopt an individual plan for success, before enrollment, and subsequently review that individual plan for success, as required by K.S.A. 76-717 and amendments thereto. (Authorized by and implementing K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11; effective Feb. 1, 2013.)

88-29b-9. Admission policies. This regulation shall be applicable to the university of Kansas' review of applicants beginning with the 2016

summer session. The chancellor of the university of Kansas or a designee shall establish admission policies that meet all of the following requirements:

(a) The policies shall not conflict with the provisions of this article or, where applicable, the provisions of articles 29 and 29a.

(b) The policies shall specify the materials required for a complete application file.

(c) The policies shall address the enrollment of both degree-seeking and non-degree-seeking students as well as each student's transition from degree-seeking to non-degree-seeking status or from non-degree-seeking to degree-seeking status. Policies shall mandate that each non-degree-seeking student who applies to enroll as a degree-seeking student shall be admitted only if one of the following conditions is met:

(1) The student meets the applicable requirements specified in K.A.R. 88-29b-4 through 88-29b-7a.

(2) The student is admitted by means of the exception window for resident freshmen class admissions described in K.A.R. 88-29b-8.

(3) The student is admitted by means of the exception window for resident transfer admissions described in K.A.R. 88-29b-8a.

(4) The student is admitted by means of the exception window for nonresident transfer admissions described in K.A.R. 88-29b-8b.

(5) The student is admitted by means of the exception window for nonresident freshman class admissions described in K.A.R. 88-29b-8c.

(d) The policies shall include an explanation of the exception windows and the university of Kansas' method to determine which applicants would be admitted if there were more applicants than the university is allowed under K.A.R. 88-29b-8, K.A.R. 88-29b-8a, K.A.R. 88-29b-8b, or K.A.R. 88-29b-8c.

(e) The policies may include the establishment of subcategories of non-degree-seeking students.

(f) The policies shall include a statement indicating whether the university of Kansas will consider, in the admission decision, any postsecondary credit from an institution that is not accredited and has not been granted preaccreditation status by an agency recognized by the United States department of education or by an equivalent international agency. If the university considers these credits, the admission decision shall be made in accordance with K.A.R. 88-29-4 or K.A.R. 88-29b-4.

(g) The policies shall include a statement of whether the university of Kansas enrolls students in the temporary or provisional admission category.

(1) If the university of Kansas enrolls any students in the temporary admission category, the policies shall include all of the following:

(A) A description of requirements for exiting the temporary admission category and entering another admission category;

(B) a statement that a temporarily admitted student may be denied admission to a specific degree program;

(C) a statement that each student who fails to exit from the temporary admission category within the specified period of time shall be disenrolled; and

(D) a statement that each applicant who is admitted in the temporary admission category pursuant to K.A.R. 88-29b-10(a)(2) or (b)(2) shall be allowed to exit from the temporary admission category and enter the regular admission category only upon verification of high school graduation.

(2) If the university of Kansas enrolls any students in the provisional admission category, the policies shall include all of the following:

(A) A description of requirements for exiting the provisional admission category and entering another admission category;

(B) a statement that any student admitted in the provisional admission category may be denied admission to a specific degree program; and

(C) a statement that each student who fails to exit from the provisional admission category within the period of time specified by the university shall be disenrolled.

(3) The policies shall mandate that a student who meets the criteria for both the temporary and provisional admission categories shall not be granted regular admission until the student fulfills the requirements for exiting each of the categories in which the student is initially enrolled.

(h) The policies shall be required to be approved in advance by the board of regents. (Authorized by and implementing K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11; effective Feb. 1, 2013.)

88-29b-10. Methods for evaluating qualifications for admission. This regulation shall be applicable to the university of Kansas' review of applicants beginning with the 2016 summer session.

(a) The admission officer at the university of Kansas shall consider each applicant's ACT or SAT scores as follows:

(1) A documented score of 980 on the SAT, excluding the writing portion of the SAT, shall be deemed the equivalent of a composite score of 21

on the ACT for purposes of this article. A documented score of 1090 on the SAT, excluding the writing portion of the SAT, shall be deemed the equivalent of a composite score of 24 on the ACT for purposes of this article.

(2) A documented composite score of 21 or above on the ACT may be used to admit an applicant in the temporary admission category after the applicant's completion of the sixth high school semester, without further review of the applicant's materials.

(3) The admission officer shall consider the applicant's best composite ACT score for admission decisions.

(4) If an applicant has taken both the ACT and SAT, the admission officer shall consider the applicant's better score on the two tests for admission decisions.

(b) The admission officer at the university of Kansas shall consider class rank as follows:

(1) If class rank cannot be determined, the admission officer shall not admit an applicant under this criterion.

(2) If an applicant's documented class rank is in the top third of the applicant's class after the applicant's sixth semester of high school, the class rank may be used to admit an applicant into the temporary admission category without further review of the applicant's materials.

(c) If the high school has not already calculated overall grade point average or the grade point average in the qualified admission precollege curriculum and provided that information on the official high school transcript, the admission officer at the university of Kansas shall calculate overall grade point average and grade point average in the qualified admission precollege curriculum for any applicant seeking admission pursuant to K.A.R. 88-29a-5, K.A.R. 88-29b-5, K.A.R. 88-29a-7, or K.A.R. 88-29b-7, as follows:

(1) The admission officer shall ensure that the requirements of K.A.R. 88-29a-11 are met before calculating grade point average.

(2) The admission officer shall calculate a grade point average only for courses appearing on the applicant's official high school transcript.

(3) The admission officer shall consider a course to be part of the approved qualified admission precollege curriculum only if the course was approved in accordance with K.A.R. 88-29a-11 for the semester and year in which the applicant completed the course and if the applicant earned a grade of D or better.

(4) The admission officer shall consider a course to be part of the approved qualified admission precollege curriculum only if the course code that appears on the applicant's official high school transcript is the same as the course code of the approved course.

(5)(A) If the high school transcript reports grades on a four-point scale, the admission officer shall calculate grade point averages by assigning four points to a grade of A, three points to a grade of B, two points to a grade of C, and one point to a grade of D. Pluses and minuses shall not be considered in the calculation.

(B) If the high school transcript reports grades on a scale other than a four-point scale, the admission officer shall mathematically convert the grades to a four-point scale and assign points as described in paragraph (c)(5)(A).

(6) The admission officer shall consider grades of P or pass as follows:

(A) If the high school transcript indicates that a P is equivalent to a grade of D or higher, the admission officer shall assign one grade point to each grade of P.

(B) If the high school transcript indicates that a P is equivalent to a grade of C or higher, the admission officer shall assign two grade points to each grade of P.

(C) If the high school transcript does not indicate the minimum letter grade corresponding to a P, the admission officer shall assign one grade point to each grade of P.

(7) If an applicant has retaken an approved qualified admission precollege course, the admission officer shall use the highest grade when calculating the grade point average for the approved qualified admission precollege curriculum.

(8) If an applicant has taken a college course to meet the requirements for the approved qualified admission precollege curriculum and if this college course appears on the official high school transcript, the admission officer shall calculate the grade for the college course, for purposes of determining the precollege curriculum grade point average, as follows:

(A) Each college course with three or more credit hours, but no more than five credit hours, shall be treated as a one-unit high school course.

(B) Each college course with more than five credit hours shall be treated as a two-unit high school course.

(d) If the high school has not already calculated the overall grade point average or grade point average in the Kansas scholars curriculum and provided that information on the official high school

transcript, the admission officer at the university of Kansas shall calculate the overall grade point average and grade point average in the Kansas scholars curriculum for any applicant seeking admission pursuant to K.A.R. 88-13-3, as follows:

(1) The admission officer shall ensure that the requirements established pursuant to K.A.R. 88-13-3 are met before calculating grade point average.

(2) The admission officer shall calculate a grade point average only for courses appearing on the applicant's official high school transcript.

(3) The admission officer shall consider a course to be part of the approved Kansas scholars curriculum only if the course was approved in accordance with guidelines established pursuant to K.A.R. 88-13-3 and if the applicant earned a grade of D or better.

(4) The admission officer shall calculate grade point averages in accordance with paragraphs (c)(5) through (8).

(e) If the high school has not already calculated the overall grade point average and the grade point average in the qualified admission precollege curriculum and provided that information on the official high school transcript, the admission officer at the university of Kansas shall calculate overall grade point average and grade point average in the qualified admission precollege curriculum for any resident applicant seeking admission pursuant to K.A.R. 88-29a-18(a) through (e), as follows:

(1) The admission officer shall ensure that the requirements of K.A.R. 88-29a-18(a) through (e) are met before calculating grade point average.

(2) The admission officer shall calculate the applicant's grade point average for approved qualified admission precollege curriculum courses taken from an accredited Kansas high school as described in paragraphs (c)(2) through (c)(8)(B).

(3) The admission officer shall calculate the applicant's grade point average for college preparatory courses taken from a high school located outside the state of Kansas, as follows:

(A) The applicant shall have earned a grade of D or better.

(B) The admission officer shall calculate grade point averages in accordance with paragraphs (c)(5) through (8).

(f) For any resident applicant seeking admission pursuant to K.A.R. 88-29a-18(f), the admission officer at the university of Kansas shall calculate the overall grade point average and grade point average in the qualified admission precollege curriculum, as follows:

(1) The admission officer shall ensure that the requirements of K.A.R. 88-29a-18(f) are met before calculating grade point average.

(2) The admission officer shall calculate the applicant's grade point average for qualified admission precollege curriculum courses taken from an accredited Kansas high school as described in paragraphs (c)(2) through (c)(8)(B).

(3) The admission officer shall calculate the applicant's grade point average for college preparatory courses taken from high schools located outside the state of Kansas as described in paragraph (e)(3).

(4) The admission officer shall calculate the applicant's grade point average for qualified admission precollege curriculum courses taken after high school graduation as described in paragraphs (c)(8)(A) and (c)(8)(B).

(g) If the high school has not already calculated the overall grade point average or the grade point average in the college preparatory curriculum established by the state in which the applicant is a resident and provided that information on the official high school transcript, the admission officer at the university of Kansas shall calculate the overall grade point average and grade point average for that state's college preparatory curriculum for any nonresident applicant seeking admission pursuant to K.A.R. 88-29a-19(a), as follows:

(1) The admission officer shall ensure that the requirements of K.A.R. 88-29a-19(a) are met before calculating grade point average.

(2) The admission officer shall calculate a grade point average only for college preparatory courses appearing on the applicant's official high school transcript.

(3) The admission officer shall consider a course to be part of the approved college preparatory curriculum only if the applicant earned a grade of D or better.

(4) The admission officer shall calculate grade point averages in accordance with paragraphs (c)(5) through (8).

(h) At the time of admission of an applicant, the university of Kansas shall notify the applicant of each of the following:

(1) The category or categories in which the applicant is admitted;

(2) any enrollment restrictions associated with the applicant's category or categories of admission; and

(3) the requirements for removing any enrollment restrictions associated with the applicant's category or categories of admission. (Authorized

by and implementing K.S.A. 2011 Supp. 76-717, as amended by L. 2012, ch. 168, sec. 11; effective Feb. 1, 2013.)

Article 30.—STUDENT HEALTH INSURANCE PROGRAM

88-30-1. Definitions. The following terms wherever used in this article shall have the meanings specified in this regulation:

(a) "Degree-seeking undergraduate student" means a student who has formally indicated to the state educational institution the intent to complete a program of study that is designated by the United States department of education as a program that is eligible for federal financial aid.

(b) "Dependent" means a student's unmarried child under the age of 19 who is not self-supporting.

(c) "Employer contribution" means the amount paid by a state educational institution for the coverage of a student employee that equals 75% of the cost of student-only coverage.

(d) "State board" means the state board of regents.

(e) "State educational institution" has the meaning specified in K.S.A. 76-711, and amendments thereto, except that for purposes of this article, the university of Kansas medical center shall be considered a state educational institution separate from the university of Kansas, Lawrence, and its campuses.

(f)(1) "Student" means any individual who meets each of the following conditions:

(A) Is enrolled at a state educational institution, except as provided in paragraph (f)(1)(C)(iv);

(B) is not eligible for coverage under K.A.R. 108-1-1; and

(C) meets one of the following conditions:

(i) Is a degree-seeking undergraduate student who is enrolled in at least six hours in the fall or spring semesters or at least three hours in the summer semester or is participating in an internship approved or sponsored by the state educational institution;

(ii) is a master's degree student who is enrolled in at least three hours each semester;

(iii) is an individual with J-1 or other nonimmigrant status;

(iv) is an individual with nonimmigrant status who is engaged in optional practical training or academic training, even though the individual is not enrolled:

(v) is a doctoral student;

(vi) is a master's or doctoral student who is participating in an internship approved or sponsored by the state educational institution; or

(vii) has been appointed as a postdoctoral fellow.

(2) "Student" shall not include either of the following:

(A) Except as provided in paragraph (f)(3), any individual who is enrolled exclusively in any of the following:

(i) One or more semester-based internet courses;

(ii) one or more semester-based television courses;

(iii) one or more home study courses; or

(iv) one or more correspondence courses; or

(B) a concurrent enrollment pupil, as defined in K.S.A. 72-11a03, and amendments thereto.

(3) The limitations of paragraph (f)(2)(A) shall not apply to any student employee whose official workstation is on the main campus of a state educational institution.

(4) Each individual who meets the criteria for being a "student," as specified in this subsection, at the time of application for coverage under the student health insurance program shall remain eligible for coverage throughout the coverage period.

(g) "Student employee" means a student who meets one of the following conditions:

(1) Is appointed for the current semester to a graduate assistant, graduate teaching assistant, or graduate research assistant position that is at least a 50% appointment; or

(2) holds concurrent appointments to more than one graduate assistant, graduate teaching assistant, or graduate research assistant position that total at least a 50% appointment.

(h) "Student health insurance program" means the health and accident insurance coverage or health care services of a health maintenance organization for which the state board has contracted pursuant to K.S.A. 75-4101, and amendments thereto. This regulation shall be effective on and after August 1, 2011. (Authorized by and implementing K.S.A. 2009 Supp. 75-4101; effective, T-88-6-14-07, June 14, 2007; effective Oct. 12, 2007; amended Aug. 1, 2011.)

Agency 91

Kansas State Department of Education

Editor's Note:

Regulations adopted under constitutional authority exempt from general filing act. See, Opinion of Attorney General No. 81-236.

Filing requirements for regulations adopted under constitutional authority. See K.S.A. 72-7514b.

Articles

91-1. Certificate Regulations.
91-31. Accreditation.
91-40. Special Education.
91-42. Emergency Safety Interventions.

Article 1.—CERTIFICATE REGULATIONS

91-1-200. Definition of terms. (a) "Accomplished teaching license" means a license issued to an individual who has successfully completed an advanced performance assessment designated by the state board for the purpose of identifying accomplished teaching, or who has achieved national board certification.

(b) "Accredited experience" means teaching experience gained, under contract, in a school accredited by the state board or a comparable agency in another state while the teacher holds an endorsement valid for the specific assignment. A minimum of 90 consecutive days of substitute teaching in the endorsement area of academic preparation and in the same teaching position shall constitute accredited experience. Other substitute teaching experiences shall not constitute accredited experience.

(c) "All levels" means early childhood through late adolescence and adulthood (prekindergarten through grade 12).

(d) "Alternative teacher education program" means a program to prepare persons to teach by a means other than the traditional, college-based, approved program.

(e) "Approved program" means a teacher education program approved by the state board for content and pedagogy.

(f) "Content assessment" means an assessment designated by the state board to measure subject matter knowledge for an endorsement.

(g) "Deficiency plan" means a detailed schedule of instruction from an approved program that, if completed, will qualify an individual for full endorsement in a subject. The individual who is to receive the instruction and a representative of the institution at which the instruction is to be given shall sign each deficiency plan.

(h) "Duplication of a license" means the issuance of a license to replace a license that is lost or destroyed.

(i) "Emergency substitute teaching license" means a license issued to an individual that allows access to practice as a substitute teacher as defined by K.A.R. 91-31-34(b).

(j) "Endorsement" means the legend printed on each license that identifies the subject in which an individual has specialization.

(k) "Evidence-centered assessment" means an assessment designated by the state board to measure an individual's knowledge of subject matter and ability to implement the knowledge and skills of a teacher leader.

(l) "Exchange license" means a two-year license issued under the exchange license agreement.

(m) "Initial license" means the first license that an individual holds to begin practice while preparing for the professional license.

(n) "Institutional verification" means acknowledgment that an individual has successfully completed a program within an accredited unit.

(o) "Interim alternative license" means a license that allows temporary access to practice to an individual who has completed an alternative teacher education program and been issued a license in another state.

(p) "Licensure" means the granting of access to practice teaching, administration, or school services in Kansas public schools.

(q) "Local education agency " and "LEA" mean any governmental agency authorized or required by

state law to provide education to children, including each unified school district, special education cooperative, school district interlocal, state school, and school institution.

(r) "Mentor" means a teacher or administrator who holds a professional license assigned by an LEA to provide support, modeling, and conferencing to a beginning professional.

(s) "Official transcript" means a student record that includes grades and credit hours earned and that is affixed with the official seal of the college and the signature of the registrar.

(t) "One year of teaching experience" means accredited experience that constitutes one-half time or more in one school year, while under contract.

(u) "Pedagogical assessment" means an assessment designated by the state board to measure teaching knowledge.

(v) "Performance assessment" means an assessment designated by the state board to measure an individual's ability to implement the knowledge and skills of a teacher, administrator, or school services provider.

(w) "Prekindergarten" means a program for children three and four years old.

(x) "Professional license" means a license issued to an individual based on successful completion of a performance assessment and maintained by professional development.

(y) "Provisional school specialist endorsement license" means a license issued to an individual that allows access to practice as a school specialist while the individual is in the process of completing requirements for the school specialist license.

(z) "Provisional teaching endorsement license" means a license issued to an individual that allows access to practice in an endorsement area while the individual is in the process of completing requirements for that endorsement.

(aa) "Recent credit or recent experience" means credit or experience earned during the six-year period immediately preceding the filing of an application.

(bb) "Restricted teaching license" means a license that allows an individual limited access to practice under a special arrangement among the individual, a Kansas teacher education institution, and an LEA.

(cc) "Standard," when used to describe a license, means that the license is current, unrestricted, nonprobationary, nonprovisional, nonsubstitute, or nontemporary; is issued by the state board or a comparable agency in another state; and allows an individual to work as a teacher, administrator, or school specialist in accredited school systems in Kansas or another state.

(dd) "Standards board" means the teaching and school administration professional standards advisory board.

(ee) "State board" means state board of education.

(ff) "STEM license" means a license that allows an individual to teach only an approved subject in a hiring LEA, as specified in K.A.R. 91-1-203 (m).

(gg) "Subject" means a specific teaching area within a general instructional field.

(hh) "Substitute teaching license" means a license issued to an individual that allows access to practice as a substitute as defined in K.A.R. 91-31-34(b).

(ii) "Teacher education institution" means a college or university that has an accredited administrative unit for the purpose of preparing teachers.

(jj) "Transitional license" means a license that allows an individual to temporarily practice if the individual held a license but does not meet recent credit, recent experience, or renewal requirements to qualify for an initial or professional license.

(kk) "Valid credit" and "credit" mean a semester hour of credit earned in, or validated by, a college or university that is on the accredited list maintained by the state board.

(ll) "Visiting scholar teaching license" means a license that allows an individual who has documented exceptional talent or outstanding distinction in a particular subject area to practice on a temporary, limited basis. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective July 1, 2003; amended July 1, 2003; amended July 18, 2008; amended Aug. 28, 2009; amended Aug. 12, 2011; amended, T-91-6-30-14, June 30, 2014; amended Oct. 24, 2014.)

91-1-201. Type of licensure. (a) The following types of licenses shall be issued by the state board:

(1) Accomplished teaching license;

(2) initial licenses, including the following:

(A) Initial school leadership license;

(B) initial school specialist license; and

(C) initial teaching license;

(3) emergency substitute teaching license;

(4) exchange school specialist license;

(5) exchange teaching license;

(6) foreign exchange teaching license;

(7) interim alternative license;

(8) professional licenses, including the following:

(A) Professional school leadership license;

(B) professional school specialist license; and

(C) professional teaching license;

(9) provisional school specialist endorsement license;
(10) provisional teaching endorsement license;
(11) restricted school specialist license;
(12) restricted teaching license;
(13) STEM license;
(14) substitute teaching license;
(15) transitional license; and
(16) visiting scholar teaching license.

(b)(1) Each initial license shall be valid for two years from the date of issuance.

(2) An initial teaching license may be issued for one or more of the following levels:

(A) Early childhood (birth through kindergarten, birth through grade 3, or prekindergarten through grade 3);

(B) early childhood through late childhood (kindergarten through grade 6);

(C) late childhood through early adolescence (grades 5 through 8);

(D) early adolescence through late adolescence and adulthood (grades 6 through 12); or

(E) early childhood through late adolescence and adulthood (prekindergarten through grade 12).

(3) Each initial school leadership license shall be issued for all levels.

(4) Each initial school specialist license shall be issued for the level that corresponds with the approved program completed by the applicant.

(c)(1) Each professional license shall be valid on the date of issuance. Each license shall expire on the license holder's fifth birthdate following issuance of the license.

(2) A professional teaching license may be issued for one or more of the following levels:

(A) Early childhood (birth through kindergarten, birth through grade 3, or prekindergarten through grade 3);

(B) early childhood through late childhood (kindergarten through grade 6);

(C) late childhood through early adolescence (grades 5 through 8);

(D) early adolescence through late adolescence and adulthood (grades 6 through 12); or

(E) early childhood through late adolescence and adulthood (prekindergarten through grade 12).

(3) Each professional school leadership license shall be issued for all levels.

(4) Each professional school specialist license shall be issued for the level that corresponds with the approved program completed by the applicant.

(d) (1) Each accomplished teaching license shall be valid for 10 years from the date of issuance.

(2) An accomplished teaching license may be issued for one or more of the following levels:

(A) Early childhood (birth through kindergarten, birth through grade 3, or prekindergarten through grade 3);

(B) early childhood through late childhood (kindergarten through grade 6);

(C) late childhood through early adolescence (grades 5 through 8);

(D) early adolescence through late adolescence and adulthood (grades 6 through 12); or

(E) early childhood through late adolescence and adulthood (prekindergarten through grade 12).

(e) Each substitute teaching license shall be valid on the date of issuance and shall be issued for all levels. Each substitute license shall expire on the license holder's fifth birthdate following issuance of the license.

(f) The first emergency substitute teaching license issued to an individual shall be valid for the school year in which it is issued and shall be issued for all levels. Each subsequent renewal of an emergency substitute license shall be valid for two consecutive school years.

(g) Each visiting scholar teaching license shall be valid through June 30 of the school year for which it is issued and shall be issued for the level corresponding with the teaching assignment.

(h)(1) Each exchange license shall be valid for two years from the date of issuance.

(2) An exchange teaching license may be issued for one or more of the following levels:

(A) Early childhood (birth through kindergarten, birth through grade 3, or prekindergarten through grade 3);

(B) early childhood through late childhood (kindergarten through grade 6);

(C) late childhood through early adolescence (grades 5 through 8);

(D) early adolescence through late adolescence and adulthood (grades 6 through 12); or

(E) early childhood through late adolescence and adulthood (prekindergarten through grade 12).

(3) Each exchange school specialist license shall be issued for the level that corresponds with the approved program completed by the applicant.

(i) Each foreign exchange teaching license shall be valid through June 30 of the school year for which it is issued and shall be valid for the level corresponding with the teaching assignment.

(j)(1) Each restricted teaching license shall be valid for the school year in which the license is issued. Any restricted teaching license may be re-

issued for two additional consecutive school years if progress reports are submitted as required in K.A.R. 91-1-203 (h)(2).

(2) A restricted teaching license may be issued for one or more of the following levels:

(A) Late childhood through early adolescence (grades 5 through 8);

(B) early adolescence through late adolescence and adulthood (grades 6 through 12); or

(C) early childhood through late adolescence and adulthood (prekindergarten through grade 12).

(k)(1) Each restricted school specialist license shall be valid for three consecutive school years from the date of issuance.

(2) Each restricted school specialist license shall be issued for all levels.

(l) (1) Each transitional license shall be valid for the school year in which the license is issued.

(2) Each transitional license shall be nonrenewable.

(3) A transitional license may be issued for one or more of the following levels:

(A) Early childhood (birth through kindergarten, birth through grade 3, or prekindergarten through grade 3);

(B) early childhood through late childhood (kindergarten through grade 6);

(C) late childhood through early adolescence (grades 5 through 8);

(D) early adolescence through late adolescence and adulthood (grades 6 through 12); or

(E) early childhood through late adolescence and adulthood (prekindergarten through grade 12).

(m)(1) Each interim alternative license shall be valid for one year from the date of issuance.

(2) The initial one-year term shall be automatically extended for one additional one-year term if the licensee demonstrates progress toward achieving an initial or professional license. Each interim alternative license shall be nonrenewable after two years.

(3) An interim alternative license may be issued for one or more of the following levels:

(A) Early childhood (birth through kindergarten, birth through grade 3, or prekindergarten through grade 3);

(B) early childhood through late childhood (kindergarten through grade 6);

(C) late childhood through early adolescence (grades 5 through 8);

(D) early adolescence through late adolescence and adulthood (grades 6 through 12); or

(E) early childhood through late adolescence and adulthood (prekindergarten through grade 12).

(n)(1) Each provisional teaching endorsement license shall be valid for two years from the date of issuance.

(2) A provisional teaching endorsement license may be issued for one or more of the following levels:

(A) Early childhood (birth through kindergarten, birth through grade 3, or prekindergarten through grade 3);

(B) early childhood through late childhood (kindergarten through grade 6);

(C) late childhood through early adolescence (grades 5 through 8);

(D) early adolescence through late adolescence and adulthood (grades 6 through 12); or

(E) early childhood through late adolescence and adulthood (prekindergarten through grade 12).

(o)(1) Each provisional school specialist license shall be valid for two years from the date of issuance.

(2) A provisional school specialist endorsement license shall be issued for all levels.

(p)(1) A nonrenewable license shall be issued to each applicant who meets all other requirements for an initial license except the assessments.

(2) Each nonrenewable license shall be valid only through June 30 of the school year for which the license is issued.

(q)(1) Each STEM license shall be valid only through June 30 of the school year for which the license is issued.

(2) Each STEM license shall be valid for grades 8 through 12. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective July 1, 2003; amended July 1, 2003; amended Jan. 2, 2004; amended Aug. 25, 2006; amended Aug. 10, 2007; amended July 18, 2008; amended Aug. 12, 2011; amended, T-91-6-30-14, June 30, 2014; amended Oct. 24, 2014.)

91-1-202. Endorsements. (a) Each license issued by the state board shall include one or more endorsements.

(b) Endorsements available for teaching at the early childhood license level (birth through kindergarten, birth through grade 3, or prekindergarten through grade 3) shall be as follows:

(1) Early childhood;

(2) early childhood unified;

(3) deaf or hard-of-hearing;

(4) visually impaired; and

(5) school psychologist.

(c) Endorsements available for teaching at the early childhood through late childhood license level (kindergarten through grade 6) shall be as follows:

(1) Elementary education;
(2) elementary education, unified;
(3) English for speakers of other languages (ESOL);
(4) gifted;
(5) high-incidence special education; and
(6) low-incidence special education.

(d) Endorsements available for teaching at the late childhood through early adolescence license level (grades 5 through 8) shall be as follows:
(1) English for speakers of other languages (ESOL);
(2) English language arts;
(3) gifted;
(4) high-incidence special education;
(5) history, government, and social studies;
(6) low-incidence special education;
(7) mathematics; and
(8) science.

(e) Endorsements available for teaching at the early adolescence through late adolescence and adulthood license level (grades 6 through 12) shall be as follows:
(1) Agriculture;
(2) biology;
(3) business;
(4) chemistry;
(5) communication technology;
(6) earth and space science;
(7) English for speakers of other languages (ESOL);
(8) English language arts;
(9) family and consumer science;
(10) gifted;
(11) high-incidence special education;
(12) history, government, and social studies;
(13) journalism;
(14) low-incidence special education;
(15) mathematics;
(16) physics;
(17) power, energy, and transportation technology;
(18) production technology;
(19) psychology;
(20) speech and theatre;
(21) special education generalist, high-incidence; and
(22) technology education.

(f) Endorsements available for teaching at the early childhood through late adolescence and adulthood level (prekindergarten through grade 12) shall be as follows:
(1) Art;
(2) deaf or hard-of-hearing;
(3) English for speakers of other languages (ESOL);
(4) foreign language;
(5) gifted;
(6) health;
(7) high-incidence special education;
(8) instrumental music;
(9) low-incidence special education;
(10) music;
(11) physical education;
(12) visually impaired; and
(13) vocal music.

(g) Endorsements available for school leadership at all levels shall be as follows:
(1) Building leadership; and
(2) district leadership.

(h) Endorsements available for school specialist fields at all levels shall be as follows:
(1) Library media specialist;
(2) reading specialist;
(3) school counselor;
(4) school psychologist; and
(5) teacher leader.

(i) Endorsements available for the foreign exchange teaching license shall be issued in the content area and valid only for the local education agency approved by the commissioner.

(j) Endorsements available for the restricted teaching license shall be issued in the content area and valid only for the local education agency approved by the state board.

(k) Endorsements available for the provisional teaching endorsement license at the early childhood through late childhood license level (kindergarten through grade 6) shall be as follows:
(1) English for speakers of other languages (ESOL);
(2) gifted;
(3) high-incidence special education; and
(4) low-incidence special education.

(l) Endorsements available for the provisional teaching endorsement license at the early childhood license level (birth through kindergarten, birth through grade 3, or prekindergarten through grade 3) shall be as follows:
(1) Early childhood; and
(2) early childhood unified.

(m) Endorsements available for the provisional teaching endorsement license at the late childhood through early adolescence license level (grades 5 through 8) shall be as follows:
(1) English for speakers of other languages (ESOL);
(2) English language arts;
(3) gifted;
(4) high-incidence special education;
(5) history, government, and social studies;
(6) low-incidence special education;
(7) mathematics; and

(8) science.

(n) Endorsements available for the provisional teaching endorsement license at the early adolescence through late adolescence and adulthood license level (grades 6 through 12) shall be as follows:

(1) Agriculture;
(2) biology;
(3) business;
(4) chemistry;
(5) communication technology;
(6) earth and space science;
(7) English for speakers of other languages (ESOL);
(8) English language arts;
(9) family and consumer science;
(10) gifted;
(11) high-incidence special education;
(12) journalism;
(13) low-incidence special education;
(14) mathematics;
(15) physics;
(16) power, energy, and transportation technology;
(17) production technology;
(18) psychology;
(19) speech and theatre;
(20) technology education; and
(21) history, government, and social studies.

(o) Endorsements available for the provisional teaching endorsement license at the early childhood through late adolescence and adulthood level (prekindergarten through grade 12) shall be as follows:

(1) Art;
(2) deaf or hard-of-hearing;
(3) English for speakers of other languages (ESOL);
(4) foreign language;
(5) gifted;
(6) health;
(7) high-incidence special education;
(8) instrumental music;
(9) low-incidence special education;
(10) music;
(11) physical education;
(12) visually impaired; and
(13) vocal music.

(p) Endorsements available for provisional school specialist endorsement license at all levels shall be as follows:

(1) Library media specialist;
(2) reading specialist; and
(3) school counselor.

(q) Each applicant for a license with a low-incidence or high-incidence special education endorsement, or a gifted, visually impaired, or deaf or hard-of-hearing endorsement, shall have successfully completed one of the following:

(1) A state-approved program to teach general education students; or

(2) a professional education component that allows students to acquire competency in the following:

(A) The learner and learning: learner development, learning differences, and learning environments;

(B) content: content knowledge and application of content;

(C) instructional practice: assessment, planning for instruction, and instructional strategies;

(D) professional responsibility: professional learning and ethical practice, leadership, and collaboration; and

(E) the ability to apply the acquired knowledge to teach general education students. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective July 1, 2003; amended July 1, 2003; amended Aug. 25, 2006; amended Aug. 10, 2007; amended Aug. 28, 2009; amended Aug. 12, 2011; amended, T-91-6-30-14, June 30, 2014; amended Oct. 24, 2014.)

91-1-203. Licensure requirements. (a) Initial licenses.

(1) Each applicant for an initial teaching license shall submit to the state board the following:

(A) An official transcript verifying the granting of a bachelor's degree;

(B) verification from an accredited institution by the unit head or designee of completion of a teacher education program;

(C) verification of successful completion of a pedagogical assessment as determined by the state board;

(D) verification of successful completion of an endorsement content assessment as determined by the state board;

(E) verification of eight semester hours of recent credit;

(F) an application for an initial license; and

(G) the licensure fee.

(2) Each applicant for an initial school leadership license shall submit to the state board the following:

(A) An official transcript verifying the granting of a graduate degree;

(B) verification from an accredited institution by the unit head or designee of completion of a graduate-level school leadership program;

(C) if application is made for a district leadership endorsement, verification from an accredited institution by the unit head or designee of completion of an approved building leadership program;

(D) verification of a minimum 3.25 cumulative GPA on a 4.0 scale in graduate leadership program coursework;

(E) verification of successful completion of a school leadership assessment as determined by the state board;

(F) verification of at least one year of recent accredited experience or at least eight semester hours of recent credit;

(G) an application for an initial school leadership license;

(H) the licensure fee; and

(I) verification of five years of experience in a state-accredited school while holding a standard teaching or school specialist license and having achieved the professional-level license, a professional clinical license, or a full technical certificate.

(3) Each applicant for an initial school specialist license shall submit to the state board the following:

(A) An official transcript verifying the granting of a graduate degree;

(B) verification from an accredited institution by the unit head or designee of completion of a graduate-level school specialist program;

(C) verification of at least one year of recent accredited experience or at least eight semester hours of recent credit;

(D) verification of a minimum 3.25 cumulative GPA on a 4.0 scale in graduate coursework;

(E) if application is made for a library media specialist endorsement or reading specialist endorsement, a currently valid professional teaching license;

(F) if application is made for a school counselor endorsement, one of the following:

(i) A currently valid professional teaching license; or

(ii) verification that the applicant successfully completed additional field experiences consisting of two three-credit-hour courses or at least 70 clock-hours over at least two semesters during the approved program specified in paragraph (a)(3)(B);

(G) verification of successful completion of a school specialist assessment as determined by the state board;

(H) an application for an initial school specialist license; and

(I) the licensure fee.

(b) Professional licenses.

(1) Each applicant for an initial professional teaching license shall submit to the state board the following:

(A) Verification of successful completion of the teaching performance assessment prescribed by the state board while employed in a school accredited by the state board or by a national or regional accrediting agency recognized by the state board;

(B) verification of at least one year of recent accredited experience or at least eight semester hours of recent credit;

(C) an application for professional teacher license; and

(D) the licensure fee.

(2) Each applicant for an initial professional school leadership license shall submit to the state board the following:

(A) Verification of successful completion of the school leadership performance assessment prescribed by the state board while employed in a school accredited by the state board or by a national or regional accrediting agency recognized by the state board;

(B) verification of at least one year of recent accredited experience or at least eight semester hours of recent credit;

(C) an application for professional school leadership license; and

(D) the licensure fee.

(3) Each applicant for an initial professional school specialist license shall submit to the state board the following:

(A) (i) Verification of successful completion of the school specialist performance assessment prescribed by the state board while the applicant is employed in a school accredited by the state board or by a national or regional accrediting agency recognized by the state board and while the applicant holds an initial school specialist license; or

(ii) if the applicant was issued an initial school specialist license with endorsement for school counselor as specified in paragraph (a)(3)(F)(ii), verification of successful completion of a supervised internship year while the applicant is employed as a school counselor in a school accredited by the state board or by a national or regional accrediting agency recognized by the state board and while the applicant holds an initial school specialist license. The internship shall be for one full school year or two full semesters and shall be under the supervision of a teacher education institution in collaboration with the hiring local education agency;

(B) verification of at least one year of recent accredited experience or at least eight semester hours of recent credit;

(C) an application for professional school specialist license; and

(D) the licensure fee.

(4) Each applicant for an initial professional school specialist license with endorsement for teacher leader shall submit to the state board the following:

(A) An official transcript verifying the granting of a graduate degree;

(B) (i) Verification from an accredited institution by the unit head or designee of completion of a graduate-level teacher leader program and verification of successful completion of an evidence-centered assessment; or

(ii) verification by a teacher who has acquired the competencies established by the teacher leader standards of successful completion of an evidence-centered assessment;

(C) verification of at least one year of recent accredited experience or at least eight semester hours of recent credit;

(D) verification of at least five years of accredited experience as a teacher, as a library media specialist or reading specialist, or as a school counselor meeting the requirements of paragraph (a)(3)(F)(i);

(E) verification of a minimum 3.25 cumulative GPA on a 4.0 scale in graduate teacher leader program coursework;

(F) verification of a currently valid professional teaching license;

(G) an application for an initial professional school specialist license for teacher leader; and

(H) the licensure fee.

Paragraphs (b)(4)(B)(i) and (ii) shall remain in effect only through July 1, 2016.

(5) When required by this subsection, the performance assessment for teaching and school specialist licenses shall be completion of at least a year-long approved mentoring program based on model mentoring program guidelines and chosen by the local education agency. The performance assessment for school leadership licenses shall be completion of at least a year-long approved mentoring program chosen by the local education agency and based on guidelines developed by a research-based leadership institute.

(c) Accomplished teaching licenses. Each applicant for an initial accomplished teaching license shall submit to the state board the following:

(1) Verification of achieving national board certification issued by the national board for professional teaching standards;

(2) verification of a currently valid Kansas professional teaching license;

(3) an application for an accomplished teaching license; and

(4) the licensure fee.

(d) Substitute teaching license. Each applicant for an initial substitute teaching license shall submit to the state board the following:

(1) An official transcript from an accredited institution verifying the granting of a bachelor's degree;

(2) verification from an accredited institution of completion of an approved teacher education program;

(3) an application for substitute teaching license; and

(4) the licensure fee.

(e) Emergency substitute teaching license. Each applicant for an emergency substitute teaching license shall submit to the state board the following:

(1) An official transcript verifying the completion of at least 60 semester hours of general education coursework, professional education coursework, or a combination of these types of coursework;

(2) an application for emergency substitute teaching license; and

(3) the licensure fee.

(f) Visiting scholar teaching license.

(1) Each applicant for a visiting scholar teaching license shall submit to the state board the following:

(A) An application for a visiting scholar teaching license and the appropriate fee;

(B) written verification from an administrator of an accredited or approved local education agency that the applicant will be employed if the license is issued; and

(C) documentation of exceptional talent or outstanding distinction in one or more subjects or fields.

(2) Upon receipt of an application for a visiting scholar teaching license, the following requirements shall be met:

(A) The application and documentation submitted shall be reviewed by the commissioner of education or the commissioner's designee. As deemed necessary, other steps shall be taken by the commissioner of education or the commissioner's designee to determine the applicant's qualifications to be issued a visiting scholar teaching license.

(B) A recommendation to the state board shall be made by the commissioner of education or the commissioner's designee on whether this license should be issued to the applicant.

(3) The decision of whether a visiting scholar teaching license should be issued to any applicant shall be made by the state board.

(g) Foreign exchange teaching license.

(1) Each applicant for a foreign exchange teaching license shall submit to the state board the following:

(A) An application for a foreign exchange teaching license and the appropriate fee;

(B) an official credential evaluation by a credential evaluator approved by the state board and listed on the state board's web site;

(C) verification of employment from the local education agency, including the teaching assignment, which shall be to teach in the content area of the applicant's teacher preparation or to teach the applicant's native language; and

(D) verification of the applicant's participation in the foreign exchange teaching program.

(2) The foreign exchange teaching license may be renewed for a maximum of two additional school years if the licensee continues to participate in the foreign exchange teaching program.

(h) Restricted teaching license.

(1) Each applicant for a restricted teaching license shall submit to the state board the following:

(A) An application for a restricted teaching license and the appropriate fee;

(B) an official transcript or transcripts verifying completion of an undergraduate or graduate degree in the content area or with equivalent coursework in the area for which the restricted license is sought. Heritage language speakers shall qualify as having met content equivalency for their heritage language;

(C) verification of a minimum 2.75 grade point average on a 4.0 scale for the most recent 60 semester credit hours earned;

(D) verification that the applicant has attained a passing score on the content assessment required by the state board of education;

(E) verification that the local education agency will employ the applicant if the license is issued;

(F) verification that the local education agency will assign a licensed teacher with three or more years of experience to serve as a mentor for the applicant;

(G) verification that the applicant has completed a supervised practical training experience through collaboration of the teacher education institution and the hiring local education agency;

(H) a statement from the licensing officer of a Kansas teacher education institution attesting to the following:

(i) The applicant has on file a written plan that will qualify the applicant for full licensure in the content area for which the restricted license is sought;

(ii) the plan for program completion can be completed in not more than two years and contains a specific designation of the coursework that is to be completed each year;

(iii) the program provided to the applicant will meet the institution's approved professional education standards; and

(iv) the institution will provide the applicant with on-site support at the employing local education agency, including supervision of the applicant's teaching experience; and

(I) a statement verifying that the local education agency and the teacher education institution have collaborated regarding the approved program that the applicant will pursue and the support that the applicant will receive.

(2) The teacher education institution providing a plan of study for any person holding a restricted teaching license shall coordinate the submission of a progress report before July 1 of each year during the effective period of the restricted license. This progress report shall verify the following:

(A) The applicant's contract will be renewed.

(B) The local education agency will continue to assign an experienced mentor teacher to the applicant.

(C) The applicant has made appropriate progress toward completion of the applicant's plan to qualify for full licensure.

(D) The institution will continue to support the applicant, on-site, as necessary.

(E) The applicant has attained at least a 2.75 GPA on a 4.0 scale in those courses specified in the applicant's plan for full licensure.

(3) Each applicant who is unable to provide any verification or statement required in paragraph (h)(2) shall no longer be eligible to hold a restricted teaching license.

(i) Restricted school specialist license.

(1) Each applicant for a restricted school specialist license with endorsement for school library media or school counselor shall submit to the state board the following:

(A) An application for a restricted school specialist license and the appropriate fee;

(B) an official transcript or transcripts verifying completion of a graduate degree in the content area of counseling or library media;

(C) verification of at least three years of fulltime professional counseling or librarian experience;

(D) verification of a minimum 3.25 cumulative grade point average on a 4.0 scale in graduate coursework; and

(E) documentation that the following conditions are met:

(i) The local education agency has made reasonable attempts to locate and hire a licensed person

for the restricted school specialist position that the applicant is to fill;

(ii) the local education agency will employ the applicant if the license is issued;

(iii) the local education agency has an agreement with an experienced school specialist in the same content area to serve as a mentor for the applicant;

(iv) the local educational agency will provide, within the first six weeks of employment, an orientation or induction program for the applicant;

(v) the local education agency has collaborated with a Kansas teacher education institution regarding the program that the applicant will pursue to obtain full licensure; and

(vi) the local education agency will provide release time for the candidate to work with the mentor and to work on progress toward program completion; and

(F) a statement from the licensing officer of a Kansas teacher education institution attesting to the following:

(i) The applicant has on file a written plan that will qualify the applicant for full licensure in the school specialist content area for which the restricted license is sought;

(ii) the plan for program completion can be completed in not more than three years and contains a specific designation of the coursework that is to be completed each year;

(iii) the program provided to the applicant will meet the institution's approved professional education standards;

(iv) the institution will provide the applicant with on-site support; and

(v) the institution has collaborated with the employing local education agency concerning the applicant's program.

(2) Each local education agency that employs a person holding a restricted school specialist license shall submit to the commissioner of education a progress report before July 1 of each year during the effective period of the restricted school specialist license. This progress report shall include the following:

(A) Verification that the applicant has attained passing scores on the content assessment required by the state board by the end of the first year;

(B) verification from the chief administrative officer of the employing local education agency attesting to the following:

(i) The applicant's contract will be renewed; and

(ii) the local education agency will continue to assign an experienced mentor teacher to the applicant and provide accommodations to the applicant to work with the mentor teacher and to complete the applicant's plan for full licensure;

(C) a statement from the licensing officer of the applicant's teacher education institution attesting to the following:

(i) The applicant has made appropriate progress toward completion of the applicant's plan to qualify for full licensure; and

(ii) the institution will continue to support the applicant, on-site, as necessary; and

(D) an official transcript verifying that the applicant has attained at least a 3.25 GPA on a 4.0 scale in the courses specified in the applicant's plan for full licensure.

(3) Each applicant who is unable to provide any verification or statement required in paragraph (i)(2) shall no longer be eligible to hold a restricted school specialist license and shall return any previously issued restricted school specialist license to the state board.

(j) Transitional license.

(1) Each applicant for a transitional license shall submit to the state board the following:

(A) Verification of meeting the requirements for an initial or professional license as provided in K.A.R. 91-1-203(a) or (b) or K.A.R. 91-1-204(c), except for recent credit or recent experience; or

(B) verification of having previously held an initial or professional Kansas license or certificate that has been expired for six months or longer;

(C) an application for a transitional license; and

(D) the licensure fee.

(2) Any person who holds a transitional license issued under paragraph (j)(1)(A) may upgrade that license to an initial or professional license by submitting to the state board the following:

(A) Verification of accredited experience during the term of the transitional license; or

(B) (i) Verification of having successfully completed eight hours of recent credit; or

(ii) verification of meeting the requirements in K.A.R. 91-1-205(b)(3)(C), if the person meets the requirements of K.A.R. 91-1-206 and K.A.R. 91-1-215 through 91-1-219.

(3) Any person who holds a transitional license issued under paragraph (j)(1)(B) may upgrade that license to an initial or professional license by submitting to the state board verification of meeting the requirements in K.A.R. 91-1-205(a)(2) or (b).

(k) Provisional teaching endorsement license.

(1) Each applicant shall hold a currently valid initial or professional license at any level and shall submit to the state board the following:

(A) Verification of completion of at least 50 percent of an approved teacher education program in the requested endorsement field;

(B) a deficiency plan to complete the approved program requirements from the licensing officer of a teacher education institution;

(C) verification of employment and assignment to teach in the provisional endorsement area;

(D) an application for a provisional endorsement teaching license; and

(E) the licensure fee.

(2) Each applicant for a provisional teaching endorsement license for high-incidence special education, low-incidence special education, deaf or hard of hearing, gifted special education, or visually impaired shall hold a currently valid initial or professional license and shall submit to the state board the following:

(A) Verification of completion of coursework in the areas of methodology and the characteristics of exceptional children and special education, and completion of a practicum in the specific special education field;

(B) a deficiency plan to complete the approved program requirements for the licensing officer of a teacher education institution;

(C) verification of employment and the assignment to teach in the provisional endorsement area;

(D) an application for a provisional endorsement teaching license; and

(E) the licensure fee.

(l) Provisional school specialist endorsement license. Each applicant shall hold a currently valid professional license as described in K.A.R. 91-1-201 (a)(8) and shall submit to the state board the following:

(1) Verification of completion of 50 percent of an approved school specialist program;

(2) a deficiency plan for completion of the approved school specialist program from the licensing officer at a teacher education institution;

(3) verification of employment and assignment in the school specialty endorsement area for which licensure is sought;

(4) for a provisional school counselor endorsement license, verification from the employing local education agency that a person holding a professional school counselor specialist license will be assigned to supervise the applicant during the provisional licensure period;

(5) an application for a provisional school specialist license; and

(6) the licensure fee.

(m) STEM license.

(1) Each applicant for a STEM license shall submit to the state board the following:

(A) An official transcript verifying the granting of an undergraduate or graduate degree in one of the following subjects: life science, physical science, earth and space science, mathematics, engineering, computer technology, finance, or accounting;

(B) verification of at least five years of full-time professional work experience in the subject;

(C) verification that a local education agency will employ the applicant and assign the applicant to teach only the subject specified on the license if the license is issued;

(D) verification that the hiring local education agency will provide professional learning opportunities determined as appropriate by the hiring local education agency;

(E) an application for the STEM license; and

(F) the licensure fee.

(2) Any applicant may apply for a STEM license valid for subsequent school years by submitting the following:

(A) The verification specified in paragraphs (m)(1)(C) and (D);

(B) an application for renewal; and

(C) the licensure fee. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective July 1, 2003; amended July 1, 2003; amended Jan. 2, 2004; amended Aug. 5, 2005; amended Aug. 10, 2007; amended July 18, 2008; amended Aug. 28, 2009; amended Aug. 12, 2011; amended, T-91-6-30-14, June 30, 2014; amended Oct. 24, 2014.)

91-1-204. Licensure of out-of-state and foreign applicants. (a) Despite any other licensure regulation, any person who meets the requirements of this regulation may be issued a license by the state board.

(b) Any applicant for an initial Kansas teaching or school specialist license who holds a valid teaching or school specialist license with one or more full endorsements issued by a state that has been approved by the state board for exchange licenses may be issued a two-year license, if the applicant's endorsements are based on completion of a state-approved program in that state.

(c)(1) Any person who holds a valid teaching, school leadership, or school specialist license issued by another state may apply for either an initial or a professional license.

(2) To obtain an initial teaching license, each applicant specified in paragraph (c)(1) shall submit the following:

(A) An official transcript verifying the granting of a bachelor's degree;

(B) verification from the unit head or designee of an accredited institution that the applicant has completed a state-approved teacher education program. If the applicant is seeking licensure to teach content in grades 8 through 12, this verification shall not be required if the applicant submits verification of having secured a commitment for hire from a local education agency;

(C) verification of successful completion of a pedagogical assessment prescribed by the state board or evidence of successful completion of a pedagogical assessment in the state in which the applicant holds a license;

(D) verification of successful completion of an endorsement content assessment prescribed by the state board or evidence of successful completion of an endorsement content assessment in the state in which the applicant holds a license;

(E) verification of at least one year of recent accredited experience or at least eight semester hours of recent credit;

(F) an application for a Kansas license; and

(G) the licensure fee.

(3) To obtain a professional teaching license, each applicant specified in paragraph (c)(1) shall submit the following:

(A) An official transcript verifying the granting of a bachelor's degree;

(B) verification from the unit head or designee of an accredited institution that the applicant has completed a state-approved teacher education program. If the applicant is seeking licensure to teach content in grades 8 through 12, this verification shall not be required if the applicant submits verification of having secured a commitment for hire from a local education agency;

(C) a copy of the applicant's currently valid out-of-state standard teaching license;

(D)(i) Evidence of successful completion of pedagogical, content, and performance assessments prescribed by the state board or evidence of successful completion of the three assessments in the state in which the applicant holds the standard license;

(ii) verification of at least three years of recent accredited experience under a standard license; or

(iii) verification of at least five years of accredited experience under a standard license;

(E) verification of at least one year of recent accredited experience or at least eight semester hours of recent credit;

(F) an application for a Kansas license; and

(G) the licensure fee.

(4) To obtain an initial school leadership license, each out-of-state applicant shall submit the following:

(A) An official transcript verifying the granting of a graduate degree;

(B) verification from an accredited institution by the unit head or designee of completion of a graduate-level school leadership program;

(C) if application is made for a district leadership endorsement, verification from an accredited institution by the unit head or designee of completion of an approved building leadership program;

(D) verification of a minimum 3.25 cumulative GPA in graduate leadership program coursework;

(E) verification of successful completion of a school leadership assessment as determined by the state board;

(F) verification of at least one year of recent accredited experience or at least eight semester hours of recent credit;

(G) an application for initial school leadership license;

(H) the licensure fee; and

(I) verification of five years of experience in a state-accredited school while holding a standard teaching license or standard school specialist license and having achieved the professional-level license, a professional clinical license, a leadership license, or a full technical certificate.

(5) To obtain an initial school specialist license, each out-of-state applicant shall submit the following:

(A) An official transcript verifying the granting of a graduate degree;

(B) verification from an accredited institution by the unit head or designee of completion of a graduate-level school specialist program;

(C) verification of a minimum 3.25 cumulative GPA in graduate school specialist program coursework;

(D) if application is made for a library media specialist endorsement, school counselor endorsement, or reading specialist endorsement, a currently valid professional teaching license;

(E) verification of successful completion of a school specialist assessment as determined by the state board;

(F) verification of at least one year of recent accredited experience or at least eight semester hours of recent credit;

(G) an application for an initial school specialist license; and

(H) the licensure fee.

(6) To obtain a professional school leadership license, each out-of-state applicant shall submit the following:

(A) An official transcript verifying the granting of a graduate degree;

(B) verification from an accredited institution by the unit head or designee of completion of a graduate-level school leadership program;

(C) verification of a minimum 3.25 cumulative GPA in graduate leadership program coursework;

(D) verification of at least one year of recent accredited experience or at least eight semester hours of recent credit;

(E) verification of five years of experience in a state-accredited school while holding a standard teaching license or standard school specialist license and having achieved the professional-level license, a professional clinical license, a leadership license, or a full technical education certificate;

(F)(i) Evidence of successful completion of the school leadership assessment and completion in a state-accredited school of the school leadership performance assessment prescribed by the state board or evidence of successful completion of the two assessments in the state in which the applicant holds a standard school leadership license;

(ii) verification of at least three years of recent accredited experience in a school leadership position while holding a standard school leadership license; or

(iii) verification of at least five years of accredited school leadership experience under a standard school leadership license;

(G) an application for the professional school leadership license; and

(H) the licensure fee.

(7) To obtain a professional school specialist license, each out-of-state applicant shall submit the following:

(A) An official transcript verifying the granting of a graduate degree;

(B) verification from an accredited institution by the unit head or designee of completion of a graduate-level specialist program;

(C) verification of a minimum 3.25 cumulative GPA in graduate school specialist program coursework;

(D) verification of at least one year of recent accredited experience or at least eight semester hours of recent credit;

(E) if application is made for a library media specialist endorsement, school counselor endorsement, or reading specialist endorsement, a currently valid professional teaching license;

(F)(i) Evidence of successful completion of the school specialist assessment and completion in a state-accredited school of the school specialist performance assessment prescribed by the state board or evidence of successful completion of the two assessments in the state in which the applicant holds a standard school specialist license;

(ii) verification of at least three years of recent accredited experience in a school specialist position while holding a valid standard school specialist license; or

(iii) verification of at least five years of accredited school specialist experience under a standard school specialist license;

(G) an application for the professional school specialist license; and

(H) the licensure fee.

(8) Any person who holds a valid initial or professional school specialist license as a school counselor in another state where the counselor license is issued without a classroom teaching requirement may apply for an initial or professional school specialist license with endorsement for school counselor.

(A) To obtain an initial school specialist license with endorsement for school counselor, each applicant specified in paragraph (c)(8) shall submit to the state board the following:

(i) An official transcript verifying the granting of a graduate degree;

(ii) verification from an accredited institution by the unit head or designee of completion of a graduate-level school counselor program;

(iii) verification of a minimum 3.25 cumulative GPA on a 4.0 scale in graduate coursework;

(iv) verification of at least one year of recent accredited experience or at least eight semester hours of recent credit; and

(v) evidence of successful completion of the school counselor assessment prescribed by the state board or evidence of successful completion of a school counselor content assessment in the state in which the applicant holds a license.

(B) Each applicant who is issued an initial school specialist license with endorsement for school counselor as specified in paragraph (c)(8)(A) shall upgrade to the professional school specialist license by submitting to the state board verification of successful completion of a supervised internship year while the applicant is employed as a school counselor in a school accredited by the state board or by a national or regional accrediting agency recognized by the state board and while the applicant holds an initial school specialist license. The internship shall be for one full school year or two full semesters and shall be under the supervision of a teacher education institution in collaboration with the hiring local education agency.

(C) To obtain a professional school specialist license with endorsement for school counselor, each applicant specified in paragraph (c)(8) shall submit to the state board verification of all documentation specified in paragraph (c)(8)(A) and one of the following:

(i) Verification of at least three years of recent accredited experience as a school counselor while holding a valid, standard school counselor license;

(ii) verification of successful completion of a supervised internship year while the applicant is employed as a school counselor in a school accredited by the state board or by a national or regional accrediting agency recognized by the state board and while the applicant holds a standard school counselor license. The internship shall be for one full school year or two full semesters and shall be under the supervision of a teacher education institution in collaboration with the hiring local education agency; or

(iii) verification of at least five years of accredited school counselor experience under a standard school counselor license.

(d)(1) Any person who holds a valid professional teaching license in another state and has earned national board certification issued by the national board for professional teaching standards may apply for an accomplished teaching license, which shall be valid for as long as the national board certificate is valid.

(2) To obtain an accomplished teaching license, each applicant specified in paragraph (d)(1) shall submit the following:

(A) Evidence of current national board certification;

(B) verification of a valid professional teaching license issued by another state;

(C) an application for an accomplished teaching license; and

(D) the licensure fee.

(e)(1)(A) Any person who holds a valid license in another state earned through completion of an alternative teacher-education program may apply for an interim alternative license.

(B) Any person who holds a valid license in another state earned through completion of an alternative teacher-education program and who has five or more years of accredited experience earned under a standard license, three years of which are continuous in the same local education agency, may apply for a professional teaching license by meeting the requirements of paragraph (c)(3).

(2) To obtain an interim alternative license, each applicant specified in paragraph (e)(1)(A) shall submit to the state board the following:

(A) An official transcript verifying the granting of a bachelor's degree;

(B) a copy of the applicant's currently valid out-of-state license;

(C) verification of completion of the alternative teacher-education program;

(D) verification of at least one year of recent accredited experience or at least eight semester hours of recent credit;

(E) an application for an interim alternative license; and

(F) the licensure fee.

(3) Each person who holds an interim alternative license shall submit to the commissioner of education, within the first six months of validity of the interim alternative license, a request for review of the application by the licensure review committee.

(A) Upgrading the interim alternative license to the standard initial license shall require verification of the following:

(i) Successful completion of all requirements set by the licensure review committee and approved by the state board; and

(ii) successful completion of a pedagogical assessment prescribed by the state board and successful completion of an endorsement content assessment prescribed by the state board.

(B) Upgrading the interim alternative license to the professional level license shall require verification of the following:

(i) A recommendation from the licensure review committee and approval by the state board with no additional requirements specified; and

(ii) verification that the person meets the requirements of K.A.R. 91-1-204(c)(3)(D).

(f) Any person who has completed an education program from a foreign institution outside of the United States may receive an initial license if, in addition to meeting the requirements for the initial license in K.A.R. 91-1-203, that person submits the following:

(1) An official credential evaluation by a credential evaluator approved by the state board; and

(2) if the person's primary language is not English, verification of passing scores on an English proficiency examination prescribed by the state board. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective July 1, 2003; amended July 1, 2003; amended Aug. 10, 2007; amended July 18, 2008; amended Aug. 28, 2009; amended Aug. 12, 2011; amended, T-91-6-30-14, June 30, 2014; amended Oct. 24, 2014.)

91-1-205. Licensure renewal requirements. (a) Initial licenses.

(1) Any person, within five years of the date the person was first issued an initial license, may apply for renewal of the initial license by submitting an application for renewal of the initial license and the licensure fee.

(2) Any person who does not renew the initial license within five years of the date the initial license was issued may obtain one or more additional initial licenses only by meeting the requirements in S.B.R. 91-1-203 (a). The assessments required by S.B.R. 91-1-203 (a)(1)(C) and 91-1-203 (a)(1)(D) shall have been taken not more than one year before the date of application for the initial license, or the applicant may verify either eight semester hours of recent credit related to one or more endorsements on the initial license or one year of recent accredited experience or may meet the requirements of paragraph (b)(3)(C) or (D) of this regulation.

(3) A person who does not successfully complete the teaching performance assessment during four years of accredited experience under an initial teaching license shall not be issued an additional initial teaching license, unless the person successfully completes the following retraining requirements:

(A) A minimum of 12 semester credit hours with a minimum cumulative GPA of 2.50 on a 4.0 scale, earned through the verifying teacher education institution and addressing the deficiencies related to the teaching performance assessment criteria; and

(B) following completion of the required credit hours, an unpaid internship supervised by the verifying teacher education institution and consisting of at least 12 weeks, with attainment of a grade of "B" or higher.

(4) A person who does not successfully complete the school specialist or school leadership performance assessment during four years of accredited experience shall not be issued an additional initial school specialist or school leadership license, unless the person successfully completes the following retraining requirements:

(A) A minimum of six semester credit hours with a minimum cumulative GPA of 3.25 on a 4.0 scale, earned through the verifying teacher education institution and addressing the deficiencies related to the performance assessment criteria; and

(B) following completion of the required credit hours, an unpaid internship supervised by the verifying teacher education institution and consisting of at least 12 weeks, with attainment of a grade of "B" or higher.

(b) Professional licenses. Any person may renew a professional license by submitting the following to the state board:

(1) An application for renewal;

(2) the licensure fee; and

(3) verification that the person, within the term of the professional license being renewed, meets any of the following requirements:

(A) Has completed all components of the national board for professional teaching standards assessment for board certification;

(B) has been granted national board certification;

(C)(i) Has earned a minimum of 120 professional development points under an approved individual development plan filed with a local professional development council if the applicant holds an advanced degree; or

(ii) has earned a minimum of 160 professional development points under an approved individual development plan filed with a local professional development council, including at least 80 points for college credit, if the applicant does not hold an advanced degree;

(D) has completed a minimum of eight credit hours in an approved program or completed an approved program;

(E) if the person holds an advanced degree, submits to the state board verification of having completed three years of recent accredited experience during the term of the most recent license. Each person specified in this paragraph shall be limited to two renewals; or

(F) if the person is participating in an educational retirement system in Kansas or another state, has completed half of the professional development points specified in paragraph (b)(3)(C).

(c) Accomplished teaching licenses.

(1) Any person may renew an accomplished teaching license by submitting to the state board the following:

(A) Verification of achieving renewal of national board certification since the issuance of the most recent accomplished teaching license;

(B) an application for accomplished teaching license; and

(C) the licensure fee.

(2) If a person fails to renew the national board certificate, the person may apply for a professional license by meeting the renewal requirement for a professional license specified in paragraph (b)(3)(C) or (D).

(d) Substitute teaching license. Any person may renew a substitute teaching license by submitting to the state board the following:

(1) Verification that the person has earned, within the last five years, a minimum of 50 professional development points under an approved individual development plan filed with a local professional development council;

(2) an application for a substitute teaching license; and

(3) the licensure fee.

(e) Provisional teaching endorsement license. An individual may renew a provisional teaching endorsement license one time by submitting to the state board the following:

(1) Verification of completion of at least 50 percent of the deficiency plan;

(2) verification of continued employment and assignment to teach in the provisional endorsement area;

(3) an application for a provisional endorsement teaching license; and

(4) the licensure fee.

(f) Provisional school specialist endorsement license. Any individual may renew a provisional school specialist endorsement license by submitting to the state board the following:

(1) Verification of completion of at least 50 percent of the deficiency plan;

(2) verification of continued employment and assignment as a school specialist;

(3) an application for a provisional school specialist endorsement license; and

(4) the licensure fee.

(g) Any person who fails to renew the professional license may apply for a subsequent professional license by meeting the following requirements:

(1) Submit an application for a license and the licensure fee; and

(2) provide verification of one of the following:

(A) Having met the requirements of paragraph (b)(3); or

(B) having at least three years of recent, out-of-state accredited experience under an initial or professional license.

(3) If a person seeks a professional license based upon recent, out-of-state accredited experience, the person shall be issued the license if verification of the recent experience is provided. The license shall be valid through the remaining validity period of the out-of-state professional license or for five years from the date of issuance, whichever is less. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective July 1, 2003; amended July 1, 2003; amended Aug. 25, 2006; amended July 18, 2008; amended Aug. 28, 2009.)

91-1-209. Additional endorsements. (a) Any person who holds a currently valid teaching, school service, or school leadership license may add additional endorsements to that license by submitting to the state board the following:

(1) Verification from an accredited institution by a unit head or designee of completion of an approved content area program;

(2) verification of successful completion of the appropriate endorsement content assessment prescribed by the state board;

(3) an application for an added endorsement; and

(4) the application fee.

(b)(1) Any person who holds a currently valid teaching license with a science endorsement at the early adolescence through late adolescence and adulthood level may add an additional science endorsement for that level by submitting to the state board the following:

(A) Verification of successful completion of the appropriate science endorsement content assessment prescribed by the state board;

(B) an application for an added endorsement; and

(C) the application fee.

(2) This subsection shall remain in force and effect only through June 30, 2012.

(c)(1) Any person who holds a currently valid teaching license at any level may add a content area endorsement for the late childhood through early adolescence level by submitting to the state board the following:

(A) Verification from an accredited institution by a unit head or designee of completion of 15 semester credit hours in the content area for which endorsement is sought;

(B) verification of one of the following:

(i) A pedagogy course for the late childhood through early adolescence level; or

(ii) recent accredited experience of one year or more in one of the grades 5 through 8;

(C) verification of successful completion of the appropriate content assessment prescribed by the state board;

(D) an application for an added endorsement; and

(E) the application fee.

(2) Teaching endorsements for adaptive, functional, gifted, deaf or hard-of-hearing, and visually impaired shall not be available under this subsection.

(3) This subsection shall remain in force and effect only through June 30, 2012.

(d)(1) Any person who holds a currently valid teaching license with a content area endorsement at the early adolescence through late adolescence

and adulthood level may add an additional content area endorsement for that level by submitting to the state board the following:

(A) Verification from an accredited institution by a unit head or designee of completion of 50 percent or more of an approved content area program, including the content methods course;

(B) verification of successful completion of the appropriate endorsement content assessment prescribed by the state board;

(C) an application for an added endorsement; and

(D) the application fee.

(2) Any person who holds a currently valid teaching license with a content area endorsement at the late childhood through early adolescence level may add the same content area endorsement at the early adolescence through late adolescence and adulthood level by submitting to the state board verification of meeting the requirements specified in paragraph (d)(1).

(3) Teaching endorsements for adaptive, functional, gifted, deaf or hard-of-hearing, and visually impaired shall not be available under this subsection.

(4) This subsection shall remain in force and effect only through June 30, 2012.

(e) (1) Any person who holds a valid out-of-state teaching license with an additional endorsement that was earned by completion of coursework specified by the other state may add that endorsement to the person's Kansas license by submitting to the state board the following:

(A) A copy of the out-of-state license showing the endorsement;

(B) verification that the person completed the specified coursework;

(C) verification of successful completion of the appropriate endorsement content assessment prescribed by the state board or evidence of successful completion of an endorsement content assessment in the state in which the applicant holds a license;

(D) an application for an added endorsement; and

(E) the licensure fee.

(2) This subsection shall remain in force and effect only through June 30, 2012.

(f)(1) Except as prescribed in paragraph (f)(2), any person who holds a valid teaching license may add an additional teaching endorsement by submitting to the state board the following:

(A) Verification of successful completion of the endorsement content assessment prescribed by the state board;

(B) an application for an added endorsement; and

(C) the application fee.

(2) Teaching endorsements for early childhood, early childhood unified, early childhood through late childhood generalist, adaptive, functional, gifted, deaf or hard-of-hearing, or visually impaired shall not be available under paragraph (f)(1). (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective July 1, 2003; amended Aug. 10, 2007; amended July 18, 2008; amended July 27, 2012.)

91-1-214. Criminal history records check. (a) Each person submitting any of the following shall also submit, at the time of the application, a complete set of legible fingerprints of the person taken by a qualified law enforcement agency or properly trained school personnel:

(1) An initial application for a Kansas certificate or license;

(2) an application for renewal of an expired Kansas certificate or license; or

(3) an application for renewal of a valid Kansas certificate or license, if the person has never submitted fingerprints as part of any previous application for a Kansas certificate or license issued by the state board.

Fingerprints submitted pursuant to this regulation shall be released by the Kansas state department of education to the Kansas bureau of investigation for the purpose of conducting criminal history records checks, utilizing the files and records of the Kansas bureau of investigation and the federal bureau of investigation. A list of those applicants who are required to submit fingerprints at the time of license or certificate renewal shall be maintained by the Kansas state department of education.

(b) Each applicant shall pay the appropriate fee for the criminal history records check, to be determined on an annual basis.

(c) In addition to any other requirements established by regulation for the issuance of any certificate or license specified in subsection (a), the submittal of fingerprints shall be a prerequisite to the issuance of any certificate or license by the state board. A person submitting an application who does not comply with this regulation shall not be issued a certificate or license. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Sept. 13, 2002; amended Oct. 31, 2014.)

91-1-216. Procedures for promulgation of in-service education plans; approval by state board; area professional development centers' in-service programs. (a) An in-service education plan to be offered by one or more educational agencies may be designed and implemented by the

board of education or other governing body of an educational agency, or the governing bodies of any two or more educational agencies, with the advice of representatives of the licensed personnel who will be affected.

(b) Procedures for development of an in-service plan shall include the following:

(1) Establishment of a professional development council;

(2) an assessment of in-service needs;

(3) identification of goals and objectives;

(4) identification of activities; and

(5) evaluative criteria.

(c) Based upon information developed under subsection (b), the educational agency shall prepare a proposed in-service plan. The proposed plan shall be submitted to the state board by August 1 of the school year in which the plan is to become effective.

(d) The plan shall be approved, approved with modifications, or disapproved by the state board. The educational agency shall be notified of the decision by the state board within a semester of submission of the plan.

(e) An approved plan may be amended at any time by following the procedures specified in this regulation.

(f) Each area professional development center providing in-service education for licensure renewal shall provide the in-service education through a local school district, an accredited nonpublic school, an institution of postsecondary education, or an educational agency that has a state-approved in-service education plan. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective July 1, 2003; amended Aug. 28, 2009.)

91-1-220. Career and technical education certificate. (a) Any individual may apply for a restricted career and technical education certificate, a full career and technical education certificate, a career and technical education endorsement certificate, or a career and technical education specialized certificate.

(b)(1) Each restricted career and technical education certificate shall be valid for two years from the date of issuance and shall be valid for instruction in grades 8 through 12.

(2) Each restricted career and technical education certificate shall be valid for providing instruction in career and technical education pathways for agriculture, food, and natural resources; architecture and construction; arts, audio-video technology, and communications; business management and administration; finance; health science; hospitality and tourism; human services; information technology; law, public safety, and security; manufacturing; marketing; science, technology, engineering, and mathematics (STEM); and transportation, distribution, and logistics.

(c) Each applicant for a restricted career and technical education certificate shall submit the following to the state board:

(1) Verification that a local education agency will employ the applicant in a career and technical education pathway if the certificate is issued;

(2) verification of at least 4,000 hours of occupational work experience in the career and technical education content area in which the certificate is sought;

(3) documentation of the following:

(A) Verification of occupational competency in the career and technical education content area. Verification shall be dependent upon the content area and may include any of the following:

(i) Successful completion of any recognized competency exam;

(ii) having a valid, appropriate occupational license in programs for which a license is required;

(iii) holding the appropriate educational degree; or

(iv) having a valid, industry-recognized credential;

(B) a written plan to qualify for full certification during the four-year period immediately following issuance of the initial restricted career and technical education certificate. The plan shall be based upon completion of the requirements of a professional education program for a full career and technical education certificate;

(C) verification from the employing local education agency that the agency has assigned a certified or licensed teacher with at least three years of experience to serve as a mentor for the applicant; and

(D) verification from the employing local education agency that the applicant has completed a supervised practical training experience that addresses, at a minimum, lesson plan development, teaching methodologies, student assessment, and classroom management;

(4) an application for a restricted career and technical education certificate; and

(5) the certificate fee.

(d) Any individual may renew a restricted career and technical education certificate one time. Each applicant for renewal shall submit the following to the state board:

(1) Verification of completion of at least 50 percent of the applicant's plan of study;

(2) verification of continued employment in the career and technical education pathway;

(3) an application for a restricted career and technical education certificate; and

(4) the certificate fee.

(e) To qualify for a full career and technical education certificate, each individual holding a restricted career and technical education certificate shall meet the requirements for a full career and technical education certificate during the period of validity of the individual's restricted certification.

(f)(1) Each full career and technical education certificate shall be valid for five years from the date of issuance and shall be valid for instruction in grades 8 through 12.

(2) Each full career and technical education certificate shall be valid for instruction in career and technical education pathways for agriculture, food, and natural resources; architecture and construction; arts, audio-video technology, and communications; business management and administration; finance; health science; hospitality and tourism; human services; information technology; law, public safety, and security; manufacturing; marketing; science, technology, engineering, and mathematics (STEM); and transportation, distribution, and logistics.

(3) Each applicant for a full career and technical education certificate shall submit the following to the state board:

(A) An application for a full career and technical education certificate and the appropriate fee;

(B) documentation of successful completion of the professional education program for career and technical education certification as specified in subsection (g);

(C) verification of successful completion of a pedagogical assessment as determined by the state board;

(D) verification of successful completion of two years of teaching experience in a career and technical education pathway; and

(E) verification of professional learning opportunities related to the content area during each year of the restricted certificate period.

(g) Each applicant for a full career and technical education certificate shall have successfully completed an approved professional education program delivered through an institution of higher education or an approved professional learning program provider. At a minimum, each approved professional education program shall provide the competencies specified in the professional education standards adopted by the state board in each of the following areas:

(1) The learner and learning: learner development, learning differences, and learning environments;

(2) content: content knowledge and application of content;

(3) instructional practice: assessment, planning for instruction, and instructional strategies; and

(4) professional responsibility: professional learning, ethical practice, leadership, and collaboration.

(h) Any person may renew a full career and technical education certificate by submitting the following to the state board:

(1) An application for renewal and the required fee; and

(2)(A) Verification that the person, within the term of the current full career and technical education certificate, has earned at least 160 professional development points under an approved individual development plan filed with a local professional development council. The individual development plan shall include professional learning opportunities related to the content area during each year of the duration of the certificate; or

(B) if the applicant holds an advanced degree, verification that the person, within the term of the current full career and technical education certificate, has earned at least 120 professional development points under an approved individual development plan filed with a local professional development council. The individual development plan shall include professional learning opportunities related to the content area during each year of the duration of the certificate.

(i) Any person whose full career and technical education certificate has expired may apply for a transitional career and technical education certificate by submitting to the state board the following:

(1) An application for a transitional certificate; and

(2) the certification fee.

(j) Any person may upgrade a transitional career and technical education certificate to a full career and technical education certificate by submitting to the state board verification of meeting the renewal requirements in paragraph (h)(2).

(k) Any person who holds a valid teaching license or a full career and technical education certificate may add a career and technical education endorsement certification by submitting to the state board the following:

(1) An application for a career and technical education endorsement certification;

(2) verification of occupational competency in the career and technical education content area. Verification shall be dependent upon the content area and may include any of the following:

(A) Successful completion of any recognized competency exam;

(B) having a valid, appropriate occupational license in programs for which a license is required; or

(C) having a valid, industry-recognized credential; and

(3) the certification fee.

(l) A career and technical education specialized certificate may be issued to allow an individual with appropriate occupational knowledge, skills, and experience to instruct in a career and technical education pathway assignment.

(1) Each career and technical education specialized certificate shall be valid for three school years. Each certificate shall be valid only for the endorsed career and technical education area for grades 8 through 12 and only for the local education agency identified on the certificate.

(2) To obtain a career and technical education specialized certificate, each applicant shall submit to the state board the following:

(A) A written request for issuance from a local education agency that authorizes the applicant to teach each identified course;

(B)(i) Verification of an industry-recognized certificate in the technical profession and verification of at least five years of full-time work experience in the technical profession for which the industry-recognized certificate is held; or

(ii) verification of the applicant's occupational competency in the career and technical content area. Verification shall be dependent upon the content area and may include any of the following: successful completion of any recognized competency exam; having a valid, appropriate occupational license in programs for which a license is required; holding the appropriate educational degree; having an industry-recognized credential; or having 4,000 hours of occupational work experience related to the endorsed career and technical education area;

(C) an application for a career and technical education specialized certificate; and

(D) the certification fee.

(3) The career and technical education specialized certificate issued to each individual meeting the requirements of paragraph (l)(2) shall allow the individual to instruct in a career and technical education pathway up to a .5 FTE assignment.

(4) Any person may renew a career and technical education specialized certificate by submitting the following to the state board:

(A) An application for renewal;

(B) the certification fee; and

(C) a written request for issuance by the local education agency authorizing the applicant to continue to teach each identified course. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Aug. 5, 2005; amended July 18, 2008; amended, T-91-6-30-14, June 30, 2014; amended Oct. 24, 2014.)

91-1-230. Institutional accreditation and program approval definitions. (a) "Academic year" means July 1 through the following June 30.

(b) "Annual report" means a document that an institution submits to the commissioner on a yearly basis in which the information specified by the commissioner concerning unit standards and operations, programs offered by the unit, and statistical data is presented.

(c) "Approved," when used to describe a teacher education program, means that the program meets the program standards prescribed in regulations adopted by the state board.

(d) "Approved with stipulation," when used to describe a teacher education program, means that the program has deficiencies in meeting the program standards prescribed in regulations adopted by the state board that the institution shall correct before being approved.

(e) "Commissioner" means the state commissioner of education or the commissioner's designee.

(f) "Evaluation review committee" means the standing committee of the teaching and school administration professional standards board, or its successor, that is responsible for making accreditation and program approval recommendations to the state board.

(g) "Focused visit" means the on-site visit to a teacher education institution that has limited accreditation or accreditation with conditions by the state board and is seeking full accreditation.

(h) "Full accreditation" means the status assigned to a teacher education institution that is determined through a focused visit to meet substantially the accreditation standards adopted by the state board.

(i) "Initial visit" means the first on-site visit to a teacher education institution that is seeking accreditation for the first time from the state board.

(j) "Institutional candidate" means the designation assigned to an institution that is seeking accreditation for the first time and that has met the accreditation preconditions specified by the state board.

(k) "Institutional candidate visit" means an on-site visit that takes place following the designation

of institutional candidate status to a teacher education institution.

(l) "Institutional report" means a document that describes how a teacher education institution meets the accreditation standards adopted by the state board.

(m) "Limited accreditation" means the status assigned to a teacher education institution that is determined through an initial visit to meet substantially the accreditation standards adopted by the state board.

(n) "Not approved," when used to describe a teacher education program, means that the program fails substantially to meet program standards adopted by the state board.

(o) "Program report" means a written document that describes coursework, assessment instruments, and performance criteria used in a program to achieve the program standards established by the state board.

(p) "Progress report" means a written document that addresses the stipulations that are noted if a new program is approved with stipulation.

(q) "Review team" means a group of persons appointed by the commissioner to review and analyze reports from teacher education institutions and prepare reports based upon the review and analysis.

(r) "State board" means the state board of education.

(s) "Student teaching" means preservice clinical practice for individuals preparing to become teachers.

(t) "Teacher education institution" and "institution" mean a college or university that offers at least a four-year course of study in higher education and maintains a unit offering teacher education programs.

(u) "Teacher education program" and "program" mean an organized set of learning activities designed to provide prospective school personnel with the knowledge, competencies, and skills to perform successfully in a specified educational position.

(v) "Upgrade report" means a written document that addresses the stipulations noted if an existing program is approved with stipulation. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Aug. 6, 2004; amended Aug. 12, 2011.)

91-1-231. Procedures for initial accreditation of teacher education institutions. (a) Statement of intent. Each teacher education institution that desires accreditation by the state board shall submit a written statement of its intent to seek accreditation to the commissioner at least 24 months before the institution desires to have its initial visit. Upon receipt of this statement, the initial visit shall be scheduled by the commissioner.

(b) Preconditions.

(1) At least three semesters before the initial visit, the teacher education institution shall submit to the commissioner a preconditions report addressing each of the preconditions specified by the state board.

(2) Upon receipt of a preconditions report, the report shall be referred by the commissioner to the appropriate committee of the standards board. The committee shall review the report and determine whether all of the preconditions have been met.

(3) If all of the preconditions have been met, the committee shall recommend to the commissioner that the institution be designated an institutional candidate.

(4) If the committee determines that the preconditions have not been met, the committee shall notify the institution of the committee's determination and shall advise the institution that it may submit, within 30 days of the notice, additional or revised documentation for consideration by the committee.

(5) If additional or revised documentation is submitted, the committee shall review the documentation and make a final recommendation to the commissioner.

(6) The final determination of whether the preconditions are met shall be made by the commissioner. If the preconditions are met, the institution shall be designated as an institutional candidate.

(c) Institutional candidate visit. Following designation as an institutional candidate, an institutional candidate visit shall be scheduled by the commissioner. If it is determined, based upon the institutional candidate visit, that an institution has the ability to meet the requirements of a teacher education institution, the institution may submit programs for approval and proceed with a self-study and institutional report.

(d) Limited accreditation.

(1) To attain the status of limited accreditation, an institution shall schedule an initial visit for the institution with the commissioner and submit an institutional report that shall be in the form and shall contain the information prescribed by the commissioner. The institutional report shall be submitted at least 60 days before the date of the initial visit scheduled for the institution.

(2) After the initial visit, the institution shall be either granted limited accreditation or denied accreditation following the procedure set forth in K.A.R. 91-1-232.

(3) Each institution shall retain the status of limited accreditation for three academic years, unless the status is changed by the state board.

(4) For licensing purposes, each institution that is granted limited accreditation shall be deemed to have full accreditation.

(e) Full accreditation.

(1) (A) Any institution that has been granted limited accreditation from the state board may apply for full accreditation by scheduling a focused visit of the institution with the commissioner and submitting an institutional report that shall be in the form and shall contain the information prescribed by the commissioner.

(B) Each institution shall schedule the focused visit to be completed at least one year before the institution's limited accreditation expires.

(C) Each institution shall submit its institutional report at least 60 days before the date of the focused visit to the institution.

(D) After the focused visit, the institution shall be either granted full accreditation or denied accreditation following the procedures set forth in K.A.R. 91-1-232.

(2) Subject to subsequent action by the state board, the full accreditation of any teacher education institution shall be effective for seven academic years. However, each teacher education institution granted full accreditation by the state board shall submit an annual report to the commissioner on or before July 30 of each year.

(f) Renewal of accreditation. Any institution may request renewal of its accreditation status by following the procedures specified in K.A.R. 91-1-70a.

(g) Change of accreditation status.

(1) The accreditation status of any teacher education institution may be changed or revoked by the state board if, after providing an opportunity for a hearing, the state board finds that the institution has failed to meet substantially the accreditation standards adopted by the state board, that the institution has made substantial changes to the unit, or that other just cause exists.

(2) The duration of the accreditation status of an institution may be extended by the state board.

(3)(A) If limited or full accreditation of an institution is denied or revoked, the institution shall not admit any new students into its teacher education unit.

(B) The institution may recommend for licensure only those students who complete their programs by the end of the semester in which the accreditation denial or revocation occurs. The institution shall provide written notice to all other students in its teacher education unit at the time of accreditation denial or revocation that the institution is no longer authorized to recommend students for licensure. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Aug. 6, 2004; amended Aug. 12, 2011.)

91-1-232. On-site visits; recommendation; appeal. (a) On-site visits.

(1) After the scheduling of an initial visit, a continuing accreditation visit, or a focused visit, an on-site review team shall be appointed by the commissioner. The team shall be appointed at least one year before the date of the visit. The chairperson of the on-site review team and the number of on-site review team members shall be designated by the commissioner. An institution may challenge the appointment of a team member only on the basis of a conflict of interest.

(2) In accordance with procedures adopted by the state board, each on-site review team shall examine and analyze the institutional report, review electronic exhibits, conduct an on-site review of the teacher education institution, and prepare reports expressing the findings and conclusions of the review team. The review team reports shall be submitted to the commissioner. The reports shall be forwarded by the commissioner to the evaluation review committee and to an appropriate representative of the teacher education institution.

(3) Any institution may prepare a written response to a review team report. Each response shall be prepared and submitted to the commissioner within a designated time frame following receipt of a review team's report. Each response shall be forwarded by the commissioner to the evaluation review committee.

(b) Recommendation and appeal.

(1) The evaluation review committee, in accordance with procedures adopted by the state board, shall prepare a written initial recommendation regarding the appropriate accreditation status to be assigned to the teacher education institution, which shall include a statement of the findings and conclusions of the evaluation review committee. The recommendation shall be submitted to an appropriate representative of the teacher education institution and to the commissioner.

(2) Within 30 days of the receipt of an initial recommendation of the evaluation review committee, the teacher education institution may submit a written request to the commissioner for a hearing before the evaluation review committee to appeal the

initial recommendation. This request shall specify, in detail, the basis for the appeal, including an identification of each item disputed by the institution.

(3) If a request for a hearing is submitted according to paragraph (b)(2), the evaluation review committee shall conduct a hearing. The committee shall then prepare a written final recommendation regarding the appropriate status to be assigned to the teacher education institution, which shall include a statement of the findings and conclusions of the evaluation review committee. The recommendation shall be submitted to an appropriate representative of the teacher education institution and to the commissioner. The final recommendation shall be submitted by the commissioner to the state board for its consideration and determination.

(4) If a request for a hearing is not submitted within the time allowed under paragraph (2) of this subsection, the initial recommendation of the evaluation review committee shall become the final recommendation of the review committee. The committee's final recommendation shall be submitted by the commissioner to the state board for its consideration and determination. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Aug. 6, 2004; amended Aug. 12, 2011.)

91-1-235. Procedures for initial approval of teacher education programs. (a) Application.

(1) Each teacher education institution that desires to have any new program approved by the state board shall submit an application for program approval to the commissioner. The application shall be submitted at least 12 months before the date of implementation.

(2) Each institution shall submit with its application a program report containing a detailed description of each proposed program, including program coursework based on standards approved by the state board, and the performance-based assessment system that will be utilized to collect performance data on candidates' knowledge and skills. Each program report shall be in the form and shall contain the information prescribed by the commissioner. The program report shall include confirmation that the candidates in the program will be required to complete the following:

(A) Coursework that constitutes a major in the subject at the institution or that is equivalent to a major; and

(B) at least 12 weeks of student teaching.

(b) Review team. Upon receipt of a program report, a review team shall be appointed by the commissioner to analyze the program report. The chairperson of the review team shall be designated by the commissioner. The number of review team members shall be determined by the commissioner, based upon the scope of the program to be reviewed. An institution may challenge the appointment of a team member only on the basis of a conflict of interest.

(c) Program review process.

(1) In accordance with procedures adopted by the state board, a review team shall examine and analyze the proposed program report and shall prepare a report expressing the findings and conclusions of the review team. The review team's report shall be submitted to the commissioner. The report shall be forwarded by the commissioner to an appropriate representative of the teacher education institution.

(2) An institution may prepare a response to the review team's report. This response shall be prepared and submitted to the commissioner within 45 days of receipt of the review team's report. The review team's report, any response by the institution, and any other supporting documentation shall be forwarded to the evaluation review committee by the commissioner.

(d) Initial recommendation. The evaluation review committee, in accordance with procedures adopted by the state board, shall prepare a written initial recommendation regarding the appropriate status to be assigned to the proposed program, which shall include a statement of the findings and conclusions of the evaluation review committee. The recommendation shall be submitted to an appropriate representative of the teacher education institution and to the commissioner.

(e) Request for hearing.

(1) Within 30 days of the receipt of an initial recommendation of the evaluation review committee, the teacher education institution may submit a written request to the evaluation review committee for a hearing before the committee to appeal the initial recommendation. This request shall specify, in detail, the basis for the appeal, including an identification of each item disputed by the institution.

(2) If a request for a hearing is submitted, the evaluation review committee shall conduct a hearing. The committee shall then prepare a written final recommendation regarding the appropriate status to be assigned to the proposed program, which shall include a statement of the findings and conclusions of the evaluation review committee. The final recommendation shall be submitted to an appropriate representative of the teacher education institution and to the commissioner. The final recommenda-

tion shall be submitted by the commissioner to the state board for its consideration and determination.

(3) If a request for a hearing is not submitted within the time allowed under paragraph (1) of this subsection, the initial recommendation of the evaluation review committee shall become the final recommendation of the review committee. The committee's final recommendation shall be submitted by the commissioner to the state board for its consideration and determination.

(f) Approval status. Each new program shall be approved with stipulation or not approved.

(g) Annual report.

(1) If a new program is approved with stipulation, the institution shall submit a progress report to the commissioner within 60 days after completion of the second semester of operation of the program, and thereafter in each of the institution's annual reports that are due on or before July 30.

(2) Each progress report shall be submitted by the commissioner to the evaluation review committee for its examination and analysis. Following review of the progress report, the evaluation review committee may remove any areas for improvement and change the status to approved until the institution's next program review.

(h) Change of approval status.

(1) At any time, the approval status of a teacher education program may be changed by the state board if, after providing an opportunity for a hearing, the state board finds that the institution either has failed to meet substantially the program standards or has materially changed the program. For just cause, the duration of the approval status of a program may be extended by the state board. The duration of the current approval status of a program shall be extended automatically if the program is in the process of being reevaluated by the state board. This extension shall be counted as part of any subsequent approval period of a program.

(2) At the time of an institution's next on-site visit, the new program shall be reviewed pursuant to K.A.R. 91-1-236.

(3) For licensure purposes, each teacher education program that is approved with stipulation shall be considered to be approved. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Aug. 6, 2004; amended Aug. 12, 2011.)

91-1-236. Procedures for renewing approval of teacher education program. (a) Application for program renewal.

(1) Each teacher education institution that desires to have the state board renew the approval status of one or more of its teacher education programs shall submit to the commissioner an application for program renewal. The application shall be submitted at least 12 months before the expiration of the current approval period of the program or programs.

(2) Each institution shall also submit a program report, which shall be in the form and shall contain the information prescribed by the commissioner. The program report shall be submitted at least six months before the expiration of the current approval period of the program or programs. The program report shall include confirmation that the candidates in the program will be required to complete the following:

(A) Coursework that constitutes a major in the subject at the institution or that is equivalent to a major; and

(B) at least 12 weeks of student teaching.

(b) Review team. Upon receipt of a complete program report, a review team shall be appointed by the commissioner to analyze the program report. The chairperson of the review team shall be designated by the commissioner. The number of review team members shall be determined by the commissioner, based upon the scope of the program or programs to be reviewed. An institution may challenge the appointment of a review team member only on the basis of a conflict of interest.

(c) Program review process.

(1) In accordance with procedures adopted by the state board, each review team shall examine and analyze the program report and prepare a review report expressing the findings and conclusions of the review team. The review team's report shall be submitted to the commissioner. The report shall be forwarded by the commissioner to an appropriate representative of the teacher education institution.

(2) Any institution may prepare a written response to the review team's report. Each response shall be prepared and submitted to the commissioner within 45 days of receipt of the review team's report. The review team's report, any response filed by the institution, and any other supporting documentation shall be forwarded by the commissioner to the evaluation review committee.

(d) Initial recommendation. The evaluation review committee, in accordance with procedures adopted by the state board, shall prepare a written initial recommendation regarding the appropriate status to be assigned to the program or programs, which shall include a statement of the findings and

conclusions of the evaluation review committee. The recommendation shall be submitted to an appropriate representative of the teacher education institution and to the commissioner.

(e) Request for hearing.

(1) Within 30 days of the receipt of an initial recommendation of the evaluation review committee, the teacher education institution may submit a written request to the commissioner for a hearing before the evaluation review committee to appeal the initial recommendation of the committee. This request shall specify, in detail, the basis for the appeal, including an identification of each item disputed by the institution.

(2) If a request for a hearing is submitted, the evaluation review committee shall conduct a hearing. The committee shall then prepare a written final recommendation regarding the appropriate status to be assigned to the program or programs, which shall include a statement of the findings and conclusions of the evaluation review committee. The final recommendation shall be submitted to an appropriate representative of the teacher education institution and to the commissioner. The final recommendation shall be submitted by the commissioner to the state board for its consideration and determination of program approval status according to paragraph (f)(1).

(3) If a request for a hearing is not submitted within the time allowed under paragraph (1) of this subsection, the initial recommendation of the evaluation review committee shall become the final recommendation of the review committee. The committee's final recommendation shall be submitted by the commissioner to the state board for its consideration and determination.

(f) Approval status.

(1) The status assigned to any teacher education program specified in this regulation shall be approved, approved with stipulation, or not approved.

(2) Subject to subsequent action by the state board, the assignment of approved status to a teacher education program shall be effective for seven academic years. However, the state board, at any time, may change the approval status of a program if, after providing an opportunity for a hearing, the state board finds that the institution either has failed to meet substantially the program standards adopted by the state board or has made a material change in a program. For just cause, the duration of the approval status of a program may be extended by the state board. The duration of the approval status of a program shall be extended automatically if the program is in the process of being reevaluated by the state board.

(3)(A) If a program is approved with stipulation, that status shall be effective for the period of time specified by the state board, which shall not exceed seven years.

(B) If any program of a teacher education institution is approved with stipulation, the institution shall include in an upgrade report to the commissioner the steps that the institution has taken and the progress that the institution has made during the previous academic year to address the deficiencies that were identified in the initial program review.

(C) The upgrade report shall be submitted by the commissioner to the evaluation review committee for its examination and analysis. After this examination and analysis, the evaluation review committee shall prepare a written recommendation regarding the status to be assigned to the teacher education program for the succeeding academic years. The recommendation shall include a statement of the findings and conclusions of the evaluation review committee. The recommendation shall be submitted to an appropriate representative of the teacher education institution and to the commissioner. If the institution does not agree with this recommendation, the institution may request a hearing according to the provisions in subsection (e).

(D) For licensure purposes, each teacher education program that is approved with stipulation shall be considered to be approved.

(4) Students shall be allowed two full, consecutive, regular semesters following the notification of final action by the state board to complete a program that is not approved. Summers and interterms shall not be counted as part of the two regular semesters. Students who finish within these two regular semesters may be recommended for licensure by the college or university. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective Aug. 6, 2004; amended Aug. 12, 2011.)

Article 31.—ACCREDITATION

91-31-32. Performance and quality criteria. (a) Each school shall be assigned its accreditation status based upon the extent to which the school has met the performance and quality criteria established by the state board in this regulation.

(b) The performance criteria shall be as follows:

(1) Except as provided in subsection (d), having met the percentage prescribed by the state board of students performing at or above the proficient lev-

el on state assessments or having increased overall student achievement by a percentage prescribed by the state board;

(2) having 95% or more of all students and 95% or more of each student subgroup take the state assessments;

(3) having an attendance rate equal to or greater than that prescribed by the state board; and

(4) for high schools, having a graduation rate equal to or greater than that prescribed by the state board.

(c) The quality criteria shall consist of the following quality measures, which shall be required to be in place at each school:

(1) A school improvement plan that includes a results-based staff development plan;

(2) an external technical assistance team;

(3) locally determined assessments that are aligned with the state standards;

(4) formal training for teachers regarding the state assessments and curriculum standards;

(5) 100% of the teachers assigned to teach in those areas assessed by the state or described as core academic subjects by the United States department of education, and 95% or more of all other faculty, fully certified for the positions they hold;

(6) policies that meet the requirements of S.B.R. 91-31-34;

(7) local graduation requirements that include at least those requirements imposed by the state board;

(8) curricula that allow each student to meet the regent's qualified admissions requirements and the state scholarship program;

(9) programs and services to support student learning and growth at both the elementary and secondary levels, including the following:

(A) Computer literacy;

(B) counseling services;

(C) fine arts;

(D) language arts;

(E) library services;

(F) mathematics;

(G) physical education, which shall include instruction in health and human sexuality;

(H) science;

(I) services for students with special learning needs; and

(J) history, government, and celebrate freedom week. Each local board of education shall include the following in its history and government curriculum:

(i) Within one of the grades seven through 12, a course of instruction in Kansas history and government. The course of instruction shall be offered for at least nine consecutive weeks. The local board of education shall waive this requirement for any student who transfers into the district at a grade level above that in which the course is taught; and

(ii) for grades kindergarten through eight, instruction concerning the original intent, meaning, and importance of the declaration of independence and the United States constitution, including the bill of rights, in their historical contexts, pursuant to L. 2013, ch. 121, sec. 2 and amendments thereto. The study of the declaration of independence shall include the study of the relationship of the ideas expressed in that document to subsequent American history;

(10) programs and services to support student learning and growth at the secondary level, including the following:

(A) Business;

(B) family and consumer science;

(C) foreign language; and

(D) industrial and technical education; and

(11) local policies ensuring compliance with other accreditation regulations and state education laws.

(d) If the grade configuration of a school does not include any of the grades included in the state assessment program, the school shall use an assessment that is aligned with the state standards. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution and K.S.A. 2013 Supp. 72-1130; effective July 1, 2005; amended Jan. 10, 2014.)

Article 40.—SPECIAL EDUCATION

91-40-1. Definitions. Additional definitions of terms concerning student discipline are provided in K.A.R. 91-40-33. (a) "Adapted physical education" means physical education that is modified to accommodate the particular needs of children with disabilities.

(b) "Agency" means any board or state agency.

(c) "Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term shall not include any medical device that is surgically implanted or the replacement of the device.

(d) "Assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. This term shall include the following:

(1) Evaluating the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(2) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(3) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(4) coordinating and using other therapies, interventions, or services with assistive technology devices, including those associated with existing education and rehabilitation plans and programs;

(5) providing training or technical assistance for a child with a disability or, if appropriate, that child's family; and

(6) providing training or technical assistance for professionals including individuals providing education and rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of a child.

(e) "Audiology" means the following:

(1) Identification of children with hearing loss;

(2) determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

(3) provision of habilitative activities, including language habilitation, auditory training, lip-reading, hearing evaluation, and speech conservation;

(4) creation and administration of programs for prevention of hearing loss;

(5) counseling and guidance of children, parents, and teachers regarding hearing loss; and

(6) determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

(f) "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three but not necessarily so, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term shall not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance.

(g) "Blindness" means a visual impairment that requires dependence on tactile and auditory media for learning.

(h) "Board" means the board of education of any school district.

(i) "Business day" means Monday through Friday, except for federal and state holidays unless holidays are specifically included in the designation of business day in a specific regulation.

(j) "Child find activities" means policies and procedures to ensure that all exceptional children, including exceptional children who are enrolled in private schools and exceptional children who are homeless, regardless of the severity of any disability, are identified, located, and evaluated.

(k) "Child with a disability" means the following:

(1) A child evaluated as having mental retardation, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, any other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities and who, by reason thereof, needs special education and related services; and

(2) for children ages three through nine, a child who is experiencing developmental delays and, by reason thereof, needs special education and related services.

(l) "Consent" means that all of the following conditions are met:

(1) A parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication.

(2) A parent understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent describes that activity and lists the records, if any, that will be released and to whom.

(3) A parent understands the following:

(A) The granting of consent is voluntary on the part of the parent and may be revoked at any time.

(B) If the parent revokes consent, the revocation is not retroactive and does not negate an action that has occurred after the consent was given and before the consent was revoked.

(C) The parent may revoke consent in writing for the continued provision of a particular service or placement only if the child's IEP team certifies in writing that the child does not need the particular service or placement for which consent is being revoked in order to receive a free appropriate public education.

(m) "Counseling services" means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

(n) "Day" means a calendar day unless otherwise indicated as business day or school day.

(o) "Deaf-blindness" means the combination of hearing and visual impairments that causes such severe communication and other developmental and educational needs that the needs cannot be accommodated in special education programs solely for the hearing impaired or the visually impaired.

(p) "Deafness" means a hearing impairment that is so severe that it impairs a child's ability to process linguistic information through hearing, with or without amplification, and adversely affects the child's educational performance.

(q) "Developmental delay" means such a deviation from average development in one or more of the following developmental areas that special education and related services are required:

(1) Physical;

(2) cognitive;

(3) adaptive behavior;

(4) communication; or

(5) social or emotional development.

The deviation from average development shall be documented and measured by appropriate diagnostic instruments and procedures.

(r) "Department" means the state department of education.

(s) "Early identification and assessment of disabilities" means the implementation of a formal plan for identifying a disability as early as possible in a child's life.

(t) "Educational placement" and "placement" mean the instructional environment in which special education services are provided.

(u) "Emotional disturbance" means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

(1) An inability to learn that cannot be explained by intellectual, sensory, or health factors;

(2) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(3) inappropriate types of behavior or feelings under normal circumstances;

(4) a general pervasive mood of unhappiness or depression; or

(5) a tendency to develop physical symptoms or fears associated with personal or school problems. The term shall include schizophrenia but shall not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.

(v) "Evaluation" means a multisourced and multidisciplinary examination, conducted in accordance with applicable laws and regulations, to determine whether a child is an exceptional child and the nature and extent of the special education and related services that the child needs.

(w) "Exceptional children" means children with disabilities and gifted children.

(x) "Extended school year services" means special education and related services that are provided to a child with a disability under the following conditions:

(1) Beyond the school term provided to nondisabled children;

(2) in accordance with the child's IEP; and

(3) at no cost to the parent or parents of the child.

(y) "Federal law" means the individuals with disabilities education act, as amended, and its implementing regulations.

(z) "Free appropriate public education" and "FAPE" mean special education and related services that meet the following criteria:

(1) Are provided at public expense, under public supervision and direction, and without charge;

(2) meet the standards of the state board;

(3) include an appropriate preschool, elementary, or secondary school education; and

(4) are provided in conformity with an individualized education program.

(aa) "General education curriculum" means the curriculum offered to the nondisabled students of a school district.

(bb) "Gifted" means performing or demonstrating the potential for performing at significantly higher levels of accomplishment in one or more academic fields due to intellectual ability, when compared to others of similar age, experience, and environment.

(cc) "Hearing impairment" means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that does not constitute deafness as defined in this regulation.

(dd) "Homebound instruction" means the delivery of special education and related services in the home of a child with a disability.

(ee) "Hospital instruction" means the delivery of special education and related services to a child with a disability who is confined to a hospital for psychiatric or medical treatment.

(ff) "Independent educational evaluation" means an examination that is obtained by the parent of an exceptional child and is performed by an individual or individuals who are not employed by the agency responsible for the education of the child but who meet state and local standards to conduct the examination.

(gg) "Individualized education program" and "IEP" mean a written statement for each exceptional child that meets the requirements of K.S.A. 72-987, and amendments thereto, and the following criteria:

(1) Describes the unique educational needs of the child and the manner in which those needs are to be met; and

(2) is developed, reviewed, and revised in accordance with applicable laws and regulations.

(hh) "Individualized education program team" and "IEP team" mean a group of individuals composed of the following:

(1) The parent or parents of a child;

(2) at least one regular education teacher of the child, if the child is, or may be, participating in the regular education environment;

(3) at least one special education teacher or, if appropriate, at least one special education provider of the child;

(4) a representative of the agency directly involved in providing educational services for the child who meets the following criteria:

(A) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of exceptional children;

(B) is knowledgeable about the general curriculum; and

(C) is knowledgeable about the availability of resources of the agency;

(5) an individual who can interpret the instructional implications of evaluation results;

(6) at the discretion of the child's parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

(7) whenever appropriate, the exceptional child.

(ii) "Individualized family service plan" and "IFSP" mean a written plan, in accordance with section 1436 of the federal law, for providing early intervention services to an infant or toddler with a disability and the infant's or toddler's family.

(jj) "Infants and toddlers with disabilities" means children from birth through two years of age who have been determined to be eligible for early intervention services under the federal law.

(kk) "Interpreting services" means the following:

(1) For children who are deaf or hard of hearing, oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, including communication access real-time translation (CART), C-Print, and TypeWell; and

(2) special interpreting services for children who are deaf-blind.

(ll) "Least restrictive environment" and "LRE" mean the educational placement in which, to the maximum extent appropriate, children with disabilities, including children in institutions or other care facilities, are educated with children who are not disabled, with this placement meeting the requirements of K.S.A. 72-976, and amendments thereto, and the following criteria:

(1) Determined at least annually;

(2) based upon the student's individualized education program; and

(3) provided as close as possible to the child's home.

(mm) "Material change in service" means an increase or decrease of 25 percent or more of the duration or frequency of a special education service, related service, or supplementary aid or service specified on the IEP of an exceptional child.

(nn) "Medical services" means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.

(oo) "Mental retardation" means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.

(pp) "Multiple disabilities" means coexisting impairments, the combination of which causes such severe educational needs that those needs cannot be accommodated in special education programs solely for one of the impairments. The term shall not include deaf-blindness.

(qq) "Native language" means the following:

(1) If used with reference to an individual of limited English proficiency, either of the following:

(A) The language normally used by that individual, or, in the case of a child, the language normally used by the parent or parents of the child, except as provided in paragraph (1) (B) of this subsection; or

(B) in all direct contact with a child, including evaluation of the child, the language normally used by the child in the home or learning environment.

(2) For an individual with deafness or blindness or for an individual with no written language, the mode of communication is that normally used by the individual, including sign language, braille, or oral communication.

(rr) "Occupational therapy" means the services provided by a qualified occupational therapist and shall include services for the following:

(1) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;

(2) improving the ability to perform tasks for independent functioning if functions are impaired or lost; and

(3) preventing, through early intervention, initial or further impairment or loss of function.

(ss) "Orientation and mobility services" means the services provided to blind or visually impaired students by qualified personnel to enable those students to attain systematic orientation to, and safe movement within, their environments at school, at home, and in the community. This term shall include teaching students the following, as appropriate:

(1) Spatial and environmental concepts and use of information received by the senses, including sound, temperature, and vibrations to establish, maintain, or regain orientation and line of travel;

(2) use of the long cane or a service animal to supplement visual travel skills or to function as a tool for safely negotiating the environment for students with no available travel vision;

(3) the understanding and use of remaining vision and distance low vision aids; and

(4) other concepts, techniques, and tools.

(tt) "Orthopedic impairment" means a severe orthopedic impairment that adversely affects a child's educational performance and includes impairments caused by any of the following:

(1) Congenital anomaly, including clubfoot or the absence of a limb;

(2) disease, including poliomyelitis or bone tuberculosis; or

(3) other causes, including cerebral palsy, amputation, and fractures or burns that cause contractures.

(uu) "Other health impairment" means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment and that meets the following criteria:

(1) Is due to chronic or acute health problems, including asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and

(2) adversely affects a child's educational performance.

(vv) "Parent" means any person described in K.S.A. 72-962(m) and amendments thereto.

(ww) "Parent counseling and training" means the following:

(1) Assisting parents in understanding the special needs of their child;

(2) providing parents with information about child development; and

(3) helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.

(xx) "Physical education" means the development of the following:

(1) Physical and motor fitness;

(2) fundamental motor skills and patterns; and

(3) skills in aquatics, dance, and individual and group games and sports, including intramural and lifetime sports. The term shall include special physical education, adapted physical education, movement education, and motor development.

(yy) "Physical therapy" means therapy services provided by a qualified physical therapist.

(zz) "Private school children" means children with disabilities who are enrolled by their parents in private elementary or secondary schools.

(aaa) "Recreation" means leisure education and recreation programs offered in schools and by community agencies. The term shall include assessment of leisure function and therapeutic recreation services.

(bbb) "Rehabilitation counseling services" means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term shall also include any vocational rehabilitation services provided to a student with a disability under any vocational rehabilitation program funded under the rehabilitation act of 1973, as amended.

(ccc) "Related services" means developmental, corrective, and supportive services that are required to assist an exceptional child to benefit from special education.

(1) Related services shall include the following:

(A) Art therapy;

(B) assistive technology devices and services;

(C) audiology;

(D) counseling services;

(E) dance movement therapy;

(F) early identification and assessment of disabilities;

(G) interpreting services;

(H) medical services for diagnostic or evaluation purposes;

(I) music therapy;

(J) occupational therapy;

(K) orientation and mobility services;
(L) parent counseling and training;
(M) physical therapy;
(N) recreation, including therapeutic recreation;
(O) rehabilitation counseling services;
(P) school health services;
(Q) school nurse services;
(R) school psychological services;
(S) school social work services;
(T) special education administration and supervision;
(U) special music education;
(V) speech and language services;
(W) transportation; and
(X) other developmental, corrective, or supportive services.

(2) Related services shall not include the provision of any medical device that is surgically implanted, including a cochlear implant, the optimization of the device's functioning, including mapping and maintenance of the device, and replacement of the device.

(ddd) "School age" means the following:

(1) For children identified as gifted, having attained the age at which the local board of education provides educational services to children without disabilities, through the school year in which the child graduates from high school; and

(2) for children with disabilities, having attained age three, through the school year in which the child graduates with a regular high school diploma or reaches age 21, whichever occurs first.

(eee) "School day" means any day, including a partial day, that all children, including children with and without disabilities, are in attendance at school for instructional purposes.

(fff) "School health services" means health services that are specified in the IEP of a child with a disability and that are provided by a school nurse or other qualified person.

(ggg) "School nurse services" means nursing services that are provided by a qualified nurse in accordance with the child's IEP.

(hhh) "School psychological services" means the provision of any of the following services:

(1) Administering psychological and educational tests, and other assessment procedures;

(2) interpreting assessment results;

(3) obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;

(4) consulting with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests;

(5) planning and managing a program of psychological services, including psychological counseling for children and parents; and

(6) assisting in developing positive behavioral intervention strategies.

(iii) "School social work services" means services provided by a qualified social worker and shall include the provision of any of the following services:

(1) Preparing a social or developmental history on a child with a disability;

(2) group and individual counseling with the child and family;

(3) working in partnership with the parent or parents and others on those problems in a child's living situation, at home, at school, and in the community that affect the child's adjustment in school;

(4) mobilizing school and community resources to enable the child to learn as effectively as possible in the child's educational program; and

(5) assisting in developing positive behavioral intervention strategies.

(jjj) "Services plan" means a written statement for each child with a disability enrolled in a private school that describes the special education and related services that the child will receive.

(kkk) "Special education" means the following:

(1) Specially designed instruction, at no cost to the parents, to meet the unique needs of an exceptional child, including the following:

(A) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(B) instruction in physical education;

(2) paraeducator services, speech-language pathology services, and any other related service, if the service consists of specially designed instruction to meet the unique needs of a child with a disability;

(3) occupational or physical therapy and interpreter services for deaf children if, without any of these services, a child would have to be educated in a more restrictive environment;

(4) travel training; and

(5) vocational education.

(lll) "Specially designed instruction" means adapting, as appropriate to the needs of each exceptional child, the content, methodology, or delivery of instruction for the following purposes:

(1) To address the unique needs of the child that result from the child's exceptionality; and

(2) to ensure access of any child with a disability to the general education curriculum, so that the

child can meet the educational standards within the jurisdiction of the agency that apply to all children.

(mmm) "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term shall not include learning problems that are primarily the result of any of the following:

(1) Visual, hearing, or motor disabilities;

(2) mental retardation;

(3) emotional disturbance; or

(4) environmental, cultural, or economic disadvantage.

(nnn) "Speech-language pathology services" means the provision of any of the following services:

(1) Identification of children with speech or language impairments;

(2) diagnosis and appraisal of specific speech or language impairments;

(3) referral for medical or other professional attention necessary for the habilitation of speech or language impairments;

(4) provision of speech and language services for the habilitation or prevention of communicative impairments; and

(5) counseling and guidance of parents, children, and teachers regarding speech and language impairments.

(ooo) "Speech or language impairment" means a communication disorder, including stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

(ppp) "State agency" means the secretary of social and rehabilitation services, the secretary of corrections, and the commissioner of juvenile justice.

(qqq) "State board" means the state board of education.

(rrr) "State institution" means any institution under the jurisdiction of a state agency.

(sss) "Substantial change in placement" means the movement of an exceptional child, for more than 25 percent of the child's school day, from a less restrictive environment to a more restrictive environment or from a more restrictive environment to a less restrictive environment.

(ttt) "Supplementary aids and services" means aids, services, and other supports that are provided in regular education classes, other education-related settings, and extracurricular and nonacademic settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.

(uuu) "Transition services" means a coordinated set of activities for a student with disabilities, designed within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to postschool activities, including postsecondary education, vocational education, integrated employment including supported employment, continuing and adult education, adult services, independent living, and community participation. The coordinated set of activities shall be based on the individual student's needs, taking into account the student's preferences and interests, and shall include the following:

(1) Instruction;

(2) related services;

(3) community experiences;

(4) the development of employment and other postschool adult living objectives; and

(5) if appropriate, acquisition of daily living skills and a functional vocational evaluation.

(vvv) "Transportation" means the following:

(1) Travel to and from school and between schools;

(2) travel in and around school buildings; and

(3) specialized equipment, including special or adapted buses, lifts, and ramps, if required to provide special transportation for a child with a disability.

(www) "Traumatic brain injury" means an acquired injury to the brain that is caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance. The term shall apply to open or closed head injuries resulting in impairments in one or more areas, including the following:

(1) Cognition;

(2) language;

(3) memory;

(4) attention;

(5) reasoning;

(6) abstract thinking;

(7) judgment;

(8) problem solving;

(9) sensory, perceptual, and motor abilities;

(10) psychosocial behavior;

(11) physical functions;

(12) information processing; and

(13) speech.

The term shall not include brain injuries that are congenital or degenerative or that are induced by birth trauma.

(xxx) "Travel training" means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to perform the following:

(1) Develop an awareness of the environment in which they live; and

(2) learn the skills necessary to move effectively and safely from place to place within various environments, including at school, home, and work, and in the community.

(yyy) "Visual impairment" means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term shall include both partial sight and blindness.

(zzz) "Vocational education" means any organized educational program that is directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree. (Authorized by and implementing K.S.A. 2008 Supp. 72-963; effective May 19, 2000; amended March 21, 2008; amended July 23, 2010.)

91-40-27. Parental consent. (a) Except as otherwise provided in this regulation, each agency shall obtain parental consent before taking any of the following actions:

(1) Conducting an initial evaluation or any reevaluation of an exceptional child;

(2) initially providing special education and related services to an exceptional child; or

(3) making a material change in services to, or a substantial change in the placement of, an exceptional child, unless the change is made under the provisions of K.A.R. 91-40-33 through 91-40-38 or is based upon the child's graduation from high school or exceeding the age of eligibility for special education services.

(b) When screening or other methods used by an agency indicate that a child may have a disability and need special education services, the agency shall make reasonable and prompt efforts to obtain informed consent from the child's parent to conduct an initial evaluation of the child and, if appropriate, to make the initial provision of services to the child.

(c) Unless a judicial order specifies to the contrary, each agency shall recognize the biological or adoptive parent of an exceptional child who is a minor as the educational decision maker for the child if the parent exerts the parent's rights on behalf of the child, even if one or more other persons meet the definition of parent for the particular child.

(d) An agency shall not construe parental consent for initial evaluation as consent for the initial provision of special education and related services to an exceptional child.

(e) An agency shall not be required to obtain parental consent before taking either of the following actions:

(1) Reviewing existing data as part of an evaluation, reevaluation, or functional behavioral assessment; or

(2) administering a test or other evaluation that is administered to all children, unless before administration of that test or evaluation, consent is required of the parents of all children.

(f)(1) If a parent of an exceptional child who is enrolled or is seeking to enroll in a public school does not provide consent for an initial evaluation or any reevaluation, or for a proposed material change in services or a substantial change in the placement of the parent's child, an agency may, but shall not be required to, pursue the evaluation or proposed change by initiating due process or mediation procedures.

(2) If a parent of an exceptional child who is being homeschooled or has been placed in a private school by the parent does not provide consent for an initial evaluation or a reevaluation, or fails to respond to a request to provide consent, an agency shall not pursue the evaluation or reevaluation by initiating mediation or due process procedures.

(3) An agency shall not be in violation of its obligations for identification, evaluation, or reevaluation if the agency declines to pursue an evaluation or reevaluation because a parent has failed to provide consent for the proposed action.

(4) Each agency shall document its attempts to obtain parental consent for action proposed under this regulation.

(g) An agency shall not be required to obtain parental consent for a reevaluation or a proposed change in services or placement of the child if the agency has made attempts, as described in K.A.R. 91-40-17(e)(2), to obtain consent but the parent or parents have failed to respond.

(h) An agency shall not use a parent's refusal to consent to an activity or service to deny the parent or child other activities or services offered by the agency.

(i) If, at any time after the initial provision of special education and related services, a parent revokes consent in writing for the continued provision of all

special education, related services, and supplementary aids and services, the following shall apply:

(1) The agency shall not continue to provide special education, related services, and supplementary aids and services to the child but shall provide prior written notice in accordance with K.A.R. 91-40-26 before ceasing the provision of those services.

(2) The agency shall not use the procedures in K.S.A. 72-972a or K.S.A. 72-996, and amendments thereto, or K.A.R. 91-40-28, including the mediation procedures and the due process procedures, in order to obtain an agreement or a ruling that the services may be provided to the child.

(3) The agency shall not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education services, related services, and supplementary aids and services.

(4) The agency shall not be required to convene an IEP team meeting or develop an IEP under K.S.A. 72-987, and amendments thereto, or K.A.R. 91-40-16 through K.A.R. 91-40-19 for the child for further provision of special education, related services, and supplementary aids and services.

(j) If a parent revokes consent in writing for the child's receipt of all special education and related services after the child is initially provided special education and related services, the agency shall not be required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.

(k) If a parent revokes consent for the continued provision of particular special education, related services, supplementary aids and services, or placements, or any combination of these, and the IEP team certifies in writing that the child does not need the service or placement for which consent is being revoked in order to receive a free appropriate public education, the following shall apply:

(1) The agency shall not continue to provide the particular special education, related services, supplementary aids and services, and placements for which consent was revoked but shall provide prior written notice in accordance with K.A.R. 91-40-26 before ceasing the provision of the particular special education, related services, supplementary aids and services, and placements.

(2) The agency shall not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with the particular special education, related services, supplementary aids and services, or placements, or any combination, for which parental consent was revoked.

(l) If a parent who revoked consent for all special education, related services, and supplementary aids and services under subsection (i) subsequently requests that the person's child be reenrolled in special education, the agency shall conduct an initial evaluation of the child to determine whether the child qualifies for special education before reenrolling the child in special education. If the team evaluating the child determines that no additional data are needed to make any of the determinations specified in K.A.R. 91-40-8(c)(2), the agency shall give written notice to the child's parent in accordance with K.A.R. 91-40-8(e)(2). If the child is determined to be eligible, the agency shall develop an initial IEP. (Authorized by K.S.A. 2008 Supp. 72-963; implementing K.S.A. 2008 Supp. 72-988; effective May 19, 2000; amended May 4, 2001; amended March 21, 2008; amended July 23, 2010.)

Article 42.—EMERGENCY SAFETY INTERVENTIONS

91-42-1. Definitions. As used in this regulation and in K.A.R. 91-42-2, each of the following terms shall have the meaning specified in this regulation:

(a) "Chemical restraint" means the use of medication to control a student's violent physical behavior or restrict a student's freedom of movement.

(b) "District" means a school district organized under the laws of this state that is maintaining a public school for a school term pursuant to K.S.A. 72-1106, and amendments thereto. This term shall include the governing body of any accredited nonpublic school.

(c) "Emergency safety intervention" means the use of seclusion or physical restraint when a student presents an immediate danger to self or others. Violent action that is destructive of property may necessitate the use of an emergency safety intervention.

(d) "Mechanical restraint" means any device or object used to limit a student's movement.

(e) "Physical escort" means the temporary touching or holding the hand, wrist, arm, shoulder, or back of a student who is acting out, for the purpose of inducing the student to walk to a safe location.

(f) "Physical restraint" means bodily force used to substantially limit a student's movement.

(g) "School" means any physical learning environment, including any nonprofit institutional day or residential school and any accredited nonpublic school, that receives public funding or over which the Kansas state department of education has regulatory authority.

(h) "Seclusion," when used with a student, means that all of the following conditions are met:

(1) The student is placed in an enclosed area by school personnel.

(2) The student is purposefully isolated from adults and peers.

(3) The student is prevented from leaving, or reasonably believes that the student will be prevented from leaving, the enclosed area.

(i) "Time-out" means a behavioral intervention in which a student is temporarily removed from a learning activity without being confined. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective April 19, 2013.)

91-42-2. Policy, documentation, and reporting requirements. (a) Each district shall develop and implement written policies to govern the use of emergency safety interventions over all schools. At a minimum, written district policies shall conform to the definitions and requirements of these regulations, including that seclusion and physical restraint shall be used only when student conduct meets the definition of necessitating an emergency safety intervention. Parents shall be annually provided with the written policies on the use of emergency safety interventions. The written policies shall include the following:

(1) Policies and procedures for the use of emergency safety interventions:

(A) Policies and procedures shall prohibit the following:

(i) The use of prone, or face-down, physical restraint; supine, or face-up, physical restraint; physical restraint that obstructs the airway of a student; or any physical restraint that impacts a student's primary mode of communication;

(ii) the use of chemical restraint, except as prescribed treatments for a student's medical or psychiatric condition by a person appropriately licensed to issue these treatments; and

(iii) the use of mechanical restraint, except those protective or stabilizing devices either ordered by a person appropriately licensed to issue the order for the device or required by law, any device used by a law enforcement officer in carrying out law enforcement duties, and seatbelts and any other safety equipment when used to secure students during transportation; and

(B) written policies developed pursuant to this regulation shall be accessible on each school's web site and shall be included in each school's code of conduct, school safety plan, or student handbook, or any combination of these;

(2) school personnel training consistent with nationally recognized training programs on the use of emergency safety interventions:

(A) Training shall address prevention techniques, de-escalation techniques, and positive behavioral intervention strategies;

(B) training shall be designed to meet the needs of personnel as appropriate to their duties and potential need for emergency safety interventions; and

(C) schools and programs shall maintain written or electronic documentation on training provided and lists of participants in each training;

(3) written parental notification whenever an emergency safety intervention is used. This notification shall be provided within two school days;

(4) documentation of any incident of emergency safety intervention, which shall include the date and time of the intervention, the type of intervention, the length of time the intervention was used, and the school personnel who participated in or supervised the intervention;

(5) procedures for the collection, maintenance, and periodic review of the use of emergency safety intervention at each school, which shall include the documentation described in paragraph(a)(4); and

(6) local dispute resolution processes. Each district shall develop policies that, at a minimum, shall include the following:

(A) A complaint investigation procedure;

(B) a procedure for parents to present written complaints to the local board of education to initiate complaint investigation by the local board of education; and

(C) a procedure for parents, the school, and the Kansas state department of education to receive written findings of fact and, if necessary, corrective action from the local board of education within 30 days of filing of a complaint by a parent.

(b) Each district shall develop a system to collect and maintain documentation for each use of an emergency safety intervention, which shall include the information described in paragraph (a)(4).

(1) Information maintained by the school shall be compiled and submitted, at least biannually, to the district superintendent or district designee.

(2) Documentation of any school's or district's use of emergency safety intervention shall be provided to the Kansas state department of education upon written request of the Kansas state department of education.

(3) Each district shall report all incidents of emergency safety intervention to the Kansas state department of education by the date and in the form

specified by the Kansas state department of education. An annual report shall be provided by the Kansas state department of education to the Kansas state board of education. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective April 19, 2013.)

Agency 92

Kansas Department of Revenue

Articles

92-12. Income Tax.
92-14. Liquefied Petroleum Fuel Tax.
92-19. Kansas Retailers' Sales Tax.
92-24. Liquor Drink Tax.
92-26. Agricultural Ethyl Alcohol Producer Incentive.
92-28. Retail Dealer Incentive.
92-51. Titles and Registration.
92-56. Ignition Interlock Devices.

Article 12.—INCOME TAX

92-12-66a. Abatement of final tax liabilities. (a) General. The authority of the secretary to abate all or part of a final tax liability shall be exercised only in cases in which there is serious doubt as to either the collectability of the tax due or the accuracy of the final tax liability and the abatement is in the best interest of the state. This authority shall be exercised to effect the collection of taxes with the least possible loss or cost to the state and with fairness to the taxpayer. The determination of whether to abate all or part of a final tax liability shall be wholly discretionary.

(b) Definitions.

(1) "Assets" means the taxpayer's real and personal property, tangible and intangible.

(2) "Collectability" means the ability of the department of revenue to collect, and the ability of the taxpayer to pay, the tax liability.

(3) "Concealment of assets" means a placement of assets beyond the reach of the department of revenue, or a failure to disclose information relating to assets, that deceives the department with respect to the existence of the assets, whether accomplished by act, misrepresentation, silence, or suppression of the truth.

(4) "Final tax liability" means a tax liability that was established by the department to which the taxpayer has no further direct appeal rights.

(5) "Order denying abatement" means an order issued by the secretary that rejects a petition for abatement and refuses to abate any part of a final tax liability.

(6) "Order of abatement" means an order issued by the secretary that abates all or part of a final tax liability and states the reasons that this action was taken.

(7) "Parties" means either the person who requests an abatement of a final tax liability or the person's authorized representative, and either the secretary of revenue or the secretary's designee.

(8) "Secretary" means the secretary of the department of revenue or the designee of the secretary.

(9) "Serious doubt as to collectability" means the doubt that exists when a reasonable person, viewing the controlling circumstances objectively, would conclude that the likelihood of recovering the tax liability is less than probable.

(10) "Serious doubt as to liability" means the doubt that exists when a reasonable person, viewing the controlling circumstances objectively, would conclude that it is probable that the final tax liability previously established by the department is greater than the actual tax liability imposed by the Kansas tax imposition statutes.

(11) "Tax" means the particular tax owed by the taxpayer and shall include any related interest and penalty.

(c) Factors affecting abatement.

(1) No final tax liability shall be abated on the ground of serious doubt as to liability if the taxpayer's liability for the tax has been established on the merits by a court judgment or decision of the court of tax appeals. No final tax liability shall be abated on the ground of serious doubt as to liability if the taxpayer has filed tax returns, absent a showing of the reporting errors on the returns.

(2) No tax liability shall be abated by the secretary if the taxpayer has acted with intent to defraud or to delay collection of tax. Frivolous petitions and petitions submitted only to delay collection of a tax shall be immediately rejected.

(d) Procedures.

(1) Each petition for abatement shall be captioned "petition for abatement of a final tax liability" and shall be submitted to the secretary. The petition shall be signed by the petitioner and the taxpayer, if available, under the penalties of perjury and shall include the following:

(A) The reasons why all or part of the final tax liability should be abated;

(B) the facts that support the abatement; and

(C) a waiver of the taxpayer's right of confidentiality under the confidentiality provisions of chapter 79 of the Kansas statutes annotated and amendments thereto, conditioned upon the secretary's abatement of all or part of the final tax liability.

(2) If a petition alleges serious doubt as to collectability, the taxpayer shall submit a statement of financial condition that lists assets and liabilities, accompanied by an affidavit signed by the preparer under the penalties of perjury, attesting that the financial statement is true and accurate to the best of the preparer's knowledge.

(3) After a petition has been submitted, the taxpayer shall provide any additional verified documentation that is requested by the secretary. The petitioner or taxpayer may be required by the secretary to appear before the secretary and testify under oath concerning a requested abatement.

(4) A petition for abatement may be withdrawn by the taxpayer at any time before its acceptance. When a petition is denied, the taxpayer shall be notified in writing by the secretary within 30 days of the decision to deny.

(5) An order of abatement that abates all or part of a final tax liability may be issued by the secretary. The order may direct any remaining liability to be paid within 30 days. Each order of abatement shall set forth the reasons that the petition for abatement was granted and all relevant information, including the following:

(A) The names of all parties;

(B) the amount and type of tax, interest, and penalties that were abated;

(C) the amount of tax, penalty, and interest that remain to be paid on the date of the order; and

(D) the amount that has been paid, if any.

(6) The submission of a petition for abatement shall not prevent the collection of any tax.

(e) Effect of an order of abatement. Each order of abatement shall relate to the entire liability of the taxpayer with respect to which the order is made and shall conclusively settle the amount of liability. Once an order of abatement is issued, matters covered by the order shall not be reopened by court action or otherwise, except for one of the following reasons:

(1) Falsification of statements or concealment of assets by the taxpayer;

(2) mutual mistake of a material fact sufficient to cause a contract to be reformed or set aside; or

(3) serious doubt as to collectability arising after an abatement order is issued that is based on serious doubt as to liability.

(f) Effect of waiver of confidentiality. The issuance of an order of abatement for $5,000 or more shall make all reports of the abatement proceeding available for public inspection upon written request, in accordance with K.S.A. 79-3233b, and amendments thereto, and the taxpayer's express waiver of the right to confidentiality under the confidentiality provisions of chapter 79 of the Kansas statutes annotated, and amendments thereto.

(g) Annual report. On or before the last day of September of each year, a summary of each petition of abatement that was granted during the preceding state fiscal year that reduced a final tax liability by $5,000 or more shall be prepared for filing with the secretary of state, the division of post audit of the legislature, and the attorney general. Each summary shall include the following:

(1) The name of the taxpayer;

(2) a summary of the issues and the reasons for the abatement; and

(3) the amount of final tax liability, including penalties and interest, that was abated. (Authorized by K.S.A. 79-3236; implementing K.S.A. 2010 Supp. 79-3233, 79-3233a, and 79-3233b, as amended by 2011 SB 212, sec. 1; effective July 27, 2001; amended Oct. 28, 2011.)

92-12-145. Transfer of tax credits. (a) Any tax credits earned by a not-for-profit contributor not subject to Kansas income, privilege, or premiums tax may be transferred to any taxpayer that is subject to Kansas income, privilege, or premiums tax. These tax credits shall be transferred only one time. The transferee shall claim the tax credit against the transferee's tax liability in the tax year of the transfer.

(b) The transferor and transferee shall execute a written transfer agreement to transfer the tax credit. The agreement shall include the following information:

(1) The name and either the employer identification number or the social security number of the transferor;

(2) the name and either the employer identification number or the social security number of the transferee;

(3) the date of the transfer;

(4) the date the contribution was made by the transferor;

(5) the amount of tax credit transferred;

(6) the amount that will be received by the transferor for the tax credit transferred; and

(7) any other relevant information that the secretary requires.

(c) Each transfer agreement shall be reviewed by the secretary. If the transfer agreement is approved, a certificate of transfer shall be issued to the transferor and transferee indicating approval of the transfer. If the transfer agreement is denied, written notification of the denial shall be issued to the transferor and transferee. (Authorized by K.S.A. 79-32,113 and K.S.A. 2008 Supp. 79-32,261; implementing K.S.A. 2008 Supp. 79-32,261; effective June 20, 2008; amended May 22, 2009.)

92-12-146. Definitions. (a) "Contribution," as defined in L. 2014, ch. 93, sec. 56 and amendments thereto, shall include any donation of cash, stocks and bonds, personal property, or real property.

(1) Stocks and bonds shall be valued at the stock market price on the date of the transfer.

(2) Personal property shall be valued at the lesser of its fair market value or the cost to the donor. The value may include costs incurred in making the donation but shall not include sales tax. If the donor received the personal property as a gift or inheritance and the item is considered a rare and valuable antique or work of art, an independent appraisal may be necessary in determining the fair market value.

(3) The donation of real property shall be allowable for tax credit if title to the real property is in fee simple absolute and is clear of any encumbrances. The amount of tax credit allowable for donations of real property shall be based upon the lesser of two current, independent appraisals conducted by state-licensed appraisers.

(b) "Contributor" shall mean any of the following entities making a contribution:

(1) A C corporation filing an income tax return pursuant to the Kansas income tax act, and amendments thereto;

(2) a taxpayer filing a privilege tax return pursuant to K.S.A. 79-1105c et seq., and amendments thereto; or

(3) a taxpayer filing an insurance premium tax return pursuant to K.S.A. 40-252, and amendments thereto. (Authorized by and implementing L. 2014, ch. 93, sec. 61; effective Dec. 5, 2014.)

92-12-147. Tax credit agreement. (a) Each scholarship-granting organization for which an allocation of tax credits has been authorized pursuant to L. 2014, ch. 93, sec. 61, and amendments thereto, shall enter into an annual tax credit agreement with the secretary for the scholarship-granting organization's allocation of tax credits.

(b) Each scholarship-granting organization for which an allocation of tax credits has been authorized pursuant to L. 2014, ch. 93, sec. 61, and amendments thereto, shall enter into a new tax credit agreement with the secretary at least one month before the beginning of each calendar year for which the tax credits are available. (Authorized by and implementing L. 2014, ch. 93, sec. 61; effective Dec. 5, 2014.)

92-12-148. Tax credit application. (a) Each contributor making a contribution to a scholarship-granting organization shall complete a tax credit application with the scholarship-granting organization on a form furnished by the secretary. Each application shall include the following information:

(1) The name, address, and employer identification number of the contributor;

(2) the name of the scholarship-granting organization to which the contribution is being made;

(3) the amount and type of the contribution;

(4) the date of the contribution; and

(5) any other supporting documentation that the secretary requires to review the tax credit application.

(b) Each scholarship-granting organization shall submit the completed tax credit application and supporting documentation to the secretary for review. The application, including the supporting documentation, may be filed by electronic means in a manner approved by the secretary. The scholarship-granting organization shall receive written notification from the secretary when the application is approved or denied. The scholarship-granting organization shall provide a copy of this approval or denial to the contributor that has made the contribution. (Authorized by and implementing L. 2014, ch. 93, sec. 61; effective Dec. 5, 2014.)

92-12-149. Quarterly reports. Each scholarship-granting organization shall submit a quarterly report indicating the amount of contributions qualifying for tax credits. This report shall be submitted to the secretary on a form furnished by the secretary. Any quarterly report may be filed by electronic means in a manner approved by the secretary. A quarterly report shall be submitted on or before the tenth day following the end of each

calendar quarter even if no qualifying contributions are received in that quarter. Each quarterly report shall include the following information:

(a) The name and the employer identification number of each contributor in that quarter;

(b) the amount and type of each contribution received in that quarter;

(c) the total amount of qualified tax credits based on the contributions received in that quarter;

(d) the total amount of tax credits that remain from the scholarship-granting organization's annual allocation; and

(e) any documentation that the secretary requires to support the quarterly report. (Authorized by and implementing L. 2014, ch. 93, sec. 61; effective Dec. 5, 2014.)

Article 14.—LIQUEFIED PETROLEUM FUEL TAX

92-14-6. Sales of LP gas to special LP-gas permit users; use of special LP-gas permit user decals. (a) Each operator of any motor vehicle that bears a Kansas special permit LP-gas user decal shall either self-report tax on the use of LP gas on a mileage basis or pay the tax in advance, pursuant to K.S.A. 79-3492a through K.S.A. 79-3492c and amendments thereto. Each LP-gas dealer who delivers gas into the tank of any vehicle that bears a permit decal shall record the user's permit number and name on the sales invoice if tax is not collected on the sale.

(b) Except as provided in subsection (c), if a motor vehicle that is authorized to operate under a special LP-gas user permit is destroyed, sold, traded, or otherwise disposed of before the end of a calendar year or if for any other reason the permit holder removes the decal from the vehicle, the permit holder shall immediately notify the director of taxation in writing of the nature of the vehicle transfer or the destruction of the decal. Failure to remove a permit decal from a vehicle that has been disposed of and to notify the director shall be grounds for cancellation of the authorization to operate on a mileage basis.

(c) If a permit holder sells a vehicle that is registered for LP-gas purposes to another permit holder or to a person who is applying for a permit, the purchaser may request the transfer of the permit, decal, and all other related rights and obligations to the purchaser. This transfer may be authorized by the director.

(d) If taxes have been paid in advance on a motor vehicle that is destroyed, sold, traded, otherwise disposed of, or converted from LP-gas use before the first of December in any year, the permit holder may apply for a refund of the taxes.

(e) Special LP-gas permit user decals shall be issued on a calendar-year basis. The decals shall be placed inside on the lower driver's side of the windshield. (Authorized by K.S.A. 79-34,102; implementing K.S.A. 2013 Supp. 79-3491a, K.S.A. 79-3492a, K.S.A. 2013 Supp. 79-3492b, K.S.A. 79-3492c, 79-3492d; effective, E-73-20, July 1, 1973; effective Jan. 1, 1974; amended March 29, 2002; amended Oct. 17, 2014.)

92-14-9. (Authorized by K.S.A. 79-34,102; implementing K.S.A. 79-3490, 79-3492; effective May 1, 1982; amended May 1, 1983; amended March 29, 2002; revoked Oct. 17, 2014.)

Article 19.—KANSAS RETAILERS' SALES TAX

92-19-3. (Authorized by K.S.A. 79-3618; implementing K.S.A. 79-3602, 79-3607, 79-3609; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1988; amended June 26, 1998; revoked April 1, 2011.)

92-19-3a. Credit sales, conditional sales, and other sales and service transactions that allow deferred payment. (a) For purposes of this regulation, K.A.R. 92-19-3b, K.A.R. 92-19-3c, and K.A.R. 92-19-55b, the following definitions shall apply:

(1) "Conditional sale" means a sales transaction made pursuant to a written agreement that is treated as a sale of goods for federal income tax purposes in which the buyer gains immediate possession or control of the goods but the seller or a financial institution retains title to or a security interest in the goods to ensure its future receipt of full payment before clear title is transferred to the buyer in possession or control of the goods. Conditional sale contracts include "financing leases."

(2) "Credit charge" means interest, finance, and carrying charges from credit extended on the sale of goods or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the buyer.

(3) "Credit sale" means a sale of goods or services under an agreement that provides for the deferred payment of the purchase price. Credit sales shall include sales made under the following:

(A) An installment contract that transfers title and possession of the goods to the buyer at the time of purchase, but allows payment to be made in periodic installments; and

(B) a revolving credit contract that extends a line of credit to a buyer that allows purchases to be charged against the account and provides for periodic billing that requires payment of part of, and allows for payment of all of, the credit balance owed by the buyer.

(4) "Creditor" means an entity or person to whom money is owed.

(5) "Financial institution" means a bank, savings and loan, credit union, or other finance company licensed under the provisions of the Kansas uniform consumer credit code as specified in K.S.A. 79-3602, and amendments thereto, for isolated or occasional sales.

(6) "Financing lease" means a conditional-sale contract that is denominated a lease, but that is intended to finance a lessee's purchase of goods or its continued possession of goods under a sale-leaseback agreement. A lessor shall be presumed to have entered into a financing lease if the lessor accounts for the lease transaction as a financing agreement for federal income tax purposes. The term "capital lease" shall be considered synonymous with "financing lease."

(7) "Goods" has the same meaning as "tangible personal property," which is specified in K.S.A. 79-3602, and amendments thereto.

(8) "Invoice" means a paper or electronic bill of sale or similar dated document containing an itemized list of goods or services sold to the buyer that specifies the selling price of the goods or services and complies with the requirements of K.S.A. 79-3648 and amendments thereto, when an itemized charge is taxable.

(9) "Layaway sale" means a transaction in which property is set aside for future delivery to a customer who makes a deposit, agrees to pay the balance of the purchase price over a period of time, and, at the end of the payment period, receives the property. An order shall be deemed accepted for layaway by the seller when the seller removes the property from normal inventory or clearly identifies the property as sold to the purchaser.

(10) "Operating lease" has the meaning specified in K.A.R. 92-19-55b.

(11) "Purchase price" has the meaning of "sales or selling price" specified in K.S.A. 79-3602, and amendments thereto.

(12) "Rain check" means that the seller allows a customer to purchase an item at a certain price at a later time because the particular item was out of stock.

(13) "Repossessed goods" means goods sold on credit that a retailer or other creditor reclaims as allowed by law after a buyer or debtor defaults on installment payments.

(14) "Returned goods" means goods that a buyer returns to a retailer upon the parties' cancellation of the original sales contract when the retailer either credits or refunds the full selling price of the goods and associated sales tax to the buyer. Returned goods shall not include goods accepted in trade or barter, goods repossessed or recaptured by legal process, and goods secured pursuant to the consumer's abandonment of the sales contract or other voluntary surrender.

(15) "Sales tax" or "tax" means Kansas retailers' sales tax, Kansas retailers' compensating use tax, and any local retailers' sales or use tax that is levied in addition to the state tax.

(16) "Services" has the meaning specified in K.S.A. 79-3602, and amendments thereto.

(b) Nothing in this regulation, K.A.R. 92-19-3b, K.A.R. 92-19-3c, or K.A.R. 92-19-55b shall be construed as modifying any of the following:

(1) Any requirement of any Kansas certificate-of-title statute or supporting regulation;

(2) any provision of the retailers' sales tax act that allows a retailer to discount the selling price of goods or services based on a trade-in, coupon, or other price reduction that is allowed by a retailer and taken by a buyer on a sale; or

(3) any requirement imposed on creditors or consumers by the Kansas uniform consumer credit code, K.S.A. 16a-1-101 et seq., and amendments thereto.

(c)(1) When a retailer makes credit sales, the retailer may report and pay tax to the department on the total cash and other payments the retailer receives during each reporting period or, if the retailer's books and records are regularly kept on the accrual basis, on the total receipts accrued in its books and records during each reporting period. A retailer that has filed six or more sales tax returns using the same method of accounting that it uses for its federal income tax reporting shall be presumed to have knowingly elected to use that method of accounting for sales tax purposes and to have benefited from its election. Regardless of the reasons for electing to use one method of accounting, a retailer shall continue to use that method of accounting to report its credit and other retail sales unless the director of taxation authorizes the retailer in writing to change its method of accounting for all future sales tax returns or the internal revenue service directs or authorizes the retailer to change its method of accounting for federal income tax purposes.

(2) A retailer shall not be disqualified from reporting sales on a cash-receipts basis because it makes credit sales or has accounts receivable. However, when a retailer that reports credit sales on a cash-receipts basis sells, factors, assigns, or otherwise transfers an installment contract, account receivable, or similar instrument, sales tax shall become due on the total amount of the remaining payments and shall be reported on the return for the period in which the retailer is paid or credited for the contract or receivable.

(3) For the purposes of administering and enforcing the requirements of the Kansas retailers' sales tax act for retailers that report tax based on the total receipts accrued during a reporting period, the date contained on the invoice given to the buyer shall be presumed to be the date the retailer recognizes the receipts in its books and records as earned.

(4) If a retailer finds that it is a hardship to report and remit sales tax in accordance with the requirements in this subsection, the retailer may apply in writing to the director of taxation for permission to start reporting its sales using a different accounting method. The retailer shall fully explain the reasons for the request, and the director may identify reasonable requirements that the retailer shall meet as a condition to allowing the retailer to change the method of accounting it uses to report sales tax.

(d)(1) Each retailer that accounts for its credit sales on the accrual basis shall bill the buyer the full amount of tax that is due on the purchase price of the goods or services sold on credit and shall source and report the sale as if it were a cash sale. The purchase price shall not be reduced by any expense that the retailer attributes to the sale or service and recovers from the buyer even when the retailer bills the expense as a separate line-item charge or on a separate invoice.

(2) When a credit sale is made, any credit charge that is paid by a buyer in addition to the purchase price of goods or services shall be deemed not to be part of the purchase price and shall not be subject to sales tax if both of the following conditions are met:

(A) The invoice, bill of sale, or similar document given to the buyer separately states the credit charge and the selling price of the goods or services that were sold on credit.

(B) The extension of credit was contracted for by the parties, provided for by standard industry custom or practice, or otherwise granted by the retailer, including by issuing an invoice that unilaterally informs the buyer that interest at a stated rate will be added each month to any outstanding credit balance.

(3) A retailer's charges for the extension of credit that meet the requirements of paragraph (d)(2) shall not be included in the retailer's report of gross receipts.

(4) A retailer that makes credit sales shall maintain records that separately show the selling price of the goods or services, the corresponding amount of sales tax charged, the customer's credit balance, and any interest, financing, or carrying charge that has been added to that balance.

(5) A retailer shall not collect sales tax on charges to customers for insufficient funds checks or closed-account checks. The receipts from these charges shall not be included in the retailers report of gross receipts.

(6) This subsection shall not apply to the types of charges related to credit-card use that are specified in subsection (e).

(e)(1) If a retailer increases the selling price of goods or services for a buyer who uses a credit card to compensate for interchange fees or other charges that the credit-card company will later deduct from the payment it forwards to the retailer's account, these increases shall be considered to be part of the selling price of the goods or services and shall be subject to tax.

(2) Interchange fees and other charges that a credit-card company deducts from a participating retailer's account shall be deemed charges for the financial services that the credit-card company has rendered for the retailer and shall not be deducted from the retailer's report of gross receipts or otherwise used to reduce the amount of sales tax being reported.

(f)(1) A progress payment shall mean a payment made to a contractor as work progresses on a construction project that may be conditioned on the percentage of work completed, the stage of work completed, the costs incurred by the contractor, a payment schedule, or some other basis. Each contractor who issues a bill or statement for a progress payment for a period in which the contractor performed taxable labor services shall report sales tax on the taxable services as part of its gross receipts.

(2) If a contractor reports sales tax on the cash basis, it shall report the taxable labor services it performed during the period covered by a progress payment on the return it files for the sales-tax reporting period in which it receives the progress payment. If a contractor reports sales tax on the accrual basis, it shall report the taxable services it performed during the period covered by a progress-billing statement on the return it files for

the sales-tax reporting period in which it recognizes the charges on its progress-billing statement in its books and records as earned.

(g)(1) Unless otherwise provided by statute, each retailer that makes a layaway sale shall report sales tax on the total selling price of the goods sold on layaway when the final payment is made and the goods are delivered to the buyer. The tax rate that is applied to a layaway sale shall be the rate that is in effect at the time of delivery. An exemption may be claimed on a layaway sale only if the exemption is in effect at the time of delivery. If an unpaid balance remains when the goods are delivered, the transaction shall be reported as a credit sale that is consummated when the goods are delivered to the buyer.

(2) Sales tax shall be applied to a purchase made under a rain check in the same way that the tax is applied to a purchase made under a layaway sale.

(h)(1) Each retailer shall collect and remit tax in accordance with this subsection on any taxable sales of goods the retailer makes under a financing lease agreement or other conditional sale, unless the lease or sale satisfies one of the requirements listed in paragraphs (i)(2)(A) through (C).

(2) When an accrual-basis retailer sells goods at retail and the sale is financed under a financing lease, the retailer shall collect and remit sales tax at the time of sale on the full selling price of the goods. Sales tax shall be collected and remitted in this manner even if the retailer transfers title to the goods to a financial institution and possession of the goods to the third-party lessee or if the retailer retains title to the goods and transfers possession to the lessee. Lease payments that a third-party lessee makes to a financial institution or retailer to discharge its loan-repayment obligations under a financing lease or other conditional sale shall not be subject to tax.

(3) A financial institution shall not claim a resale exemption for the purchase of goods that the financial institution is financing under a financing lease agreement.

(4) The transfer of title to the lessee upon completion of the lease payments required under a financing lease agreement shall not be subject to tax.

(i)(1) A contract shall be treated as a financing lease regardless of whether the underlying transaction is characterized as a lease or rental under generally accepted accounting principles, the internal revenue code, the uniform commercial code, K.S.A. 84-1-101 et seq. and amendments thereto, or any other provision of federal, state, or local law, if the contract requires the lessee to possess or control the goods under a security agreement or deferred payment plan that requires the transfer of possession or control of the goods to the lessee under either of the following:

(A) A security agreement or deferred payment plan that requires the transfer of title to the lessee upon completion of the required payments; or

(B) an agreement that requires the transfer of title upon completion of the required installment payments plus the additional payment of an option price, and the option price does not exceed the greater of $100 or 1% of the total required payments.

(2) Unless paragraph (i)(1) requires a contract to be treated as a financing lease, a contract shall be treated as an operating lease and not as a financing lease if the contract meets one of the following requirements:

(A) Contains a provision that allows the lessor to claim federal income tax depreciation benefits for the leased goods;

(B) allows the lessee to terminate the agreement at any time by returning the goods and making all lease payments due to the date of return; or

(C) qualifies as a Kansas consumer lease-purchase agreement under K.S.A. 50-680 et seq., and amendments thereto.

(j)(1) A late payment charge or penalty billed to a customer shall be exempt under this regulation only if the late payment charge or penalty is imposed for nonpayment of a credit balance that is owed under the parties' agreement for the extension of credit, a financing lease, or other conditional sale agreement.

(2) A late payment charge or penalty that is billed to a customer by a regulated utility, cable provider, telecommunications company, or other entity that operates under the authority granted by law or contract by a municipal, county, state, or federal governmental unit is not a credit charge imposed for the extension of credit and shall be subject to sales tax.

(3) A late payment charge or penalty imposed under an operating lease or rental agreement shall be subject to tax in accordance with subsection (d) of K.A.R. 92-19-55b. (Authorized by K.S.A. 2010 Supp. 75-5155 and K.S.A. 2010 Supp. 79-3618; implementing K.S.A. 2010 Supp. 75-5155, K.S.A. 2010 Supp. 79-3602, K.S.A. 2010 Supp. 79-3603, K.S.A. 2010 Supp. 79-3609, and K.S.A. 2010 Supp. 79-3618; effective April 1, 2011.)

92-19-3b. Allowances for bad debts. (a) General.

(1) For purposes of this regulation, "bad debt" shall mean any debt owed to or account receivable held by a retailer that can be claimed as a "wholly or

partially worthless debt" deduction under 26 U.S.C. Section 166 that arose from the sale of goods or services upon which the retailer reported retailers' sales or use tax in a prior reporting period; and

(2)(A) A retailer shall be eligible to claim a bad debt allowance if the retailer meets the following conditions:

(i) Was the original seller of the taxable goods or services;

(ii) charged and remitted the retailers' sales or use tax on a sale that can be claimed as a worthless debt deduction under 26 U.S.C. Section 166; and

(iii) has written off the bad debt as worthless or uncollectible in its books and records.

(B) A certified service provider shall be eligible to claim a bad debt allowance on behalf of a retailer that meets the conditions in paragraph (a)(2)(A) if the provider meets the requirements in subsection (g).

(3) A claim for a bad debt allowance shall be considered to be filed with the department according to one of the following:

(A) On the due date of the return for the reporting period in which the bad debt is written off as uncollectible in the retailer's books and records, when a deduction for the bad debt is taken on that return; or

(B) on the date that the retailer files a refund claim with the department, if part or all of a bad debt allowance is being claimed as a refund because the bad debt allowance was not taken as a deduction on the appropriate return or the deduction that was taken exceeded the amount of taxable gross receipts being reported on that return. The filing date for a refund claim provided by K.S.A. 79-3609, and amendments thereto, shall be the later of either the postmark date on the refund request or the postmark date on the required supporting documentation.

(4) Each claim by a retailer for a deduction, credit, or refund based on a bad debt allowance shall be made in accordance with this regulation. K.A.R. 92-19-3c shall control the treatment of goods that are repossessed by a retailer after the retailer has taken a bad debt allowance on the underlying credit sale of goods defaulted on by the retailers' customer.

(5) After a retailer sells, factors, assigns, or otherwise transfers an account receivable, installment contract, or other similar debt instrument for a discount of any kind that authorizes a third party to collect customer payments, the retailer shall not be eligible to claim a bad debt allowance, credit, or refund for bad debts that arise under an instrument that was sold or transferred at a discount. A third party that purchases or otherwise obtains a debt instrument from the retailer, and any person that subsequently purchases or otherwise obtains the debt instrument, shall not be eligible to claim a bad debt allowance, credit, or refund for an underlying credit sale of goods or services defaulted on by the retailer's customer.

(b) Determining the amount of a bad debt allowance.

(1) The bad debt allowance that may be claimed for sales tax purposes shall be the difference between the federal worthless debt deduction calculated for the sale or account pursuant to 26 U.S.C. Section 166(b) and the applicable adjustments and exclusions to the federal worthless debt deduction specified in K.S.A. 79-3674 and amendments thereto.

(2) No anticipatory or statistical sampling method of estimating the amount of a sales-tax bad debt allowance shall be allowed except as specified in K.S.A. 79-3674(h) and amendments thereto.

(3) If a retailer maintains a reserve account for bad debts, only charges against the bad debt reserve that have been written off the retailer's books and records may be claimed as a bad debt allowance.

(4) The amount of sales tax that is deducted, credited, or refunded under a bad debt allowance shall not exceed the difference between the tax that the retailer remitted to the department on a retail transaction and the tax that the retailer collected on the retail transaction.

(5) The amount of a bad debt allowance shall not include any finance charges, collection expenses, or repossession expenses that the retailer assigned to the consumer's account.

(6) Whenever the sales tax rate that was in effect at the time and place of the original sale is changed pursuant to a statutory rate change or the enactment or repeal of a local tax, the amount of the bad debt allowance shall be adjusted to account for the rate change before the bad debt allowance is claimed.

(7) In the absence of adequate records showing the contrary, it shall be presumed that the interest rate for financing charges that the retailer billed to a customer's delinquent account is the maximum rate of interest that the retailer charged on the same type of delinquent account during the same period that gave rise to the bad debt.

(8) No interest shall be paid by the department on any sales-tax bad debt deduction taken on a retailer's tax return. Interest on a refund claim filed to recover part or all of a bad debt allowance shall be computed as provided in subsection (e).

(c) How to claim a bad debt allowance.

(1)(A) A retailer that is required to file federal income tax returns shall claim a bad debt allowance as a deduction from the taxable gross receipts being reported on the return the retailer files for the reporting period in which the bad debt is charged off its books and records as uncollectible.

(B) A retailer that is not required to file federal income tax returns, including a church or other nonprofit entity, shall claim a bad debt allowance as a deduction from taxable gross receipts during the reporting period in which the bad debt is charged off its books and records, if the allowance would otherwise qualify for a worthless debt deduction under 26 U.S.C. Section 166 if the retailer were required to file federal income tax returns.

(2) If a retailer fails to timely claim a bad debt deduction on the return identified in paragraph (c)(1) or if a bad debt allowance exceeds the taxable gross receipts being reported on that return, the retailer shall file a refund request pursuant to K.S.A. 79-3609, and amendments thereto, to recover the bad debt allowance or the balance of the allowance. The retailer shall not claim a bad debt allowance as a deduction so that a negative balance is reported on a return, as a deduction on an amended return filed for an earlier reporting period, or as a deduction on a return filed for a later period.

(3) A refund request that is filed to recover a bad debt allowance shall not include any other type of refund claim. The supporting documentation shall clearly state that the refund request is based on a claim for a bad debt allowance and shall identify the sales tax reporting period in which the worthless debt deduction could have first been claimed for federal income tax purposes.

(4) A refund claim based on a bad debt allowance shall be denied if the due date of the return for the reporting period in which the retailer first became eligible to write off the worthless debt for federal income tax purposes is outside the limitation period specified in K.S.A. 79-3609, and amendments thereto, for filing refund claims.

(d) Substantiating documentation.

(1) The burden of establishing the right to and the validity of a sales-tax bad debt allowance shall be on the retailer. In order to verify each sales-tax bad debt allowance being claimed, the retailer shall retain records that show the following:

(A) The date when the retailer first became eligible to write off the worthless debt in the books and records that it maintains for federal income tax purposes;

(B) the amount of the worthless debt that was written off for federal income tax purposes and the amount of the worthless debt that is being claimed for Kansas sales tax purposes;

(C) any computations or adjustments made by the retailer to its federal worthless debt deduction to arrive at the bad debt allowance being claimed for Kansas sales tax purposes;

(D) any portion of the debt or worthless account that represents customer charges that were not taxed; and

(E) the amount of interest, finance charges, service charges, collection, and repossession costs that the retailer assigned to the debt or worthless account.

(2) The information specified in paragraphs (d)(1)(A) through (d)(1)(E) may be requested by the department at any time to substantiate a retailer's bad debt allowance claim.

(3) Any retailer that qualifies to claim a sales-tax bad debt allowance and whose volume and character of uncollectible or worthless accounts warrant an alternative method of substantiating the allowance may apply in writing to the director of taxation and ask to be allowed to maintain records other than those specified in this subsection. The retailer shall explain the reasons for the request, and the director may identify reasonable requirements that the retailer must meet as a condition to allowing the retailer to maintain records other than those specified in this subsection.

(e) A bad debt allowance submitted as a refund request. If a retailer claims a bad debt allowance by filing a refund request in accordance with paragraphs (c)(2) through (c)(4), the request shall be treated as the retailer's application for a refund. If a refund request based on a bad debt allowance is approved, either a credit memorandum or a refund payment may be issued by the department to the retailer for the approved amount. The amount credited or refunded shall not include interest, unless a credit memorandum or refund payment is not issued within the time provided for refunds by K.S.A. 79-3609, and amendments thereto. If a credit memo or refund payment is issued after the time provided for refunds, interest shall be computed from the later of either the filing date of the refund request or the filing date of the supporting documentation required by K.S.A. 79-3693, and amendments thereto.

(f) Recovery of allowances previously taken. If a retailer collects payment for goods or services or repossesses goods that were the basis of a bad debt allowance, the retailer shall apply the payment first proportionally to the selling price of the goods or services and the corresponding sales tax that remains unpaid and then to any other charges that are owed

on the customer's account, including interest, service charges, and collection costs billed to the customer. The retailer shall report the payment amount that is apportioned to the selling price of the taxable goods or services as part of its taxable gross receipts for the period in which the payment is received.

(g) Certified service providers.

(1) If a retailer's filing responsibilities have been assumed by a certified service provider, the certified service provider may claim, on the retailer's behalf, any bad debt allowance that the retailer could claim under this regulation. The certified service provider shall provide a credit or issue a refund to the retailer for the full amount of any bad debt allowance that the provider recovers. No person other than the retailer who reported the taxable transaction and reported tax to the department, or a retailer's certified service provider, shall be entitled to claim a bad debt allowance that is based on a worthless debt or uncollectible account.

(2) If the books and records of the retailer or certified service provider claiming a sales-tax bad debt allowance support an allocation of the sales-tax bad debts among the member states on a particular customer's uncollectible account, the allocation shall be allowed pursuant to K.S.A. 79-3674, and amendments thereto. (Authorized by K.S.A. 2010 Supp. 75-5155 and 79-3618; implementing K.S.A. 2010 Supp. 79-3609, 79-3674, and 79-3693; effective April 1, 2011.)

92-19-3c. Repossessed goods. (a) Each retailer that repossesses goods that were the basis of a bad debt allowance under K.A.R. 92-19-3b, and each financial institution that repossesses goods, shall account for the repossessed goods in accordance with this regulation.

(b) The recovery of goods being repossessed and the transfer of title to the goods from the debtor to the retailer or financial institution are not retail sales and shall not be taxed.

(c) When repossessed goods are resold by a retailer at retail, the receipts from the sale shall be reported as part of the retailer's gross receipts. When repossessed goods are resold by a retailer as a sale for resale, a retailer that previously claimed a bad debt allowance on the goods shall account for the receipts as an allowance recovery in accordance with K.A.R. 92-19-3b(f).

(d) When goods are repossessed by a financial institution, the resale of the goods by the financial institution and the transfer of title to the buyer shall be treated as nontaxable isolated or occasional sales.

(e) When a debtor satisfies the underlying debt after goods are repossessed, the return of goods and the transfer of title to the goods to the debtor are not retail sales and shall not be taxed. A retailer that previously claimed a bad debt allowance on the goods shall report the taxable gross receipts that are included in the payment from the debtor in accordance with K.A.R. 92-19-3b(f).

(f) When a retailer or financial institution uses repossessed goods other than for retention, demonstration, or display while holding the goods for resale in the regular course of business, the retailer or financial institution shall accrue sales tax on its use of the repossessed goods as the rental of the goods. (Authorized by K.S.A. 2009 Supp. 75-5155 and 79-3618; implementing K.S.A. 2009 Supp. 79-3602, K.S.A. 2009 Supp. 79-3603 as amended by L. 2010, Ch. 160, sec. 1, K.S.A. 2009 Supp. 79-3607 as amended by L. 2010, ch. 123, sec. 11, K.S.A. 2009 Supp. 79-3609 as amended by L. 2010, ch. 123, sec. 12, K.S.A. 2009 Supp. 79-3615, 79-3618 and 79-3674; effective April 1, 2011.)

92-19-10. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3602, 79-3603 as amended by L. 1987, Ch. 182, Sec. 108, K.S.A. 1986 Supp. 79-3607; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1988; revoked April 1, 2011.)

92-19-16a. Gifts, premiums, prizes, coupons, and rebates. (a) Each sale of tangible personal property shall be taxable if made to a person who will use the property as a prize or premium or who will give the property away as a gift. Donors of articles of tangible personal property shall be regarded as the users or consumers of the property. If a retailer donates property that was originally acquired for resale, the retailer shall accrue tax on the cost it paid for the property when the retailer files its next sales tax return, unless the retailer donates the property to an entity that is exempt from taxation on its purchases under K.S.A. 79-3606, and amendments thereto, or has provided the retailer with a resale exemption certificate.

(b) If a retailer making a retail sale that is subject to tax gives a premium or prize along with the item being sold, the transaction shall be regarded as the sale of both items to the purchaser if delivery of the premium or prize does not depend on chance.

(c) If the award of a premium or prize by a retailer depends on chance, the retailer's acquisition of the premium or prize shall be subject to sales

tax. The retailer shall pay the tax at the time of acquisition of the premium or prize or, if the item is removed from resale inventory, shall accrue tax on the item's cost on its sales tax return.

(d) If a retailer accepts a coupon for a taxable product and will later be reimbursed by a manufacturer or other party for the reduction in selling price, the total sales value, including the coupon amount, shall be subject to sales tax. If a retailer accepts a coupon and will not be reimbursed for the reduction in selling price, the reduction shall be considered a discount, and the taxable amount shall be the net amount paid by the customer after deducting the value of the coupon. If a retailer enhances the value of a manufacturer's coupon, the amount of the unreimbursed enhancement shall be treated as a discount that is not subject to sales tax.

(e) For purposes of this regulation, "rebate" shall mean a return of part of the amount paid for a product after the time of sale, which is commonly obtained by sending proof of purchase to the manufacturer. Like manufacturers' coupons, a manufacturer's rebate is a form of payment. Therefore, even if a manufacturer's rebate is assigned to a retailer at the time of sale, the rebate shall not reduce the amount that is subject to sales tax.

(f) Sales of gift certificates, meal cards, or other forms of credit that can be redeemed by the holder for the equivalent cash value shall not be subject to tax when sold. If the certificate or other form of credit is used as a cash equivalent to purchase taxable goods or services, the retailer who redeems the certificate or other form of credit shall charge sales tax on the selling price of the goods or services, which shall not be reduced by the amount of the certificate or other credit being redeemed.

(g) Sales of coupon books and similar materials that entitle the holder to a discount or other price advantage on the purchase of goods or services shall be presumed to have value in addition to the coupons or discounts contained in them and shall be taxable as sales of tangible personal property, except when the sale of this type of book is by a nonprofit organization that treats the receipts from the sales as a donation. If a coupon is redeemed from a coupon book or other material sold at retail, the retailer who redeems the coupon shall charge sales tax in accordance with the requirements for sales made with coupons that are specified in subsection (d).

(h) If a nonprofit organization treats receipts from the providing of coupon books and similar materials as donations, the nonprofit organization shall be liable for paying sales tax when it purchases the coupon books or other materials that are provided to a donor when a donation is made, unless the organization is otherwise exempted from paying tax on its purchases. If a coupon is redeemed, the retailer who redeems the coupon shall charge sales tax in accordance with the requirements for sales made with coupons that are specified in subsection (d). (Authorized by K.S.A. 2009 Supp. 75-5155 and 79-3618; implementing K.S.A. 2009 Supp. 79-3602 and K.S.A. 2009 Supp. 79-3603 as amended by L. 2010, ch. 160, sec. 1; effective July 27, 2001; amended April 23, 2007; amended April 1, 2011.)

92-19-16b. (Authorized by K.S.A. 2005 Supp. 75-5155 and K.S.A. 2005 Supp. 79-3618; implementing K.S.A. 2005 Supp. 79-3602, as amended by L. 2006, Ch. 202, Sec. 1, K.S.A. 2005 Supp. 79-3607, and K.S.A. 2005 Supp. 79-3609; effective April 13, 2007; revoked April 1, 2011.)

92-19-40. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1; effective, E-80-26, Dec. 12, 1979; effective May 1, 1980; amended May 1, 1988; revoked April 1, 2011.)

92-19-42. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1980 Supp. 79-3602, 79-3603, 79-3606; effective May 1, 1981; revoked April 1, 2011.)

92-19-49b. Goods returned when a sale is rescinded. (a)(1) When a retailer and consumer rescind a taxable sale of goods that the retailer reported on an earlier return, the retailer shall be entitled to deduct the original selling price of the returned goods from its current report of gross receipts, except as provided in paragraph (a)(2). A retail sale of goods shall be considered to be rescinded once the retailer accepts possession of the returned goods and the consumer accepts the repayment of all or part of the selling price and sales tax that was originally paid to buy the goods. This repayment to the consumer may be made by credit or refund.

(2) If a retailer reduces the amount credited or refunded to the consumer for the returned goods as compensation for depreciation, consumer usage, or any other reduction in the value of the goods, the amount of the reduction shall be considered a charge by the retailer for the consumer's use of the goods and shall be subject to sales tax as if it were a rental charge being billed to the consumer. Both the

deduction from gross receipts taken by the retailer on its current return and the selling price credited or refunded to the consumer shall be reduced by the amount taken as compensation for the reduced value of the goods. The amount of tax that is required to be credited or refunded to the consumer shall be reduced in a proportional amount.

(3) A retailer shall not be required to report its taxable receipts from a retail sale that is rescinded if the original sale, the acceptance of the returned goods by the retailer, and the full repayment to the consumer are all completed during one reporting period. If only partial repayment of the selling price and sales tax is made to the consumer, the retailer shall report the amount used as the reduced value of the goods as part of its gross receipts for that reporting period.

(4) If a retailer does not reduce the amount refunded to a consumer under paragraph (a)(2) or (a)(3) for a reduction in the value of the goods and charges a restocking or reshelving fee to the consumer after goods are returned, this fee shall not be taxable. A restocking or reshelving fee shall be defined as a fee charged by a retailer to cover the time and expense incurred returning goods to resale inventory if the consumer has not used the goods in a way that reduces their value.

(b) Each retailer shall maintain records that clearly establish and support its deduction claim when a sale is rescinded.

(c) Any retailer may take a deduction or credit for a refund claim on its sales tax return only if the deduction or credit has been authorized in writing by the department or is allowed under this regulation, K.A.R. 92-19-3b, K.A.R. 92-19-3c, or another department regulation. All other refund claims shall be made by submitting a written refund application to the department, in accordance with K.A.R. 92-19-49c.

(d) Repossessed goods shall be treated as specified in K.A.R. 92-19-3c.

(e) Despite any other provision of this regulation, any motor vehicle manufacturer, manufacturer's agent, or authorized dealer may apply to the department for a refund or take a deduction during the reporting period if a consumer returns a motor vehicle in accordance with K.S.A. 50-645, and amendments thereto, and is refunded the total amount that the consumer paid for the vehicle, including sales tax, less a reasonable allowance for the consumer's use of the vehicle, which shall include the sales tax associated with that use. The manufacturer, agent, or dealer shall maintain records that clearly reflect the acceptance of the returned vehicle under K.S.A. 50-645 and amendments thereto, the amount of the refund, and the amount of taxes refunded. (Authorized by K.S.A. 2009 Supp. 75-5155 and K.S.A. 2009 Supp. 79-3618; implementing K.S.A. 2009 Supp. 79-3607 as amended by L. 2010, ch. 123, sec. 11, and K.S.A. 2009 Supp. 79-3609 as amended by L. 2010, ch. 123, sec. 12; effective May 27, 2005; amended April 1, 2011.)

92-19-55b. Operating leases. (a) Definitions.

(1) "Financing lease" shall have the meaning specified in K.A.R. 92-19-3a.

(2) "Goods" shall have the meaning as specified in K.A.R. 92-19-3a. For purposes of this regulation, "equipment" may be substituted for the word "goods" whenever equipment rentals or leases are being considered.

(3) "Lease or rental" shall have the meaning specified in K.S.A. 79-3602, and amendments thereto. When used in this regulation, these two terms and their derivatives are synonymous.

(4) "Lessee" shall mean a person who acquires the right to possess or control goods under a lease or rental agreement.

(5) "Lessor" shall mean a person who is engaged in the business of leasing or renting goods to others.

(6) "Operating lease" shall mean a lease agreement that gives the lessee possession or control of goods for a fixed or indeterminate period, while the lessor retains all or substantially all of the risk and rewards of ownership of the goods. This term shall be synonymous with "true lease."

(7) "Primary property location" shall have the meaning specified in K.S.A. 79-3670, and amendments thereto.

(8) "Sales tax" or "tax" shall have the meaning specified in K.A.R. 92-19-3a.

(9) "Transportation equipment" shall have the meaning specified in K.S.A. 79-3670, and amendments thereto. When the term "motor vehicle" or "vehicle" is used, the term shall mean any passenger vehicle, truck, trailer, semitrailer, or truck tractor, as defined in K.S.A. 8-126 and amendments thereto, that is not classified as "transportation equipment" under K.S.A. 79-3670, and amendments thereto.

(b) Operating leases and rentals.

(1) Each agreement that is structured as a lease shall be treated as an operating lease unless the agreement meets the definition of a "financing lease" in K.A.R. 92-19-3a. Any operating-lease agreement may contain a future option to purchase the goods that are being leased or to extend the

agreement, or both. Each oral lease shall be treated as an operating lease.

(2) Each person who rents or leases goods at retail for use in Kansas under an operating lease shall be deemed a retailer doing business in this state and shall register with the department and report tax on its taxable receipts as provided in this regulation. If tax is not collected on a taxable charge for a rental or lease, the tax together with interest and penalty may be collected by the department from either the lessor or the lessee.

(3) Each lessor shall collect tax on every taxable rental or lease charge that it bills to its lessees. A lessor shall not forgo this collection duty and elect instead to pay sales tax when the lessor buys goods to rent or lease.

(4) Each recurring periodic payment made under a rental or lease agreement shall be treated as a payment for a separate sales transaction in time units defined by the agreement of the parties. Each recurring periodic payment period under an agreement shall be treated as a complete sale for purposes of determining the following:

(A) Whether tax is required to be collected or paid on a periodic payment because of the enactment of a new tax imposition or exemption;

(B) whether a change in the tax rate applies to a periodic payment;

(C) what the appropriate local tax jurisdiction is when the primary property location is changed from one local taxing jurisdiction in Kansas to another; and

(D) what the appropriate state tax jurisdiction is when the primary property location is changed to Kansas from another state or from Kansas to another state.

(5) If a lease or rental agreement does not require recurring periodic payments to be made, the lump-sum payment shall be treated as a complete sale for purposes of applying exemptions, tax rates, sourcing requirements, and other requirements of the sales tax act to the lease payment. No refund claim shall be allowed or assessment issued that is based on an enactment that takes effect after payment but during the term of this type of lease or rental, unless the enactment specifies otherwise.

(6) Each "rent-to-own" or "rental-purchase" agreement that is subject to the Kansas consumer lease-purchase agreement act, K.S.A. 50-680 et seq. and amendments thereto, shall be treated as an operating lease. A reinstatement fee charged under this type of an agreement shall be taxable.

(7) A rental or lease shall not qualify for exemption as an isolated or occasional sale of goods.

(c) Sourcing receipts from operating leases. Each receipt from the lease or rental of goods shall be sourced according to the following:

(1) Classification of the receipt as a down payment, recurring periodic payment, or a single payment for the entire lease or rental period; and

(2) the type of goods being leased or rented.

Each different type of receipt shall be sourced according to K.S.A. 79-3670 and amendments thereto.

(d) Computation of the tax.

(1) Sales tax shall be computed on the total amount of each lease charge billed to the lessee without any deduction for mandatory insurance, damage waiver fees, property taxes, maintenance, service, repair, pickup, delivery, and other handling charges, administrative charges, late payment charges or penalties, reinstatement fees, late return charges, fuel charges, surcharges, and other charges or expenses whether paid by the lessor or lessee. Each of these fees or expenses shall be considered to be part of a taxable lease charge, even when the fee or expense is separately stated on an invoice given to a lessee or when separate contracts are entered into for the rental or lease and for the payment of one or more of these fees or expenses.

(2) All payments of interest, financing, and carrying charges, and any other payment that a lessee makes to reimburse a lessor for the costs or expenses the lessee incurs under the lease, shall be subject to sales tax whether billed as a separate line-item charge or on a separate invoice.

(3) When a rental or lease agreement has been subject to sales tax, sales tax shall apply to any charge made for either of the following:

(A) The cancellation of the agreement; or

(B) the early return of the rented or leased goods.

(4) Each late return charge that is billed for a customer's failure to return goods to a rental company or other lessor within the agreed-upon rental or lease term shall be treated as a charge for the customer's continued possession or control of the goods. This charge shall be subject to sales tax regardless of whether the charge meets any of the following conditions:

(A) Is designated a late return charge, a penalty, or a credit charge;

(B) exceeds the standard rental charge; or

(C) is a flat charge that appears to be a fine.

(e) A lessor's purchase of goods to rent or lease.

(1) Any registered lessor that rents or leases goods may claim that the goods are purchased for resale when the lessor buys goods for the sole purpose of renting or leasing to others.

(2) A lessor that rents or leases equipment or other goods to others shall not claim the equipment or goods are purchased for resale when the lessor buys the equipment or goods if the lessor engages in a service business that does either of the following:

(A) Uses the equipment or other goods to perform services, in addition to renting or leasing the equipment or goods; or

(B) furnishes the equipment or goods to others with an operator.

(3) If a lessor paid tax when it purchased goods, the payment of tax shall not exempt any subsequent charges that the lessor bills for the rental or lease of the goods and shall not entitle the lessor to claim a credit for the taxes paid. Each lessor that is allowed to claim that goods are purchased for resale as provided in paragraph (e)(1) but paid tax on the purchase of the goods in error shall apply to the department for a refund of the tax.

(4) If a lessor that purchased goods solely for rental or lease later withdraws the goods from its rental or lease inventory for its own occasional use and then returns them to its inventory, the lessor shall accrue sales tax on the regular rental amount that the retailer would charge to a customer for use of the goods under a rental or lease agreement.

(f) Purchases of repair services and repair parts.

(1) A lessor's purchases of repair services and repair parts for incorporation into the goods or equipment that the lessor uses exclusively to rent or lease shall not be considered to be a retail sale. A lessor's purchases of oil, grease, filters, lubricants, and similar items that are purchased for use in equipment that the lessor uses exclusively to rent or lease shall not be considered to be a retail sale. Sales tax shall be collected on any charges for these items that are separately billed to a lessee.

(2) The sale of repair services, repair parts, oil, grease, filters, lubricants, and similar items to a rental or lease business for use in equipment in its rental or lease inventory shall be a retail sale if the business uses equipment from its inventory to perform services or if the business furnishes equipment from its inventory to others with an operator.

(g) Furnishing equipment with an operator.

(1) Each charge for furnishing equipment with an operator who will use the equipment to perform services shall be taxed as a service rather than a rental or lease and shall be subject to the impositions on services set forth in K.S.A. 79-3603, and amendments thereto.

(2) Each lessor shall charge and collect sales tax on each lease or rental charge that the lessor bills to a lessee who intends to use the equipment being rented or leased to perform services for others.

(3) When a lessee bills a customer for taxable services that it performed using leased equipment, the lessee shall not deduct or otherwise exclude the lease charges that it paid to the lessor when the lessee bills its customer for the taxable services.

(4) Equipment shall be considered to be leased or rented rather than provided with an operator if the only services the lessor provides are setup, inspection, or maintenance services that are performed on the leased equipment itself.

(h) Disposal of rental or lease inventory. When goods that were purchased for rental or lease are sold at retail, the lessor shall collect sales tax on the full selling price without regard to any tax that has been collected and remitted on receipts from the rental or lease of the goods. The sale of any goods that a retailer makes from its rental or lease inventory shall not qualify as an isolated or occasional sale.

(i) Real property considerations.

(1) If a contract for the rental or lease of real property requires goods, including furniture and restaurant equipment, to be provided to a tenant with real property, no sales tax shall be due on any amount that is separately charged to the tenant for the goods. When a business purchases or leases goods to use to furnish or equip an apartment, office, restaurant, or other real property that the business intends to lease or rent, the sale or lease of the goods to the business shall be considered a retail sale or lease, and the business shall pay sales tax on the purchase price or lease charges as the final user of the goods.

(2) Each rental or lease of goods, including computers, typewriters, and word processors, to a person who obtains the exclusive right to use the goods for a fixed term shall be subject to sales tax even though the goods are attached or affixed to real property, unless the goods are being furnished with the rental or lease of a real property as specified in paragraph (i)(1).

(3) For purposes of determining the taxability of a rental or lease transaction that involves tangible personal property attached to realty, taxability shall be presumed if the property being leased or rented is considered "goods" pursuant to K.S.A. 84-2-107(2), and amendments thereto, unless the goods are being furnished with the rental or lease of real property as specified in paragraph (i)(1).

(j) Exemptions, discounts, and deductions. Any discount, deduction, or exemption may be claimed when a rental or lease of goods or services is en-

tered into if the same discount, deduction, or exemption would be allowed when the same goods or services are sold at retail. When a lessee that makes recurring periodic payments claims entitlement to a new discount, deduction, or exemption that first takes effect during the term of a lease, any discount, deduction, or exemption may be applied to the periodic payments as provided in paragraph (b)(4).

(k) Conditional sales. Each financing lease and other financing transactions shall be taxed as provided in K.A.R. 92-19-3a. (Authorized by K.S.A. 2010 Supp. 75-5155 and 79-3618; implementing K.S.A. 2010 Supp. 79-3602, 79-3603, 79-3604, 79-3618, 79-3669, 79-3670, and 79-3702; effective April 1, 2011.)

92-19-59. Private letter rulings. (a) A "private letter ruling" shall mean a statement of the secretary of revenue or the secretary's authorized agent issued to an individual retailer and shall be of limited application. A private letter ruling interprets the statute or regulation to which the ruling relates. A private letter ruling is issued in response to a retailer's written request for clarification of the tax statute or regulation relating to a specified set of circumstances affecting the retailer's collections duties as they relate to a claim of exemption from sales tax.

(b) A retailer, consumer, or other person shall not rely upon a verbal opinion from the department of revenue. Only a written private letter ruling issued to a retailer that concerns the retailer's collection duties shall bind the department. Each retailer seeking a private letter ruling from the department shall submit a written request for the ruling to the department. The written request shall identify the retailer and state with specificity the facts and circumstances relating to the issue for which the ruling is sought. If insufficient facts are presented with a retailer's request for a ruling, a private letter ruling shall not be issued by the department. If material facts are misrepresented in a retailer's request for a ruling, a private letter ruling that is issued by the department shall be of no effect and shall not be binding on the department. Department correspondence that does not state that the correspondence is a "private letter ruling" shall not be considered or otherwise treated as a private letter ruling.

(c) Nothing contained in a private letter ruling shall be construed as altering any provision of the Kansas retailers' sales tax act or any department regulation or as otherwise meeting any of the following conditions:

(1) Having the force and effect of law;

(2) being a notice, revenue ruling, or other tax-policy statement that has been published by the department; or

(3) being a precedent that can be cited or relied upon by any person other than the retailer to whom the ruling is issued, except to identify a ruling that is being relied upon as support for a request for the reduction or waiver of penalty or interest.

(d) If a private letter ruling erroneously instructs an individual retailer that it is not required to collect sales tax under a specific set of facts and circumstances, that retailer shall be absolved of its statutory duty to collect sales tax under a comparable set of facts and circumstances, unless the ruling has been rescinded or was based on the retailer's misrepresentation of material facts. A consumer that did not pay the tax to the retailer shall continue to be liable for the uncollected tax. However, if the consumer belatedly pays or is later assessed the tax, penalty shall be waived, and any interest on the consumer's late payment may be waived or reduced, upon the consumer's request unless the consumer misrepresented material facts to either the retailer or the department.

(e) Each private letter ruling shall cease to be valid and shall be deemed to have been rescinded when any one of the following occurs:

(1) A statute or regulation that the department relied upon as a basis for the ruling is changed in any substantive part by the Kansas legislature or department of revenue.

(2) A substantive change in the interpretation of a statute or regulation that the department relied upon as a basis for the ruling is made by a court decision.

(3) An interpretation that the department relied upon as a basis for the ruling is changed in any substantive part by a more recent department notice, guideline, revenue ruling, or other published policy directive that rescinds all prior published policy statements about issues that are discussed in the policy directive. Any policy statement that has been rescinded by the department may be cited as support for a taxpayer's request for the reduction or waiver of penalty or interest. (Authorized by K.S.A. 2009 Supp. 75-5155 and 79-3618; implementing K.S.A. 2009 Supp. 79-3604 and K.S.A. 79-3646; effective May 1, 1988; amended April 1, 2011.)

92-19-73. Membership fees and dues. (a) Each public or private club, organization, or business charging dues to members for the use of the facilities for recreation or entertainment shall col-

lect sales tax on the gross receipts received from the dues, except for the following:

(1) Clubs and organizations that are exempt from property tax pursuant to the "eighth" paragraph of K.S.A. 79-201 and amendments thereto, including the American legion, the veterans of foreign wars, and certain other military veterans' organizations;

(2) clubs and organizations that are exempt from property tax pursuant to the "ninth" paragraph of K.S.A. 79-201 and amendments thereto, including the Y.M.C.A., Y.W.C.A., Boy Scouts, Girl Scouts, and certain other humanitarian community service organizations; and

(3) nonprofit organizations that support nonprofit zoos, if the organization is exempt pursuant to section 501(c)(3) of the federal internal revenue code of 1986 and the dues are used to support the operation of the zoo.

(b)(1) "Dues" means any charge that is a debt owed to the club, organization, or business by an existing member or prospective member in order for the member or prospective member to enjoy the use of the facilities of the club, organization, or business for recreation or entertainment, and, except as provided in paragraph (b)(2), shall include periodic or one-time special assessments, initiation fees, and entry fees charged to members by a nonprofit club or organization if a member's continued nonpayment of the assessment or fee will result in the loss of membership or membership rights.

(2) Dues shall not include the redeemable amount of a contribution required for membership in an equity country club or other equity entity organized for recreation or entertainment in which none of the net earnings inure to the benefit of any shareholder or other person, including organizations described by I.R.C. 501(c)(7), if the club or organization is obligated to repay the redeemable amount of the contribution, and the redeemable amount either is reflected as a liability owed to the member on the club's or organization's books and records or is required to be repaid to the member under a written contract. The repayment obligation may be conditioned upon the club's or organization's receipt of a membership contribution from a new member. The redeemable amount of a contribution required for membership shall include payments made by a member or prospective member for membership stock, certificates of membership, refundable deposits, refundable capital improvement surcharges, refundable special or one-time assessments, or similar membership payments in an amount equal to the amount that the club or organization is obligated to repay to the member. These payments to a club shall not be considered redeemable contributions if the club's repayment obligation is contingent solely on a club ceasing its operations as a nonprofit social organization sometime in the future.

(3) If all or part of a redeemable contribution paid to acquire or retain membership ceases to be carried as a liability on the books and records of a club that continues operation, or its successor, and the contribution has not been redeemed by a former member or former member's estate, the amount of the contribution that is no longer carried as a liability and can no longer be redeemed shall be subject to sales tax.

(c) "Recreation or entertainment" means any activity that provides a diversion, amusement, sport, or refreshment to the member. This term shall include the health, physical fitness, exercise, and athletic activities identified in K.A.R. 92-19-22b.

(d) An exemption for gas, fuel, or electricity shall not be allowed for a public or private club, organization, or other business that charges dues to members if the gas, fuel, or electricity is utilized for heating, cooling, or lighting a building, facility, or other area that is used for recreation or entertainment. An exemption shall not be allowed for water, cleaning supplies, toilet supplies, sanitary supplies, and other consumables and supplies that are used by a public or private club, organization, or other business that enable dues-paying members or others to use the building or facility for recreation or entertainment. These exemptions shall not be allowed regardless of whether the business charges dues-paying members or others for admission or for participation in sports, games, or recreation. (Authorized by K.S.A. 2009 Supp. 75-5155 and K.S.A. 2009 Supp. 79-3618; implementing K.S.A. 2009 Supp. 75-5155, K.S.A. 2009 Supp. 79-3603 as amended by L. 2010, ch. 160, sec. 1 and K.S.A. 2009 Supp. 79-3618; effective May 1, 1988; amended July 27, 2001; amended April 1, 2011.)

Article 24.—LIQUOR DRINK TAX

92-24-23. Bond. (a) Each applicant or licensee submitting an application for a new license or for renewal of an existing license shall post or have posted with the department of revenue a bond in an amount equal to three months' average liquor drink tax liability or $1000, whichever is greater, at the time of the application. Any new applicant who has no previous tax experience may estimate that person's expected liquor drink tax liability projected over a 12-month period and submit a bond in an

amount equal to 25% of the projected tax liability or $1000, whichever is greater. A certificate of liquor drink tax registration shall not be issued until the bond requirement is satisfied.

(b) Bond requirements may be satisfied through surety bonds purchased from a corporate surety, escrow bond agreements, or the posting of cash bonds.

(c) An additional bond may be required by the secretary of revenue at any time if the existing bond is not sufficient to satisfy the three months' average liability of the licensee.

(d) The existing liquor drink tax bond requirement for any licensee may be waived by the secretary of revenue if the relief is requested in writing and the licensee has remained compliant with K.S.A. 79-41a01 et seq., and amendments thereto, for at least 24 consecutive months before the date of the request for bond relief. If, after the bond is released, the licensee becomes delinquent in filing and remitting the liquor drink tax, a bond shall be required for any subsequent renewal of the license. (Authorized by and implementing K.S.A. 2009 Supp. 79-41a03; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988; amended Jan 4, 2002; amended Nov. 29, 2010.)

Article 26.—AGRICULTURAL ETHYL ALCOHOL PRODUCER INCENTIVE

92-26-1. Definitions. As used in this article, these terms shall have the following meanings: (a) "Agricultural commodities" shall mean all materials used in the production of agricultural ethyl alcohol, including grains and other starch products, sugar-based crops, fruits and fruit products, forage crops, and crop residue.

(b) "Director" shall mean the director of taxation of the department of revenue.

(c) "Fiscal year" means a period of time consistent with the calendar periods of July 1 through the following June 30.

(d) "Principal place of facility" means a plant or still located in the state of Kansas that produces or has the capacity to produce agricultural ethyl alcohol.

(e) "Production" means the process of manufacturing agricultural ethyl alcohol. For the purposes of this article, the terms "produce" and "produced" shall be consistent with the definition of "production."

(f) "Quarter" means a period of time consistent with the calendar periods of January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. For the purposes of this article, the term "quarterly" shall be consistent with the definition of "quarter."

(g) "Spirits" means an inflammable liquid produced by distillation.

(h) "Wine gallon" means 231 cubic inches measured at 60 degrees Fahrenheit. (Authorized by K.S.A. 2008 Supp. 79-34,163; implementing K.S.A. 2008 Supp. 79-34,161 and 79-34,163; effective, T-88-34, Sept. 17, 1987; amended May 1, 1988; amended Feb. 27, 2009.)

92-26-4. Filing of quarterly reports; deadline. (a)(1) Each ethyl alcohol producer producing agriculture ethyl alcohol in the state of Kansas shall file a Kansas qualified agricultural ethyl alcohol producer's report with the director of taxation within 30 days from the last day of each quarter. Each producer not filing a report within 30 days after the last day of any quarter in a fiscal year shall be barred from seeking one quarter of any payment due from the agricultural ethyl alcohol producer's fund for that fiscal year. Upon proof satisfactory to the secretary of extenuating circumstances preventing timely submission of the report by the producer, this penalty may be waived by the secretary.

(2) Production incentives shall be paid on a fiscal year basis from the new production account or the current production account in the agricultural ethyl alcohol producer incentive fund, whichever account is applicable. When the production incentive amount for the number of agricultural ethyl alcohol gallons sold by any producer to a qualified alcohol blender exceeds the balance in the applicable account at the time payment is to be made for that fiscal year's production, the incentive per gallon shall be reduced proportionately so that the current balance of the applicable account is not exceeded. Any amount remaining in the account following a fiscal year payment of producer incentives shall be carried forward in that account to the next fiscal year for payment of future production incentives, except when the current production account balance is required by K.S.A. 79-34,161, and amendments thereto, to be transferred to the new production account. The quarterly reports for a fiscal year shall be for the third and fourth quarters of one calendar year and the first and second quarters of the following calendar year.

(b) Each quarterly report shall be submitted on forms furnished by the director and shall contain the following information:

(1) The beginning inventory of denatured alcohol;

(2) the amount of alcohol produced and denaturant added;

(3) the amount of agricultural ethyl alcohol sold to qualified blenders;

(4) the amount of denatured alcohol sold to other than qualified blenders;

(5) the amount of denatured alcohol sold or used for miscellaneous purposes, including denatured alcohol that has been lost, destroyed, or stolen;

(6) the name of the liquid fuel carrier and the liquid fuel carrier's federal employer identification number;

(7) the mode of transportation;

(8) the point of origin, specifying city and state;

(9) the point of destination, specifying city and state;

(10) the name of the company to which the product was sold;

(11) the date the product was shipped;

(12) the identifying number from the bill of lading or manifest;

(13) the number of gross gallons sold; and

(14) the product code.

Each ethyl alcohol producer filing a quarterly report shall furnish all information required by the director before receiving the funds. (Authorized by K.S.A. 2008 Supp. 79-34,163; implementing K.S.A. 2008 Supp. 79-34,161 and 79-34,163; effective, T-88-34, Sept. 17, 1987; amended May 1, 1988; amended Nov. 12, 2004; amended Feb. 27, 2009.)

Article 28.—RETAIL DEALER INCENTIVE

92-28-1. Definition. "Quarter" shall mean any of the following periods in each calendar year:

(a) January 1 through March 31;

(b) April 1 through June 30;

(c) July 1 through September 30; or

(d) October 1 through December 31.

For the purposes of this article, the term "quarterly" shall be consistent with the definition of "quarter" in this regulation. (Authorized by and implementing K.S.A. 2007 Supp. 79-34,174; effective Feb. 13, 2009.)

92-28-2. Filing of quarterly reports; deadline. (a)(1) Each Kansas retail dealer seeking a Kansas retail dealer incentive shall file a retail dealer's report with the secretary of revenue within 30 days after the last day of each quarter. Each retail dealer not filing a retail dealer's report within 30 days from the last day of the quarter shall be barred from seeking payment from the Kansas retail dealer's incentive fund for that quarter. Each retail dealer's report shall be filed in the same manner as that for the motor fuel retailers' informational return, with respect to filing for single or multiple locations.

(2) The Kansas retail dealer incentives shall be paid on a quarterly basis. If the retail dealer incentive amounts claimed, based on the number of gallons of renewable fuels or biodiesel fuel sold or dispensed by Kansas retail dealers, exceed the balance in the Kansas retail dealer incentive fund, the incentive per gallon shall be reduced proportionately so that the balance in the Kansas retail dealer incentive fund is not exceeded. If any amount remains in the Kansas retail dealer incentive fund following each quarterly payment of Kansas retail dealer incentives, that amount shall be carried forward in the Kansas retail dealer incentive fund to the next quarter for the payment of future incentives.

(b) Each Kansas retail dealer filing a quarterly retail dealer's report shall be a licensed motor fuel retailer and shall have filed all monthly motor fuel retailers' informational returns and any other relevant information as required by the secretary of revenue before receiving any incentive funds.

(c) Each quarterly retail dealer's report shall be filed electronically with the department of revenue and shall include the following information:

(1) The total number of gallons of gasoline, gasohol, ethanol, diesel, and biodiesel sold;

(2) the total number of gallons of renewable fuel and biodiesel sold; and

(3) any other relevant information that the secretary of revenue requires in order to determine entitlement to and the amount of any incentive payment. (Authorized by and implementing K.S.A. 2007 Supp. 79-34,174; effective Feb. 13, 2009.)

92-28-3. Record requirements. (a) Each Kansas retail dealer shall maintain the following records for each quarter:

(1) The quantity and product type of all fuel received;

(2) the quantity and product type of all fuel sold or dispensed;

(3) the method of disbursement; and

(4) invoices and bills of lading.

(b) The records specified in subsection (a) shall contain sufficient information to allow the secretary of revenue to determine the quantity and product type of all fuel received, sold, or dispensed and the method of disbursement. Any retail dealer may use records prepared for other purposes if the records contain the information required by subsection (a).

(c) Each retail dealer shall retain the required records for at least three years. The records shall be available at all times during business hours and shall be subject to examination by the secretary of revenue or the sec-

retary's designee. (Authorized by K.S.A. 2007 Supp. 79-34,174; implementing K.S.A. 2007 Supp. 79-3415 and 79-34,174; effective Feb. 13, 2009.)

92-28-4. Funds erroneously paid; informal conferences. (a) If the secretary of revenue determines from available reports and records that a Kansas retail dealer has erroneously received money from the Kansas retail dealer incentive fund, the retail dealer shall refund to the secretary of revenue the amount erroneously paid, within 30 days after receiving notification by the secretary.

(b) Each Kansas retail dealer who has a dispute concerning an incentive payment shall request resolution from the secretary of revenue or the secretary's designee through the informal conference process. (Authorized by K.S.A. 2007 Supp. 79-34,174; implementing K.S.A. 2007 Supp. 79-3420 and 79-34,174; effective Feb. 13, 2009.)

Article 51.—TITLES AND REGISTRATION

92-51-21. Staggered registration system. (a) All motorized bicycles, motor vehicles, and recreational vehicles, other than apportioned registered vehicles, mobile homes, trailers, antique vehicles, trucks or truck tractors registered for a gross weight of greater than 12,000 pounds, and commercial motor vehicles as described in K.S.A. 8-143m and amendments thereto, shall be registered annually under a staggered registration system during one of 11 registration periods. The month of expiration of the registration shall be embossed upon the number plate issued at the time of registration or shall be represented by a decal attached to the number plate in a location designated by the director.

(b) At the time of registration, the owner shall pay a prorated registration fee equal to 1/12 of the annual registration fee multiplied by the number of months remaining in the registration period, including the month of expiration. Each registration period shall expire on the last day of the month as prescribed for the alpha letter designation on the plate or decal affixed to the plate, as determined by the first letter of the owner's surname in accordance with the following table:

ALPHABETICAL DESIGNATION FOR MONTHLY STAGGERED REGISTRATION

Alpha Letter Designation	Month	First Letter of Surname
A	February	A
B	March	B
C	April	C, D
E	May	E, F, G
H	June	H, I
J	July	J, K, L
M	August	M, N, O
R	September	P, Q, R
S	October	S
V	November	T, V, W
X	December	U, X, Y, Z

(Authorized by and implementing K.S.A. 2013 Supp. 8-134, K.S.A. 8-134a; effective, E-82-26, Dec. 16, 1981; effective May 1, 1982; amended Jan. 3, 2003; amended Nov. 22, 2013.)

92-51-25a. Proof of valid license required for foreign vehicle dealers. (a) For purposes of this regulation, the following terms shall have the meanings specified in this subsection:

(1) "Foreign vehicle dealer" shall mean a person holding a license to sell vehicles at retail or wholesale issued by a jurisdiction outside of the territorial limits of the United States. For purposes of this regulation, all states, protectorates, and trust territories administered by the federal government of the United States shall be considered part of the United States and shall be excluded from the definition of "foreign vehicle dealer."

(2) "Agent of a foreign vehicle dealer" shall mean a person who is authorized by a foreign vehicle dealer to purchase vehicles for import and resale by the foreign vehicle dealer at the foreign vehicle dealer's authorized place of business in the foreign country.

(3) "Vehicle dealer" has the meaning specified in K.S.A. 8-2401, and amendments thereto.

(b) Before permitting a foreign vehicle dealer to purchase a vehicle, each vehicle dealer shall require proof that the foreign vehicle dealer holds a foreign dealer license and shall retain a copy of the dealer license from the foreign dealer's country of origin.

(c) Each vehicle dealer who sells a vehicle to a foreign vehicle dealer shall stamp in red ink on the back of the title in all unused dealer reassignment spaces the words "For Export Out of Country Only" and the vehicle dealer's state-assigned vehicle dealer number. The stamp shall also be placed on the front of the title in a manner that does not obscure any names, dates, or mileage statements. The stamp shall be at least two inches wide, and all words shall be clearly legible.

(d) If the purchaser is a foreign vehicle dealer, the vehicle dealer shall obtain the following documents before the sale and shall maintain these documents in the vehicle dealer's sales file for each vehicle:

(1) A copy of the foreign vehicle dealer's license issued by the appropriate governmental entity of the foreign government to the foreign vehicle dealer;

(2) a copy of any identification documentation issued by the appropriate foreign governmental entity indicating that the person claiming to be a foreign vehicle dealer is, in fact, a resident of the foreign country. These documents shall include a driver's license, passport, voter registration documents, or any official identification card if the card contains a picture of the person and lists a residential or business address;

(3) a completed "Kansas motor vehicle sales tax exemption certificate for vehicles taken out of the state" for each vehicle sold to the foreign vehicle dealer, indicating that the vehicle has been purchased for export;

(4) a copy of the front and back of the title to the vehicle, showing the "For Export Out of Country Only" stamp and the seller's assigned vehicle dealer number used by the auction or dealership; and

(5) for any agent of a foreign vehicle dealer, a copy of documentation supporting the person's claim to be acting as an agent for the foreign vehicle dealer. (Authorized by K.S.A. 8-2423; implementing K.S.A. 8-2402 and K.S.A. 8-2403; effective Sept. 10, 2010.)

Article 56.—IGNITION INTERLOCK DEVICES

92-56-1. Ignition interlock device; definitions. As used in this article, each of the following terms shall have the meaning specified in this regulation: (a) "Device" means "ignition interlock device," as defined in K.S.A. 8-1013 and amendments thereto. This device uses microcomputer logic and internal memory and has a breath alcohol analyzer as a major component that interconnects with the ignition and other control systems of a motor vehicle. This device measures the breath alcohol concentration (BrAC) of an intended driver to prevent the motor vehicle from being started if the BrAC exceeds a preset limit and to deter and record any instances of circumvention or tampering.

(b) "Alcohol setpoint" means the breath alcohol concentration at which the ignition interlock device is set to lock the ignition. The alcohol setpoint is the normal lockpoint at which the ignition interlock device is set at the time of calibration. The alcohol setpoint shall be .03. The alcohol setpoint for retests shall be .03.

(c) "BrAC" means the breath alcohol concentration expressed as weight divided by volume, based upon grams of alcohol per 210 liters of breath.

(d) "BrAC fail" means the condition in which the ignition interlock device registers a BrAC value equal to or greater than the alcohol setpoint when the intended driver conducts an initial test or retest. This condition is recorded as a violation.

(e) "Breath sample" means the sample of alveolar or end-expiratory breath that is analyzed for the analysis of alcohol content after the expiration of at least 1.2 liters of air.

(f) "Circumvention" means an overt, conscious attempt to bypass the ignition interlock device by any of the following:

(1) Providing samples other than the natural, unfiltered breath of the driver;

(2) starting the vehicle without using the ignition switch; or

(3) performing any other act intended to start the vehicle without first taking and passing a breath test.

(g) "Director" means director of vehicles, division of vehicles of the department of revenue.

(h) "Emergency bypass procedure" means the procedure that allows the driver to travel to a service provider and avoid a lockout. If used, the event shall be recorded in the event log, and the device shall be put into early service status. The emergency bypass procedure shall require the driver to provide a breath sample with a test result below the alcohol setpoint.

(i) "Fail-safe" means a condition in which the ignition interlock device cannot operate properly due to a problem, including improper voltage and a dead sensor. In fail-safe, the ignition interlock device will not permit the vehicle to be started.

(j) "Fixed site" means the building in which a service provider operates. The building shall have a separate waiting room, a bathroom, and a work area. The work area shall be accessible to only the service provider and the service provider's employees while performing services.

(k) "High BrAC" means a BrAC fail result for an initial test or retest that registers an alcohol setpoint of .08 or greater.

(l) "Lockout" means an instance in which the ignition interlock device will prevent the vehicle from starting. The vehicle cannot be operated until serviced by the service provider. A lockout occurs if any of the following events occurs:

(1) A driver incurs five or more violations between scheduled inspections with the service provider.

(2) A driver fails to submit to calibration and inspection as required by K.A.R. 92-56-4(b)(5), and the seven-day grace period has expired.

(3) A driver engages in circumvention or tampering.

(m) "Manufacturer" means the person, company, or corporation that produces an ignition interlock device and certifies to the division that the manufacturer's representative and the manufacturer's service providers are qualified to service and provide information on the manufacturer's state-approved ignition interlock device. To be a manufacturer, the division shall approve and certify the manufacturer's device for use in the state, and the approval and certification shall remain in effect.

(n) "Manufacturer's representative" means a single individual based in Kansas and designated by a manufacturer to act on behalf of or represent the manufacturer in matters relating to this article and K.S.A. 8-1001 et seq., and amendments thereto.

(o) "Rolling retest" means a breath test that is required after the initial engine start-up breath test and while the engine is running. This term is also known as a retest or a running retest. The device shall require the driver of the vehicle to submit to a retest within 10 minutes of starting the vehicle. A rolling retest shall continue at randomized, variable intervals ranging from 10 to 45 minutes after the previous retest for the duration of the travel.

(p) "Service provider" means an ignition interlock device technician that is authorized by a manufacturer to service a certified device on behalf of the manufacturer or the manufacturer's representative. The ignition interlock device technician shall have a written agreement or authorization from a division-approved manufacturer or its manufacturer's representative to service the manufacturer's devices within Kansas.

(q) "Services" means the installation, inspection, monitoring, calibration, maintenance, removal, replacement, and repair of division-approved ignition interlock devices within Kansas.

(r) "Tampering" means an overt, conscious attempt to physically disable, bypass, adjust, or otherwise disconnect an ignition interlock device from its power source.

(s) "Violation" means any of the following:

(1) The driver has blown a BrAC fail when attempting to start the vehicle.

(2) The driver has blown a BrAC fail when attempting a required rolling retest.

(3) The driver fails to execute a valid rolling retest after a five-minute period.

(4) The driver fails to submit to a requested rolling retest by turning the vehicle off to avoid submitting to the rolling retest.

(5) The driver has blown a high BrAC during an initial breath test or rolling retest. (Authorized by and implementing K.S.A. 8-1016; effective Oct. 23, 1989; amended July 5, 2002; amended May 2, 2014; amended Nov. 6, 2015.)

92-56-2. Ignition interlock device; certification and standards. (a) Each manufacturer of an ignition interlock device wanting to market the device in Kansas shall apply to the division of vehicles for certification of the device and submit the following information and equipment:

(1) The name and address of the manufacturer;

(2) the name and model number of the device;

(3) certification that the device meets the following criteria:

(A) Offers safe operation of the vehicle in which installed, works reliably and accurately in an unsupervised environment, and, when in fail-safe, prevents the vehicle from starting;

(B) offers protection against tampering and is able to detect and be resistant to circumvention;

(C) allows for a free restart of the vehicle's ignition within two minutes after the ignition has been turned off without requiring another breath test if the driver has not registered a BrAC fail or is not in the process of completing a retest;

(D) allows for a rolling retest of a subsequent breath test after the vehicle has been in operation;

(E) disables the ignition system if the BrAC of the person using the device equals or exceeds the alcohol setpoint of .03;

(F) incorporates an emergency bypass procedure;

(G) records each time the vehicle is started, the duration of the vehicle's operation, and any instances of tampering;

(H) displays to the driver all of the following:

(i) When the device is on;

(ii) when the device has enabled the ignition system; and

(iii) the date on which a lockout will occur; and

(I) alerts the driver with a five-minute warning light or tone that a rolling retest is required;

(4) a map and list of service providers and the address where the device can be obtained, repaired, replaced, or serviced 24 hours a day by calling a toll-free phone number;

(5) the name of any insurance carrier authorized to do business in this state that has committed to issue a liability insurance policy for the manufacturer;

(6) the name and address of the manufacturer's representative designated by the manufacturer to manage the manufacturer's statewide operations;

(7) not more than two ignition interlock devices for testing and review to the division upon the director's request; and

(8) a declaration on a form prescribed by the division that requires the following:

(A) The manufacturer, manufacturer's representative, and the manufacturer's service providers shall cooperate with the division, law enforcement, and court staff at all times, including the inspection of the manufacturer's installation, service, repair, calibration, use, removal, or performance of each ignition interlock device;

(B) the manufacturer shall provide all downloaded ignition interlock device data, reports, and information related to the ignition interlock device to the division, upon the director's request, in a division-approved electronic format;

(C) the manufacturer shall provide the alcohol reference value and type of calibration device used to check the ignition interlock device;

(D) the manufacturer shall provide the division with inquiry access to the manufacturer's ignition interlock device system management software for the management of state drivers; and

(E) the manufacturer or the manufacturer's representative shall provide a map of Kansas showing the area covered by each service provider's fixed site.

(b) Each certification issued by the division shall continue in effect for three years unless either of the following occurs:

(1) The manufacturer requests in writing that the certification be discontinued.

(2) The division informs the manufacturer and the manufacturer's representative in writing that the certification is suspended or revoked.

(c) If a manufacturer modifies a certified device, the manufacturer shall notify the division of the exact nature of the modification. A device may be required by the division to be recertified at any time. A modification shall mean a material change affecting the functionality, installation, communication, precision, or accuracy of a certified device.

(d) Each manufacturer of a certified device shall notify the division of the failure of any device to function as designed. The manufacturer and the manufacturer's representative shall provide an explanation for the failure and shall identify the actions taken by the manufacturer or the manufacturer's representative to correct the malfunctions.

(e) The manufacturer's device shall meet or exceed the model specifications for ignition interlock devices, as specified by the national highway traffic safety administration. The provisions of 78 fed. reg. 26862-26867 (2013), beginning with the text titled "B. Terms" on page 26862, are hereby adopted by reference for purposes of this subsection. If state specifications vary from the federal specifications, the state specifications shall control.

(f) Each manufacturer of a certified device shall accumulate a credit of at least two percent of the gross revenues attributed to services provided in Kansas or to out-of-state services provided to Kansas residents. Any existing credit shall be made available to drivers who are restricted to operating a vehicle with a device and who are indigent as evidenced by eligibility for the federal food stamp program. The amount of the credit available shall be limited to the amount of the existing credit balance. The manufacturer and its service providers shall notify the manufacturer's customers of the existence of this indigent program by utilizing division notices and forms.

(g) Each manufacturer of a certified device shall submit a report to the division on or before January 31 of each year with the following information for the previous calendar year's activities:

(1) The number of ignition interlock devices initially installed on vehicles for Kansas drivers who were restricted to driving only with an ignition interlock device;

(2) the number of vehicles that had devices removed due to a failure in the device, a malfunction of the device, or a defect in the device and, for each vehicle, the driver's name, the driver's license number, the specific failure or operational problem that occurred during the period installed, and the resolution of each situation;

(3) the total number of devices in operation in Kansas on December 31 of the previous calendar year;

(4) the total number of devices removed;

(5) the total number of instances of circumvention;

(6) the total number of instances of tampering; and

(7) a summary of the following information:

(A) The number of indigent drivers that qualified for reduced fees;

(B) the number of drivers that applied for indigent classification and reduced fees but were denied;

(C) amounts credited to indigent drivers; and

(D) the ending credit balance.

(h) Each manufacturer and manufacturer's representative of a certified device shall make sales brochures and other informational materials available

at no cost to the state's community corrections and court services officers, the district courts, magistrate courts, municipal courts, and the division for distribution to potential drivers. These brochures and informational materials may be provided through electronic means if approved by the director.

(i) Each manufacturer shall provide to the division, on or before January 31 of each year for that calendar year, documentation indicating the normal prices and fees charged to a driver that are associated with the manufacturer's Kansas installation of devices. If the documentation regarding normal prices and fees charged changes during the course of that calendar year, the manufacturer and manufacturer's representative shall provide amended documentation to the division within seven days of the change.

(j) Each manufacturer shall have a service provider with a fixed site within each state judicial district on and after January 1, 2015, unless the following conditions are met:

(1) At least two manufacturers have a service provider located in the same judicial district.

(2) The director determines that a competitive market exists for ignition interlock services in the state judicial district and the absence of a manufacturer's service provider in the state judicial district specified in paragraph (j)(1) does not create a competitive advantage for that manufacturer.

(3) The director approves the manufacturer to be absent from that state judicial district.

(k) Each device shall be capable of uniquely identifying and recording all of the following:

(1) Each time the vehicle is attempted to be started;

(2) each time the vehicle is started;

(3) the results of all tests, retests, or failures as being a malfunction of the device or a result of the driver not meeting the requirements;

(4) the length of time the vehicle was operated; and

(5) any indication of tampering.

The features required of the manufacturer's installed device shall be enabled to capture the information required by this subsection. (Authorized by and implementing K.S.A. 8-1016; effective Oct. 23, 1989; amended July 5, 2002; amended May 2, 2014; amended Nov. 6, 2015.)

92-56-4. Installation, inspection, and calibration standards. (a) Each ignition interlock device installed at the direction of the division shall be done at the driver's own expense, except as allowed by K.A.R. 92-56-2.

(b) A manufacturer shall ensure that each service provider meets the following requirements:

(1) Install each device in accordance with the manufacturer's instructions. Each service provider shall, within two weeks of installation, inform the division each time a device has been installed;

(2) install each device so that the device will be deactivated if the driver has a BrAC of .03 or higher until a successful retest occurs;

(3) set each device so that if the driver fails the initial ignition interlock device test, a retest cannot be done for 15 minutes;

(4) set each device so that a rolling retest will be required of the driver of the vehicle within 10 minutes of starting the vehicle. Subsequent rolling retests shall occur as described in K.A.R. 92-56-1. The driver shall have five minutes to complete the retest. The free restart shall not be operative when the device is waiting for a rolling retest sample;

(5) calibrate each device at least every 30 days at the driver's own expense and maintain an inspection and calibration record with the following information:

(A) The name of the person performing the calibration;

(B) the date of the inspection and calibration;

(C) the method by which the calibration was performed;

(D) the name and model number of the device calibrated;

(E) a description of the vehicle in which the device is installed, including the license plate number, make, model, year, and color; and

(F) a statement by the service provider indicating whether there is any evidence of circumvention or tampering; and

(6) set each device so that a lockout will occur no later than seven days after any of the following events occurs:

(A) The 30-day calibration and service requirement has been reached;

(B) five or more violations are recorded;

(C) the emergency bypass procedure has been used;

(D) a hardware failure or evidence of tampering is recorded; or

(E) the events log has exceeded 90 percent of capacity.

(c) Each driver restricted to driving a vehicle equipped with an ignition interlock device shall keep a copy of the inspection and calibration records in the vehicle at all times. The manufacturer shall retain the original record for each current driver for one year after the device is removed. The manufacturer shall notify the division within seven days after a device has been serviced due to a lockout that occurred for any of the reasons specified in paragraph (b)(6)(D).

(d) The service provider shall enable each device's anticircumvention features when installing a device and keep the features enabled during the ignition interlock device period. Within two business days, a service provider shall notify the division of any evidence of tampering or circumvention. The evidence shall be preserved by the manufacturer or the manufacturer's representative until otherwise notified by the division.

(e) The division may conduct or have conducted independent checks on any of the approved ignition interlock devices to determine whether the devices are operating in a manner consistent with the manufacturer's specifications, manufacturer's certifications, or these regulations. The director may require the manufacturer or the manufacturer's representative to correct any abnormality found in the installation, calibration, maintenance checks, or usage records of the device. The manufacturer and the manufacturer's representative shall report in writing to the division within 30 days after receiving notification of any abnormality. In conducting these checks, the manufacturer shall install the device in a vehicle chosen by the division, and the manufacturer shall waive any costs to the division for the installation, calibration, or testing of the device.

(f) Each manufacturer shall ensure that its service providers meet all of the following requirements:

(1) Follow certified manufacturer's standards and specifications for service associated with the manufacturer's state-approved ignition interlock device;

(2) have the skills, equipment, and facilities necessary to comply with all of the certification and operational requirements specified in this article;

(3) comply with any division reporting requirements; and

(4) have a fixed site to provide each driver with access to an enclosed building that is open for business and has a separate waiting area.

(g) Each manufacturer shall provide the division with written evidence of that manufacturer's statewide network of service providers within seven days of a request by the division. Written evidence shall include lease and ownership documents associated with each manufacturer's service providers in the required state judicial districts.

(h) A manufacturer, manufacturer's representative, or service provider shall not compel any driver to travel out of Kansas to receive services.

(i) A manufacturer shall not permit its service provider to install any device in that service provider's vehicle for the purpose of satisfying K.S.A. 8-1014, and amendments thereto. (Authorized by and implementing K.S.A. 8-1016; effective Oct. 23, 1989; amended July 5, 2002; amended May 2, 2014; amended Jan. 15, 2016.)

92-56-5. Revocation of certification; penalties. (a) A certification for any ignition interlock device may be revoked for any of the following reasons:

(1) The device fails to comply with specifications or requirements provided by the division.

(2) The manufacturer, the manufacturer's representative, or the manufacturer's service provider has failed to make adequate provisions for the service of the device, as required by K.A.R. 92-56-2, K.A.R. 92-56-4, and K.A.R. 92-56-6.

(3) The manufacturer has failed to provide statewide service network coverage or 24-hour, seven-day service support, as required by K.S.A. 8-1016(a)(3) and amendments thereto and K.A.R. 92-56-2(a)(4) and (j).

(4) The manufacturer is no longer in the business of manufacturing ignition interlock devices.

(5) The manufacturer or the manufacturer's representative fails to comply with the reporting and testing requirements of K.A.R. 92-56-4.

(6) The manufacturer, the manufacturer's representative, or the manufacturer's service provider fails to comply with K.A.R. 92-56-7.

(7) The manufacturer, the manufacturer's representative, or the manufacturer's service provider fails to promote, implement, and sustain the indigent program required by K.A.R. 92-56-2(f).

(8) The manufacturer, the manufacturer's representative, or the manufacturer's service provider fails to have a fixed location in every state judicial district on and after January 1, 2015, as required by K.A.R. 92-56-2(j).

(9) The manufacturer, the manufacturer's representative, or the manufacturer's service provider compels a driver to travel out of state to receive services, in violation of K.A.R. 92-56-4(h).

(b) Each manufacturer's device certification shall be subject to suspension, revocation, nonrenewal, or cancellation if the division determines that the manufacturer or its representatives have violated any requirement in this article.

(c) In lieu of revoking a manufacturer's device certification, the director may require a manufacturer to terminate its relationship with a service provider. (Authorized by and implementing K.S.A. 8-1016; effective Oct. 23, 1989; amended July 5, 2002; amended May 2, 2014.)

92-56-6. Service provider; relocation and replacement. (a) Each manufacturer and manufacturer's representative shall be responsible for

providing uninterrupted service of the manufacturer's installed devices if one of the manufacturer's service providers moves out of the manufacturer's judicial district or goes out of business. If a service provider is moving or going out of business, the manufacturer or the manufacturer's representative shall indicate to the division whether or not the manufacturer will replace the service provider. The manufacturer and the manufacturer's representative shall notify the division electronically or in writing of all changes in the status of any service provider and any additions, deletions, or other changes to the manufacturer's complete listing of service providers, which shall include for each service provider the name, location, phone number, contact name, and hours of operation. Notification shall occur on a quarterly basis or more frequently if required by the division.

(b) If the manufacturer or manufacturer's representative replaces a service provider, the manufacturer and manufacturer's representative shall make all reasonable efforts to obtain driver records and data from the original service provider and provide the records and data to the new service provider. If the manufacturer or manufacturer's representative does not replace the service provider, the manufacturer and manufacturer's representative shall make all reasonable efforts to obtain driver records and data from the original service provider, maintain the records and data at the main business office of the manufacturer's representative, and provide the records and data to the division as required by this regulation.

(c) Each manufacturer and manufacturer's representative shall notify all affected drivers of the change of service provider or replacement of the device as soon as possible but not later than 30 days before the change of service provider or replacement will occur. (Authorized by and implementing K.S.A. 8-1016; effective May 2, 2014.)

92-56-7. Security; tampering prohibitions; conflict of interest. (a) Each manufacturer and each manufacturer's representative shall be responsible for ensuring that the manufacturer's service providers comply with all of the following security requirements:

(1) Only authorized employees of a service provider may observe the installation of a device.

(2) Reasonable security measures shall be taken to prevent the driver from observing the installation of a device and from obtaining access to installation materials.

(3) Service providers shall be prohibited from assisting with, in any manner, tampering or circumvention.

(4) Manufacturer's representatives and service providers shall not install or service a device on a vehicle owned or operated by the manufacturer's representative or service provider, or any of the service provider's employees, for division-required installations.

(b) Nothing in this regulation shall prohibit a manufacturer, manufacturer's representative, or service provider from installing a device in that entity's vehicles for demonstration and testing purposes. (Authorized by and implementing K.S.A. 8-1016; effective May 2, 2014.)

92-56-8. Device removal. Whenever a service provider removes a device, the following requirements shall apply:

(a) The only persons allowed to remove or observe the removal of the device shall be service providers or a manufacturer's representative associated with the manufacturer of that device.

(b) Adequate security measures shall be taken to ensure that unauthorized personnel cannot gain access to proprietary materials and to the files of drivers.

(c) Upon removal of the device, the service provider shall ensure that both of the following occur:

(1) The driver is provided with a report showing the removal of the device.

(2) The division is notified, in the form and format designated by the division.

(d) The service provider and the manufacturer shall restore the driver's vehicle to its original condition after removal of the device. (Authorized by and implementing K.S.A. 8-1016; effective May 2, 2014.)

92-56-9. Proof of installation. (a) If a driver is unable to provide proof of installation of the device to the division for the full restriction period required by K.S.A. 8-1014 and amendments thereto, the director shall extend the ignition interlock device restriction period until the driver provides the division with proof that the driver has had a device installed in a vehicle for a period that is equal to or greater than the initial ignition interlock device restriction period required by K.S.A. 8-1014 and K.S.A. 8-1015(d), and amendments thereto.

(b) Any device may deviate from the breath sample requirement by accepting a breath sample of less than 1.2 liters of air if the deviation is approved in advance by the division to address valid accommodation requests under the Americans with disabilities act of 1990. Each request for accommodation shall be submitted on a form provided by the

division. Each form shall require a certification by a licensed pulmonologist that the driver has a lung condition that will render the driver incapable of blowing a normal breath sample, 1.2 liters of air or more, into an ignition interlock device.

(c) If an accommodation that is requested pursuant to subsection (b) cannot be made for a driver that is a qualified individual with a disability as defined by 42 U.S.C. 12131(2), and amendments thereto, the director, upon the driver's request, may reinstate the driver's license after the initial ignition interlock device restriction period if the records maintained by the division have no indication of the occurrence of any of the following offenses during the entire initial ignition interlock device restriction period:

(1) Conviction pursuant to K.S.A. 8-1599, and amendments thereto;

(2) conviction pursuant to K.S.A. 41-727, and amendments thereto;

(3) conviction of any violation listed in K.S.A. 8-285(a), and amendments thereto;

(4) conviction of three or more moving traffic violations committed on separate occasions within a 12-month period; or

(5) revocation, suspension, cancellation, or withdrawal of the person's driving privileges due to an unrelated event.

If the driver that is requesting accommodation has any offenses during the initial ignition interlock device restriction period, the director shall not reinstate the driver's full driving privileges until the driver has no such offenses for the year before the driver's request for reinstatement of full driving privileges. This subsection shall not serve as a defense to allegations that the driver has violated K.S.A. 8-1017, and amendments thereto, during any required ignition interlock device restriction period.

(d) The director may waive the requirement for proof of ignition interlock device installation, upon a driver's request, if the director determines that all of the following conditions are met:

(1) The driver's ignition interlock device restriction period has been extended at least two years beyond the initial ignition interlock device restriction period due to the driver's failure to provide the division with proof of installation as required by subsection (a).

(2) The driver has not had an "alcohol or drug-related conviction" or "occurrence," as those terms are defined by K.S.A. 8-1013 and amendments thereto, a conviction pursuant to K.S.A. 8-1017 and amendments thereto, or a conviction of a violation of a law of another state that would constitute a violation similar to any violation specified in K.S.A. 8-1017 and amendments thereto, during the ignition interlock device restriction period.

(3) The driver has not had any violations specified in paragraphs (c)(1) through (c)(5) during the ignition interlock device restriction period.

(4) The driver has never held a driver's license issued by the state of Kansas.

(5) The driver provides the director with clear and compelling evidence that the driver does not reside in Kansas and did not reside in Kansas during the ignition interlock device restriction period. (Authorized by K.S.A. 8-1016; implementing K.S.A. 2013 Supp. 8-1015 and K.S.A. 8-1016; effective May 2, 2014.)

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 nonproctored 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 and workshop during each four-year period:

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

(2) the Kansas property tax law course or the Kansas property tax law update course; and

(3) the Kansas standards of mass appraisal workshop. (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 April 20, 2001; amended Dec. 20, 2013.)

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

Kansas 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 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 has been abolished.

Articles

94-2. *Proceedings Before The Court. (Not in active use)*
94-3. Economic Development Revenue Bonds.
94-5. Proceedings Before the Board.

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, information, 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 ADEQUACY 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 BOARD

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 dis-

covery 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 substantial 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 property, 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 governed 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 KCVA 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 surviving 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 support-

ing 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 dis-

trict 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 district 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 stor-

age 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 navigable 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 information 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 in approved subjects during the effective period of the technical representative's license;

(C) pays an attendance fee of $20 for the continuing education seminar; and

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

(2) Each technical representative license shall expire annually 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. 2008 Supp. 83-302 and K.S.A. 2008 Supp. 83-404; effective March 6, 1998; amended May 8, 2009.)

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 mass, volume, length, and other standards by the metrology laboratory at the rate of $50.00 per hour or fraction thereof;

(2) the testing and proving of a grain hopper scale and any weights, measures, and other related devices at the rate of $50.00 per hour or fraction thereof; and

(3) conducting or assisting with an evaluation for a national conference on weights and measures certificate of conformance at the rate of $95.00 per hour or fraction thereof.

(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. 2008 Supp. 83-214; implementing K.S.A. 2008 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.)

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

Kansas State Board of Healing Arts

Articles

100-11. Fees.
100-28a. Physician Assistants.
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 Technologies.

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..... $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
(c)(1) Conversion from inactive to active license $175.00
(2) Conversion from exempt to active license $175.00
(d)(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
(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 $30.00
(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) Duplicate license $15.00
(t) Written verification of license or permit $25.00

(Authorized by K.S.A. 65-2865; implementing K.S.A. 2008 Supp. 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.)

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-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-10. Supervision and direction; adequacy. (a) Direction and supervision of the physician assistant shall be considered to be adequate if the responsible physician meets all of the following requirements:

(1) Engages in the practice of medicine and surgery in Kansas;

(2) verifies that the physician assistant has a current license issued by the board;

(3) at least annually, reviews, evaluates, and determines 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, reviews any drug prescription protocol and determines if any modifications, restrictions, or terminations are required. Each modification, restriction, or termination shall be conveyed to the physician assistant and set forth in all copies of the drug prescription protocol required by K.A.R. 100-28a-9;

(5) reports 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 responsible physician shall report this information to the board within 10 days of receiving notice of the information;

(6) reports to the board the termination of responsibility by the responsible physician or any litigation alleging conduct by the physician assistant that would constitute grounds for disciplinary action under the physician assistant licensure act. The responsible physician shall report this information to the board within 10 days of receiving notice of the information;

(7) reviews and authenticates each patient record of treatment provided by a physician assistant in an emergency situation if the treatment exceeded the authority granted to the physician assistant by the responsible physician in the responsible physician request form. The responsible physician shall perform the review and authentication of the patient record within 48 hours of the treatment;

(8) provides for a designated physician to provide supervision and direction on each occasion when the responsible physician is temporarily absent, is unable to be immediately contacted by telecommunication, or is otherwise unavailable at a time the physician assistant could reasonably be expected to provide professional services; and

(9) delegates to the physician assistant only those acts that constitute the practice of medicine and surgery that the responsible physician believes or has reason to believe can be competently performed by the physician assistant, based upon the physician assistant's background, training, capabilities, skill, and experience.

(b) The responsible 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, in accordance with the provisions of the responsible physician request form.

(1) During the first 90 days of the responsible physician-physician assistant supervisory relationship, the responsible physician shall review and authenticate all medical records and charts of each patient evaluated or treated by the physician assistant within 14 days of the date the physician assistant evaluated or treated the patient. The responsible physician shall authenticate each record and chart 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 90 days of the responsible physician-physician assistant supervisory relationship, the responsible 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 and charts. The written review and evaluation shall be signed by the responsible physician and the physician assistant. This documentation shall be kept on file at each practice location and shall be made available to the board upon request.

(c) Except as otherwise required by K.A.R. 100-28a-13, a responsible physician shall not be required to cosign orders or prescriptions written in a patient's medical record or chart by a physician assistant to whom the responsible physician has delegated the performance of services constituting the practice of medicine and surgery. (Authorized by K.S.A. 2010 Supp. 65-28a03; implementing K.S.A. 65-28a02 and K.S.A. 65-28a09; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended May 15, 2009; amended March 30, 2012.)

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.)

100-29-16. 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) 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.

(e) 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.

(f) 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.

(g) 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 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.

(h) The physical therapy council shall review each request granted by the board pursuant to subsection (f) 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 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 council.

(i) Failure to meet the requirements of this regulation shall constitute unprofessional conduct. (Authorized by K.S.A. 2008 Supp. 65-2911; implementing K.S.A. 2008 Supp. 65-2912; effective July 14, 2006; amended July 17, 2009.)

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, 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. 100-54-2 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.)

100-54-8. 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 can-

celed 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.)

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

100-69-10. 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 a minimum of 20 hours of continuing education within the preceding year.

(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.

(e) One hour shall be 60 minutes of instruction or the equivalent.

(f) All continuing education shall meet the requirements of subsection (g).

(g) 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 a correspondence course designed for advanced study in a specific field of interest.

(2) Category B. Category B continuing education experiences shall include the following:

(A) Leadership activities. The number of hours granted for leadership activities shall be the following:

(i) 10 hours for a speaker at a clinical symposium where the primary audience is allied health care professionals;

(ii) five hours for a panelist at a clinical symposium where the primary audience is allied health care professionals;

(iii) 20 hours for participating in the United States Olympic committee's two-week volunteer training center; and

(iv) five hours for serving as an examiner or patient model for an examination approved by the board for athletic trainers.

(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 nonrefereed journal;

(ii) 15 hours to author an article in a refereed journal;

(iii) 10 hours to coauthor an article in a refereed journal;

(iv) 40 hours to author a published textbook;

(v) 20 hours to coauthor a published textbook;

(vi) 10 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. The number of hours assigned to category C continuing education experiences shall be the following:

(A) 10 hours for each credit hour for postcertification education; and

(B) classes in one of the six domains of athletic training:

(i) Prevention of athletic injuries;

(ii) recognition, evaluation, and assessment of athletic injuries;

(iii) treatment, rehabilitation, and reconditioning of athletic injuries;

(iv) health care administration;

(v) professional development and responsibility; and

(vi) immediate care of athletic injuries.

(4) Category D. Five hours shall be granted for satisfactory completion of CPR courses provided by the American red cross, American heart association, national safety council, and the international affiliates of each of these organizations.

(5) Category E. The number of hours granted upon receipt of documented evidence of satisfactory completion for category E 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 continuing education program audiotapes or other multimedia products related to specific athletic training and sports medicine topics.

(h) Continuing education requirements shall be obtained by participation in two or more of the categories listed in subsection (g).

(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 E activities;

(2) proof of participation in category B activities, which shall include a copy of any professional publication or any presentation, or a certification of leadership activity;

(3) receipt and personal verification of self-instruction from home study courses;

(4) a copy of each transcript or grade report for category C activities;

(5) a copy of the CPR card or certificate for a category D course; and

(6) personal verification of listening to or viewing continuing education program videotapes, audiotapes, or other multimedia products. (Authorized by K.S.A. 2007 Supp. 65-6905; implementing K.S.A. 2007 Supp. 65-6905 and 65-6909; effective Jan. 9, 1998; amended Nov. 15, 2002; amended Sept. 9, 2005; amended May 15, 2009.)

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 re-

cords 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.)

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.

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 specified in this subsection:

(1) Application for a license, $225;

(2) original license, $50;

(3) renewal, $200;

(4) duplicate license, $20;

(5) temporary license, $150;

(6) temporary license renewal fee, $150;

(7) specialty endorsement, $130;

(8) temporary, 15-day permit for an out-of-state professional, $200; or

(9) temporary, 15-day permit for an out-of-state professional extension, $200.

(b) Each applicant for a license renewal after its expiration date shall pay an additional fee of $200, as well as the renewal fee of $200.

(c) Fees paid to the board shall not be refundable. (Authorized by K.S.A. 2008 Supp. 74-5316, K.S.A. 2008 Supp. 74-5316a, K.S.A. 74-5319, K.S.A. 74-5349, and K.S.A. 2008 Supp. 74-7507; implementing K.S.A. 74-5310, as amended by 2009 HB 2162, sec. 2, K.S.A. 74-5310a, K.S.A. 2008 Supp. 74-5316, K.S.A. 2008 Supp. 74-5316a, K.S.A. 74-5319, K.S.A. 74-5320, and K.S.A. 74-5349; 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.)

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): $100.00;

(2) licensed master social worker (LMSW): $100.00;

(3) licensed specialist clinical social worker (LSCSW): $100.00;

(4) temporary license fee: $50.00;

(5) temporary, 15-day permit for an out-of-state professional: $200; and

(6) temporary, 15-day permit for an out-of-state professional 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): $100.00;

(2) licensed master social worker (LMSW): $150.00; and

(3) licensed specialist clinical social worker (LSCSW): $150.00.

(c) Each applicant for license renewal shall pay the applicable fee as follows:

(1) Licensed associate social worker (LASW): $100.00;

(2) licensed baccalaureate social worker (LBSW): $100.00;

(3) licensed master social worker (LMSW): $125.00; and

(4) licensed specialist clinical social worker (LSCSW): $150.00.

(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): $100.00;

(2) licensed baccalaureate social worker (LBSW): $100.00;

(3) licensed master social worker (LMSW): $125.00; and

(4) licensed specialist clinical social worker (LSCSW): $150.00.

(e) The fee for a replacement license shall be $20.00, and the fee for a replacement wallet card license shall be $2.00.

(f) Each provider of continuing education programs shall pay the applicable fee as follows:

(1) One-year, provisional approved provider application fee: $100.00;

(2) three-year approved provider renewal fee: $250.00; and

(3) single-program provider fee: $50.00.

(g) Fees paid to the board shall not be refundable. (Authorized by K.S.A. 2008 Supp. 65-6309a and K.S.A. 65-6314; implementing K.S.A. 2008 Supp. 65-6309a and 65-6313, K.S.A. 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.)

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 non-licensed 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 under 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.)

Article 3.—PROFESSIONAL COUNSELORS; FEES

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.)

102-3-9b. 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. l02-3-9a.

(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.)

Article 4.—MASTER'S LEVEL PSYCHOLOGISTS

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. l02-4-9a.

(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.)

Article 5.—LICENSING OF MARRIAGE AND FAMILY THERAPISTS

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.)

102-5-9a. 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.)

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; effec-

tive, 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:

(A) Before January 1, 2012: $50; and

(B) on and after January 1, 2012: $100;

(2) application for a clinical addiction counselor license:

(A) Before January 1, 2012: $50; and

(B) on and after January 1, 2012: $100;

(3) original addiction counselor license: $100;

(4) original clinical addiction counselor license:

(A) Before January 1, 2012: $100; and

(B) on and after January 1, 2012: $150;

(5) renewal of an addiction counselor license: $100;

(6) renewal of a clinical addiction counselor license: $150;

(7) replacement of an addiction counselor or a clinical addiction counselor wall certificate: $20;

(8) reinstatement of an addiction counselor license fee: $100;

(9) reinstatement of a clinical addiction counselor license fee: $150;

(10) temporary addiction counselor license fee: $100;

(11) temporary, 15-day permit for an out-of-state licensed clinical addiction counselor: $200; or

(12) temporary, 15-day permit for an out-of-state state licensed clinical addiction counselor extension: $200.

(b) Each applicant for license renewal after the date of its expiration shall pay, in addition to the renewal fee, the applicable late renewal penalty fee as follows:

(1) Licensed addiction counselor (LAC): $100; or

(2) licensed clinical addiction counselor (LCAC): $150.

(c) Fees paid to the board shall not be refundable. (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 L. 2010, ch. 45, §12; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

102-7-3. 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 paragraph (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 post-

graduate 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 tomeet 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 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) 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," fourth edition, text revision, copyrighted in 2000 and published by the American psychiatric association, is hereby adopted by reference. This manual shall be used for the diagnosis and treatment of substance use disorders. (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.)

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 nondrug 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 association (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 requirements 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 assigned counsel shall be compensated at the rate of $65 per hour.

(b) Contract counsel shall be compensated at the rate or rates specified in the contract between the board and the assigned 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.)

105-5-3. Appellate courts; compensation. (a) For 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.

(b) Compensation for attorneys' services in cases appealed to the Kansas supreme court or the court of appeals shall not exceed $1,300. However, additional compensation may be approved by the board. (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.)

105-5-6. Reasonable compensation; non-tried cases. (a) Each appointed and assigned 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 $1,300 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 $975 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 $650 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. 59-2965 and amendments thereto.

(d) Except as provided in K.A.R. 105-5-8, reasonable compensation shall not exceed $260 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. 2014 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.)

105-5-7. Reasonable compensation; tried cases. Each appointed and assigned 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) $1,950 for felonies classified as non-drug offenses of severity levels 5 through 10;

(b) $2,600 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) $6,500 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.)

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 does not appear on the sentencing range 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 $6,500 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.)

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. Defendant reimbursement of attorney fees. The document titled "attorney cost reimbursement tables: assigned counsel and public defender," as revised by the state board of indigents' defense services on June 2, 2015, is hereby adopted by reference. (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.)

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 Kansas Commission on Peace Officer's Standards and Training (Agency 106).

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 provide 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 Kansas Commission on Peace Officer's Standards and Training (Agency 106).

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
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 insurance 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
Board of Emergency Medical Services

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.
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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 emergency medical technician-intermediate, emergency medical technician-defibrillator, emergency medical technician-intermediate/defibrillator, advanced emergency medical technician, mobile intensive care 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 or 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 emergency medical technician-intermediate, 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 a first responder, emergency medical responder, or emergency medical technician.

(h) "CECBEMS" means the national continuing education coordinating board for emergency medical services.

(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 either an MICT 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) "EMT-D" means emergency medical technician-defibrillator.

(y) "EMT-I" means emergency medical technician-intermediate.

(z) "EMT-I/D" means emergency medical technician-intermediate/defibrillator.

(aa) "Field internship preceptor" means an individual who is responsible for the supervision and evaluation of students in field training with an ambulance service.

(bb) "Health care personnel," as used in these regulations, means a physician, physician assistant, licensed professional nurse, advanced practice registered nurse, or respiratory therapist.

(cc) "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.

(dd) "Incompetence," as applied to instructor-coordinators and training officers and as used in K.S.A. 65-6133 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.

(ee) "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.

(ff) "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) emergency medical technician-intermediate;

(3) emergency medical technician-defibrillator;

(4) mobile intensive care technician;

(5) physician;

(6) physician's assistant;

(7) advanced practice registered nurse;

(8) licensed professional nurse;

(9) advanced emergency medical technician; or

(10) paramedic.

(gg) "Interoperable" means that one system has the ability to communicate or work with another.

(hh) "Lab assistant" means an individual who is assisting a primary instructor in the instruction and evaluation of students in classroom laboratory training sessions.

(ii) "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.

(jj) "MICT" means mobile intensive care technician.

(kk) "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.

(ll) "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.

(mm) "Primary instructor" means an instructor-coordinator or training officer 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.

(nn) "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.

(oo) "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 type I ambulance service, type II ambulance service, or type IIA 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.

(pp) "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.

(qq) "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.

(rr) "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.

(ss) "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.

(tt) "Single-program provider approval" means that the sponsoring organization has been granted approval to offer a specific continuing education program.

(uu) "Site coordinator" means a person supervising, facilitating, or monitoring students, facilities, faculty, or equipment at a training site.

(vv) "Sponsoring organization" means any professional association, accredited postsecondary educational institution, permitted ambulance service, fire department, other officially organized public safety agency, hospital, corporation, or emergency medical services regional council approved by the executive director to offer initial courses of instruction and continuing education programs as either a long-term provider or a single-program provider.

(ww) "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, mentoring educator, trainer, or training officer information, which shall include the following:

(A) The name of the instructor, educator, mentoring educator, trainer, or training officer;

(B) the office hours of the instructor, educator, mentoring educator, trainer, or training officer or the hours during which the instructor, educator, mentoring educator, trainer, or training officer is available for consultation; and

(C) the electronic mail address of the instructor, educator, mentoring educator, trainer, or training officer.

(xx) "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.

(yy) "Teach" means instruct or coordinate training, or both.

(zz) "Training officer I" means a person who has been certified by the board to coordinate attendant continuing education training programs for accredited postsecondary educational institutions, permitted ambulance services, fire departments, other officially organized public safety agencies, hospitals, corporations, professional associations, or emergency medical services regional councils.

(aaa) "Trainer" means a person who is certified by the board to function as a continuing education training program coordinator, continuing education training program instructor, or both.

(bbb) "Training officer II" means a person who is certified by the board to function as a continuing education training program coordinator and as a primary instructor of first responder initial courses of instruction.

(ccc) "Training program accreditation" means the approval granted by the executive director to any of the following, to conduct EMS initial courses of instruction on a long-term basis: accredited postsecondary educational institutions, permitted ambulance services, fire departments, other officially organized public safety agencies, hospitals, or corporations.

(ddd) "Type I ambulance service" means a ground-based ambulance service that provides emergency response and advanced life support, as described in the authorized activities and scope of practice of EMT-I, EMT-D, EMT-I/D, AEMT, MICT, or paramedic as specified in K.S.A. 65-6119, K.S.A. 65-6120, and K.S.A. 65-6123, and amendments thereto. The ambulance service may provide critical care transport when staffed in accordance with the applicable definitions in this regulation.

(eee) "Type II ambulance service" means a ground-based ambulance service that provides emergency response and basic life support, as described in the authorized activities or scope of practice of EMT, first responder, and EMR in K.S.A. 65-6121 and K.S.A. 65-6144, and amendments thereto.

(fff) "Type IIA ambulance service" means a basic life support ambulance service that may provide advanced life support when staffed with one attendant and any of the following individuals functioning under ALS protocols or guidance as authorized by the applicable licensing authority:

(1) EMT-I;

(2) EMT-D;

(3) EMT-I/D;

(4) AEMT;

(5) MICT;

(6) paramedic;

(7) licensed professional nurse;

(8) physician's assistant;

(9) advanced practice registered nurse;

(10) respiratory therapist; or

(11) physician.

(ggg) "Type V ambulance service" means an air or ground-based ALS ambulance service that provides critical care transport, as defined in this regulation, and is not subject to public call. This type of ambulance service uses a "type V air ambulance" or "type V ground ambulance," or both.

(hhh) "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 requested 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.

(iii) "Unprofessional conduct," as applied to instructor-coordinators and training officers and as used in K.S.A. 65-6133 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 emergency medical service agency;

(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. 2011 Supp. 65-6110, K.S.A. 2011 Supp. 65-6111; implementing K.S.A. 2011 Supp. 65-6110, K.S.A. 2011 Supp. 65-6111, K.S.A. 2011 Supp. 65-6121, K.S.A. 2011 Supp. 65-6129, K.S.A. 65-6129b, K.S.A. 2011 Supp. 65-6129c, K.S.A. 2011 Supp. 65-6132, and K.S.A 2011 Supp. 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.)

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) be responsible for maintaining a current copy of each attendant's Kansas certification or renewal card;

(5) notify the board of each addition or removal of an attendant from the attendant roster within 90 days of the addition or removal;

(6) 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

(7) submit written notification of each change in the medical director within 30 days of the change. (Authorized by 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. 65-6132, as amended by L. 2011, ch. 114, sec. 89; implementing K.S.A. 65-6110, as amended by L. 2011, ch. 114, sec. 81, K.S.A. 2010 Supp. 65-6112 (v), as amended by L. 2011, ch. 114, sec. 82, and K.S.A. 65-6130; effective May 1, 1985; amended July 17, 1989; amended Jan. 31, 1997; amended Jan. 27, 2012.)

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 class of service for the permit requested as type I ambulance service, type II ambulance service, type IIA ambulance service, or type V ambulance service.

(2) An applicant may apply for only one ambulance license for each ambulance that the applicant seeks to operate. Each applicant shall indicate the class of ambulance for each license requested.

(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 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 ambu-

lance 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 type I, type II, type IIA, and type V ground ambulance service shall develop a list of supplies and equipment that is 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 services medical protocols in accordance with K.S.A. 65-6112 and amendments thereto. (Authorized by K.S.A. 2012 Supp. 65-6110 and 65-6111; implementing K.S.A. 2012 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.)

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 requesting 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. Classes of ambulance services. (a) Permits shall be issued for four classes of ambulance service. These classes shall be known as type I ambulance service, type IIA ambulance service, type II ambulance service, and type V ambulance service.

(b) Each type I ambulance service shall meet the following requirements:
(1) Provide advanced life support as defined in K.A.R. 109-1-1;
(2) have at least one ALS licensed ambulance that meets all requirements of K.A.R. 109-2-8. Each type I ambulance service may also operate BLS licensed ambulances and may provide critical care transport if staffed by an MICT or paramedic with specialized training;
(3) maintain a staff of currently certified attendants and health care personnel as defined in K.A.R. 109-1-1 that is adequate to meet all applicable requirements of K.A.R. 109-2-7; and
(4) 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.

(c) Each type II ambulance service shall meet the following requirements:
(1) Provide basic life support as defined in K.A.R. 109-1-1;
(2) have at least one licensed ambulance that meets all requirements of K.A.R. 109-2-8;
(3) maintain a staff of currently certified attendants and health care personnel that is adequate to meet all requirements of K.A.R. 109-2-7; and
(4) 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.

(d)(1) Any type IIA ambulance service operator may provide advanced life support 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, when appropriate personnel are on board according to K.A.R. 109-2-7 and are adequately equipped and when the treatment is approved by medical protocols or the attendants are in direct voice contact with a physician, physician assistant, advanced

practice registered nurse, or a licensed professional nurse who is authorized by a physician.

(2) Each operator of a type IIA ambulance service shall meet the following requirements:

(A) Provide basic life support or advanced life support, 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) maintain a staff of currently certified attendants and health care personnel adequate to meet all requirements of K.A.R. 109-2-7; 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.

(e) Each type V ambulance service shall meet the following requirements:

(1) Provide critical care transport as defined in K.A.R. 109-1-1;

(2) not be subject to public call as defined in K.A.R. 109-1-1;

(3) have a ground or air ambulance that meets all requirements of K.A.R. 109-2-8, K.A.R. 109-2-11, K.A.R. 109-2-12, or K.A.R. 109-2-13, as applicable;

(4) license only type V ambulances;

(5) license rotor-wing aircraft, fixed-wing aircraft, or ground-based vehicles as ambulances;

(6) have a staff that is adequate to provide the level of care described in paragraph (e)(1) and as described in K.A.R. 109-2-7; and

(7) have a method of receiving and relaying calls that ensures that any request for emergency response is immediately and properly relayed to the nearest type I ambulance service, type II ambulance service, or type IIA ambulance service. (Authorized by K.S.A. 65-6110, as amended by L. 2011, ch. 114, sec. 81; implementing K.S.A. 65-6110, as amended by L. 2011, ch. 114, sec. 81, K.S.A. 65-6128, and K.S.A. 2010 Supp. 65-6135, as amended by L. 2011, ch. 114, sec. 66; 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.)

109-2-7. Ground ambulance staffing. Each operator shall staff each licensed ground ambulance in accordance with the board's regulations.

(a) Each operator of a type I ambulance service shall staff each type I ambulance with at least two attendants during patient transport.

(1) At least one attendant shall be one of the following medical personnel:

(A) A paramedic;

(B) a physician;

(C) a licensed physician's assistant;

(D) a licensed professional nurse; or

(E) a licensed advanced practice registered nurse.

(2) The second attendant may be any of the following:

(A) An emergency medical technician;

(B) an emergency medical technician-intermediate;

(C) an emergency medical technician-defibrillator;

(D) an emergency medical technician-Intermediate/defibrillator;

(E) an advanced emergency medical technician;

(F) a licensed physician's assistant;

(G) a physician; or

(H) a licensed professional nurse.

(b) Each operator of a type II ambulance service shall staff each type II ambulance with at least two attendants. During patient transport, one of the following shall provide care to the patient in the patient compartment:

(1) An emergency medical technician;

(2) an emergency medical technician-intermediate;

(3) an emergency medical technician-defibrillator;

(4) an advanced emergency medical technician;

(5) a paramedic;

(6) a physician;

(7) a licensed physician's assistant;

(8) a licensed professional nurse; or

(9) a licensed advanced practice registered nurse.

(c) Each operator of a type IIA ambulance service shall staff each ambulance with at least two attendants. In addition, when appropriate staffing is available, ALS, as defined in K.A.R. 109-1-1, may be provided with the appropriate equipment and protocols. One of the following shall provide patient care appropriate to the patient's condition in the patient compartment during patient transport:

(1)(A) For BLS transports, as BLS is defined in K.A.R. 109-1-1, a care provider who is at or above the level of an emergency medical technician; and

(B) for ALS transports, a care provider who is at or above the level of an emergency medical technician-intermediate, emergency medical technician-defibrillator, emergency medical technician-I/D, or advanced emergency medical technician;

(2) a paramedic;

(3) a physician;

(4) a licensed physician's assistant;

(5) a licensed professional nurse; or

(6) a licensed advanced practice registered nurse.

(d)(1) Each operator of a type V ambulance service shall staff each type V ground ambulance with a driver and at least the following:

(A) A licensed professional nurse or a physician; and

(B) any of the following:

(i) A paramedic;

(ii) a physician;

(iii) a licensed physician's assistant;

(iv) a licensed professional nurse;

(v) a licensed advanced practice registered nurse; or

(vi) a licensed respiratory therapist.

Additional staffing shall be commensurate with the patient's care needs as determined by the service's medical adviser or as described in the service's medical protocols. The medical personnel shall remain in the patient compartment during patient transport.

(2) When providing critical care transports as defined in K.A.R. 109-1-1, at least one of the medical personnel on each type V ambulance shall be currently certified in advanced cardiac life support by a certifying entity approved by the board.

(3) When performing neonatal or pediatric missions, at least one of the medical personnel on each type V ambulance shall be currently certified in advanced life support for neonatal and pediatric patients by a certifying entity approved by the board.

(4) When responding to the scene of an accident or medical emergency, not including transports between medical facilities, at least one of the medical personnel on each type V ambulance shall be certified in one of the following areas:

(A) Advanced trauma life support (ATLS);

(B) transport professional advanced trauma course (TPATC);

(C) trauma nurse core course (TNCC);

(D) critical care emergency medical transport program (CCEMTP);

(E) pre-hospital trauma life support (PHTLS); or

(F) advanced care and trauma transport (ACTT). (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.)

109-2-8. Standards for type I, type II, type IIA, and type V ground ambulances and equipment. (a) Each ambulance shall meet the vehicle and equipment standards that are applicable to that class of ambulance.

(b) Each 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 be recessed and 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 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 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 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 ambulance initially licensed by the board before January 1, 1995 that is identified either by letters or a logo on both sides of the ambulance shall be exempt from the minimum size requirements in paragraphs (1) and (2) of this subsection.

(k) Each type I, type II, type llA, and type V 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 ambulance as follows:

(1) At least two annually inspected ABC fire extinguishers or comparable fire extinguishers with at least five pounds of dry chemical, which shall be secured. One fire extinguisher shall be easily accessible by the driver, and the other shall be easily accessible by the attendant;

(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; and

(11) a "no-smoking" sign posted in the patient compartment and the driver compartment.

(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, nonmetalic 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;

(3) a hand-operated, adult bag-mask ventilation unit, which shall be capable of use with the oxygen supply;

(4) a hand-operated, pediatric bag-mask ventilation unit, which shall be capable of use with oxygen supply;

(5) oxygen masks in adult and pediatric sizes;

(6) nasal cannulas in adult and pediatric sizes;

(7) oropharyngeal airways in adult, pediatric, and infant sizes;

(8) a blood pressure manometer with extra-large, adult, and pediatric cuffs and a stethoscope;

(9) an obstetric kit with contents as described in the ambulance service's medical protocol;

(10) sterile burn sheets;

(11) sterile large trauma dressings;

(12) assorted sterile gauze pads;

(13) occlusive gauze pads;

(14) rolled, self-adhering bandages;

(15) adhesive tape at least one inch wide;

(16) bandage shears;

(17) one liter of sterile water, currently dated or one liter of sterile saline, currently dated; and

(18) currently dated medications, as authorized by the scope of practice and protocols.

(o) The operator shall equip each ground ambulance with the following patient-handling and splinting equipment:

(1) If required by protocol, a long spinal-immobilization device, complete with accessories to immobilize a patient;

(2) a set of extremity splints including one arm and one leg splint, in adult and pediatric sizes;

(3) a set of rigid cervical collars in assorted adult and pediatric sizes;

(4) if required by protocol, foam wedges or other devices that serve to stabilize the head, neck, and back as one unit; and

(5) patient disaster tags.

(p) The operator shall equip each type I, type IIA, type II, and type V ground ambulance with the follow-

ing 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.

(q) The operator shall equip each type I ambulance, type IIA ambulance, and type V ambulance with the following:

(1) A monitor-defibrillator;

(2) a drug supply as listed in the ambulance service's medical protocols;

(3) intravenous administration sets according to medical protocol;

(4) intravenous solutions in plastic bags or plastic bottles as listed in the ambulance service's medical protocols;

(5) assorted syringes and needles necessary to meet the requirements of the medical protocols; and

(6) if authorized by protocols, endotracheal tubes and laryngoscope blades in adult, child, and infant sizes.

(r) 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. 2014 Supp. 65-6110; implementing K.S.A. 2014 Supp. 65-6110, K.S.A. 2014 Supp. 65-6112, 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.)

109-2-9. Variances. (a) A temporary variance from any or all portions of an identified regulation may be granted by the board to an applicant for no more than 30 days. For good cause shown, one extension of a variance may be granted by the board for no more than an additional 30 days.

(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 instructor-coordinator or training officer who 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 an instructor-coordinator or training officer. (Authorized by and implementing K.S.A. 2008 Supp. 65-6111; effective May 1, 1985; amended July 17, 1989; amended Jan. 31, 1997; amended July 10, 2009.)

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 type V air ambulances and equipment. (a) The operator shall ensure that the patient compartment 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 type V air ambulance with the following:

(1) Either two portable functioning flashlights or a flashlight and one spotlight;

(2) 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 fixed-wing 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 inflight distractions and interference.

(f) The operator shall equip each type V 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 type V 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 a type V ambulance service shall staff each type V 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) An MICT or 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 (ITLS-A);

(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. 2013 Supp. 65-6110; effective May 1, 1987; amended July 17, 1989; amended Jan. 31, 1997; amended Jan. 27, 2012; amended July 7, 2014.)

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, AEMT, or 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 patient-assisted and nonpatient-assisted medications according to the board's "emergency medical responder medication list," dated April 1, 2011, 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. 2010 Supp. 65-6111; implementing K.S.A. 2010 Supp. 65-6144, as amended by L. 2011, ch. 114, sec. 91; effective March 9, 2012.)

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) oxygen-demand valve;

(I) flow-restricted oxygen-powered ventilation device;

(J) bag valve mask with in-line small-volume nebulizer;

(K) carbon dioxide colormetric detection;

(L) capnometry; or

(M) suctioning a stoma;

(2) application of a pneumatic antishock garment only for use as a pelvic splint; and

(3) administration of patient-assisted and nonpatient-assisted medications according to the board's "emergency medical technician medication list," dated April 1, 2011, which is hereby adopted by reference. (Authorized by K.S.A. 2010 Supp. 65-6111; implementing K.S.A. 2010 Supp. 65-6121, as amended by L. 2011, ch. 114, sec. 84; effective March 9, 2012.)

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) One clock-hour of continuing education credit shall mean at least 50 minutes of instruction for which an individual meets the requirements in subsection (b).

(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 or by CECBEMS; 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) Programs presented by a sponsoring organization that has single-program provider approval or long-term provider approval, as defined in K.A.R. 109-1-1;

(B) initial courses of instruction provided by a sponsoring organization and approved by the board; and

(C) programs approved or accredited by the CECBEMS, 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, training officer, and instructor-coordinator 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. 2015 Supp. 65-6110 and 65-6111; implementing K.S.A. 2015 Supp. 65-6129, K.S.A. 65-6129b, and K.S.A. 2015 Supp. 65-6129c; 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.)

109-5-1a. Emergency medical responder (EMR) continuing education. (a) Each applicant for certification renewal as an EMR on or before January 31, 2017 shall have earned at least 16 clock-hours of board-approved continuing education during the initial certification period and during each biennial period thereafter.

(b) After January 31, 2017, each applicant for certification renewal as an EMR shall meet one of the following requirements:

(1) Have earned at least 20 clock-hours of board-approved continuing education during the initial certification period and during each biennial period thereafter to meet the requirements for the EMR specified in the "Kansas continuing education plan," except page one, as adopted by the board in April 2015, which is hereby adopted by reference; or

(2) have met both of the following requirements within the 11 months before the expiration of certification:

(A) Passed the board-approved EMR cognitive assessment; and

(B) 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. 2015 Supp. 65-6110 and 65-6111; implementing K.S.A. 2015 Supp. 65-6129; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Jan. 4, 2016.)

109-5-1b. Emergency medical technician (EMT) continuing education. (a) Each applicant for certification renewal as an EMT on or before January 31, 2017 shall have earned at least 28 clock-hours of board-approved continuing education during the initial certification period and during each biennial period thereafter.

(b) After January 31, 2017, each applicant for certification renewal as an EMT shall meet one of the following requirements:

(1) Have earned at least 40 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

(2) have met both of the following requirements within the 11 months before the expiration of certification:

(A) Passed the board-approved EMT cognitive assessment; and

(B) 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. 2015 Supp. 65-6110 and 65-6111; implementing K.S.A. 2015 Supp. 65-6129; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Jan. 4, 2016.)

109-5-1c. Emergency medical technician-intermediate, emergency medical technician-defibrillator, emergency medical technician-intermediate who is also certified as an emergency medical technician-defibrillator, and advanced emergency medical technician; continuing education. (a) Each applicant for certification renewal as an EMT-I shall have completed one of the board-approved transition courses, as specified in K.S.A. 65-6120 and amendments thereto.

(b) Each applicant for certification renewal as an EMT-D shall have completed one of the board-approved transition courses, as specified in K.S.A. 65-6123 and amendments thereto.

(c) Each applicant for certification renewal who is certified both as an EMT-I and as an EMT-D shall have completed one of the board-approved transition courses, as specified in K.S.A. 65-6120 and K.S.A. 65-6123 and amendments thereto.

(d) Each applicant for certification renewal as an AEMT on or before January 31, 2017 shall have earned at least 36 clock-hours of board-approved continuing education during the initial certification period and during each biennial period thereafter.

(e) Each applicant for certification renewal as an AEMT after January 31, 2017 shall meet one of the following requirements:

(1) Have earned at least 50 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 continued education plan," which is adopted by reference in K.A.R. 109-5-1a; or

(2) have met both of the following requirements within the 11 months before the expiration of certification:

(A) Passed the board-approved AEMT cognitive assessment; and

(B) 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. 2015 Supp. 65-6110, 65-6111, 65-6120, and 65-6123; implementing K.S.A. 2015 Supp. 65-6120, 65-6123, and 65-6129; effective March 9, 2012; amended Jan. 4, 2016.)

109-5-1d. Paramedic continuing education. (a) Each applicant for certification renewal as a paramedic shall have earned at least 60 clock-hours of board-approved continuing education during the preceding biennial period.

(b) After January 31, 2017, each applicant for certification renewal as a paramedic shall meet one of the following requirements:

(1) 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

(2) have met both of the following requirements within the 11 months before the expiration of certification:

(A) Passed the board-approved paramedic cognitive assessment; and

(B) 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. 2015 Supp. 65-6110 and 65-6111 and K.S.A. 65-6119; implementing K.S.A. 2015 Supp. 65-6119 and 65-6129; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Jan. 4, 2016.)

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. Training officer continuing education. Each applicant for certification renewal as a training officer shall provide documentation of the following:

(a) The applicant is certified as an attendant at or above the level of EMT or is licensed as a physician, physician's assistant, advance registered nurse practitioner, 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. 65-6129c, as amended by L. 2010, ch. 119, sec. 9; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011.)

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 desiring 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. The term "training program manager," as used in this regulation, shall mean one of the following:

(A) For permitted ambulance services, fire departments, other officially organized public safety agencies, corporations, and professional associations, an instructor-coordinator, educator, mentoring educator, trainer, or training officer, or

(B) for postsecondary educational institutions and hospitals, a healthcare provider whose experience in coordinating educational offerings has been documented by the sponsoring organization;

(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 instructor-coordinator, educator, mentoring educator, trainer, or training officer and that individual's qualifications 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; and

(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 desiring 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 instructor-coordinator, educator, mentoring educator, trainer, or training officer 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. 2011 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.)

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 continuing education course that was completed not more than 90 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 that includes the name of the attendant, the title of the course, the date and location of the course, the printed name and signature of the provider of the training, and the amount of continuing education credit awarded by the presenter or presenting organization; or

(B) an official college transcript;

(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 national standard curriculum of the federal department of transportation as adopted by reference in K.A.R. 109-10-1 or the Kansas education guidelines for EMR as adopted by reference in K.A.R. 109-10-1a, the Kansas education guidelines for the EMT as adopted by reference in K.A.R. 109-10-1b, the Kansas education guidelines for the AEMT as adopted by reference in K.A.R. 109-10-1c, or the Kansas education guidelines 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 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. 2011 Supp. 65-6111; implementing K.S.A. 2011 Supp. 65-6129; effective Oct. 31, 2008; amended Sept. 2, 2011; amended March 15, 2013.)

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. Emergency medical responder (EMR) transition course approval. (a) The transition course curriculum for the emergency medical responder shall be the document titled "EMR lesson plan" in the "emergency medical responder transition course," dated July 11, 2010, which is hereby adopted by reference.

(b) The train the trainer course curriculum for the EMR and EMT train the trainer courses shall be the "EMR/EMT train the trainer course," dated August 6, 2010, which is hereby adopted by reference.

(c) Each sponsoring organization shall submit a single-program continuing education application to the executive director to conduct, through teaching, coordinating, or both, a transition module or an entire transition course.

(d) Each sponsoring organization shall meet the following requirements:

(1) Ensure that the curriculum adheres to the requirements specified in subsection (a);

(2) submit a complete application for single-program approval to the executive director at least 30 days before the requested transition course. A complete application shall include the following:

(A) The signature of the instructor-coordinator or training officer who meets the requirements of K.A.R. 109-5-7d and is responsible for the coordination of the transition course;

(B) the signature of the identified sponsoring organization's medical advisor;

(C) a course schedule that includes the date and time of each transition course module or session, the title of each transition course topic, and the instructor for each transition course module or session; and

(D) assurance of use of the cognitive examination and psychomotor skills competency evaluation tools provided as part of the instructor manual for the transition course at the level of course to be taught;

(3) provide each student with a certificate of completion that includes the following:

(A) The name of the sponsoring organization;

(B) a statement that the transition course has been approved by the board;

(C) the title of the transition course module or entire transition course;

(D) the date and location of the transition course module or session;

(E) the amount of continuing education credit completed by the attendant for the transition course module or entire transition course;

(F) the board-assigned course identification number;

(G) the printed name and signature of the instructor-coordinator or training officer who meets the requirements specified in subsection (b) and is responsible for the coordination of the transition course; and

(H) the names of the primary instructor-coordinator (I-C), training officer (TO), and any person who provides teaching assistance including subject matter experts, lab assistants, clinical or field preceptors, and guest lecturers;

(4) provide a copy of all transition course rosters to the board office; and

(5) maintain the following records for at least five years:

(A) A copy of all documents required to be submitted with the application for single-program approval;

(B) a list of all persons used in the teaching of the course. The list shall include the name and credentials of the primary I-C, training officer, and any person who provides teaching assistance including subject matter experts, lab assistants, preceptors, and guest lecturers;

(C) student attendance records; and

(D) completed copies of student evaluations for each of the transition course modules or entire transition course.

(e) A subject matter expert may apply content taught by the subject matter expert during a transition course as content needed to complete the subject matter expert's transition course.

(f) Upon request by the executive director, each sponsoring organization shall provide a copy of all transition course records. (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.)

109-5-7b. Emergency medical technician (EMT) transition course approval. (a) The transition course curriculum for the emergency medical technician shall be the document titled "EMT lesson plan" in the "emergency medical technician transition course," dated July 11, 2010, which is hereby adopted by reference.

(b) The train the trainer course curriculum for EMR and EMT train the trainer courses shall be the "EMR/EMT train the trainer course" adopted by reference in K.A.R. 109-5-7a.

(c) Each sponsoring organization shall submit a single-program continuing education application to the executive director to conduct, through teaching, coordinating, or both, a transition module or an entire transition course.

(d) Each sponsoring organization shall meet the following requirements:

(1) Ensure that the curriculum meets the requirements specified in subsection (a);

(2) submit a complete application for single-program approval to the executive director at least 30 days before the requested transition course. A complete application shall include the following:

(A) The signature of the instructor-coordinator or training officer who meets the requirements of K.A.R. 109-5-7d and is responsible for the coordination of the transition course;

(B) the signature of the identified sponsoring organization's medical advisor;

(C) a course schedule that includes the date and time of each transition course module or session, the title of each transition course topic, and the instructor for each transition course module or session; and

(D) assurance of use of the cognitive examination and psychomotor skills competency evaluation tools provided as part of the instructor manual for the transition course at the level of course to be taught;

(3) provide each student with a certificate of completion that includes the following:

(A) The name of the sponsoring organization;

(B) a statement that the transition course has been approved by the board;

(C) the title of the transition course module or entire transition course;

(D) the date and location of the transition course module or session;

(E) the amount of continuing education credit completed by the attendant for the transition course module or entire transition course;

(F) the board-assigned course identification number;

(G) the printed name and signature of the instructor-coordinator or training officer who meets the requirements specified in subsection (b) and is responsible for the coordination of the transition course; and

(H) the names of the primary instructor-coordinator (I-C), training officer (TO), and any person who provides teaching assistance including

subject matter experts, lab assistants, clinical or field preceptors, and guest lecturers;

(4) provide a copy of all transition course rosters to the board office; and

(5) maintain the following records for at least five years:

(A) A copy of all documents required to be submitted with the application for single-program approval;

(B) a list of all persons used in the teaching of the course. The list shall include the names and credentials of the primary I-C, training officer, and any person who provides teaching assistance including subject matter experts, lab assistants, preceptors, and guest lecturers;

(C) student attendance records; and

(D) completed copies of student evaluations for each of the transition course modules or entire transition course.

(e) A subject matter expert may apply content taught by the subject matter expert during a transition course as content needed to complete the subject matter expert's transition course.

(f) Upon request by the executive director, each sponsoring organization shall provide a copy of all transition course records. (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.)

109-5-7c. Advanced emergency medical technician transition course approval. (a) The transition course curriculum for the advanced emergency medical technician shall be pages 5 through 173 of the document titled "AEMT lesson plan," dated May 28, 2011, in the "AEMT instructor manual," published by the Kansas board of emergency medical services, excluding the "note" and the section titled "suggested student readings and reference material" on page 5 and any citations to these reference materials. The specified portion of the "AEMT lesson plan" is hereby adopted by reference.

(b) Each instructor-coordinator or training officer desiring to teach AEMT transition courses shall have completed the following:

(1) The "EMR/EMT train the trainer course" as adopted by reference in K.A.R. 109-5-7a; and

(2) the "AEMT train the trainer course," dated August 6, 2010 and developed by the Friesen group of North Newton, Kansas, which is hereby adopted by reference.

(c) Each sponsoring organization shall submit to the executive director for approval a single-program continuing education application to conduct, through teaching or coordinating, or both, a transition module or an entire transition course.

(d) Each sponsoring organization shall meet the following requirements:

(1) Ensure that the curriculum meets the requirements specified in subsection (a);

(2) submit a complete application for single-program approval to the executive director at least 30 days before the requested transition course. A complete application shall include the following:

(A) The signature of the instructor-coordinator or training officer who meets the requirements of subsection (b) and is responsible for the coordination of the transition course;

(B) the signature of the identified sponsoring organization's medical advisor;

(C) a course schedule that includes the date and time of each transition course module or session, the title of each transition course topic, and the instructor for each transition course module or session; and

(D) assurance of use of the cognitive examination and psychomotor skills competency evaluation tools provided as part of the instructor manual for the transition course at the level of course to be taught;

(3) provide each student with a certificate of completion that includes the following:

(A) The name of the sponsoring organization;

(B) a statement that the transition course has been approved by the board;

(C) the title of the transition course module or entire transition course;

(D) the date and location of the transition course module or session;

(E) the amount of continuing education credit completed by the attendant for the transition course module or entire transition course;

(F) the board-assigned course identification number;

(G) the printed name and signature of the instructor-coordinator or training officer who meets the requirements specified in subsection (b) and is responsible for the coordination of the transition course; and

(H) the names of the primary instructor-coordinator (I-C), training officer (TO), and any person who provides teaching assistance including subject matter experts, lab assistants, clinical or field preceptors, and guest lecturers;

(4) provide a copy of all transition course rosters to the board office; and

(5) maintain the following records for at least five years:

(A) A copy of all documents required to be submitted with the application for single-program approval;

(B) a list of all persons used in the teaching of the course. The list shall include the name and credentials of the primary I-C, training officer, and any person who provides teaching assistance including subject matter experts, lab assistants, preceptors, and guest lecturers;

(C) student attendance records; and

(D) completed copies of student evaluations for each of the transition course modules or entire transition course.

(e) A subject matter expert may apply content taught by the subject matter expert during a transition course as content needed to complete the subject matter expert's transition course. For the purpose of this regulation, "subject matter expert" shall mean an individual who understands, articulates, and implements the best practices of emergency medical services.

(f) Upon request by the executive director, each sponsoring organization shall provide a copy of all transition course records. (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.)

109-5-7d. EMR and EMT train the trainer transition course approval. (a) The transition course curriculum for the EMR and EMT train the trainer shall be the "EMR/EMT train the trainer course" adopted by reference in K.A.R. 109-5-7a.

(b) Training officers and instructor-coordinators may coordinate transition courses after completion of the emergency medical responder and emergency medical technician transition train the trainer course.

(c) Upon request by the executive director, a training officer or instructor-coordinator shall provide a copy of all transition course records. (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.)

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, training officer, 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, an instructor-coordinator who is also an attendant, and a training officer 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. 109-5-1.

(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 of 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. 65-6111; implementing K.S.A. 2008 Supp. 65-6129, K.S.A. 65-6129b, and K.S.A. 65-6129c; 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.)

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, training officer, and ambulance service application fees shall be nonrefundable.

(b) First responder and 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, EMT-I, EMT-D, EMT-I who is also certified as an EMT-D, 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 and training officer 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) Type I, II, II-A, and V 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

(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, training officer, or I-C shall not be accepted, unless the fee amount is correct. (Authorized by K.S.A. 65-6110, as amended by L. 2011, ch. 114, sec. 81, K.S.A. 2010 Supp. 65-6111, K.S.A. 65-6127, K.S.A. 2010 Supp. 65-6129, as amended by L. 2011, ch. 114, sec. 88, K.S.A. 65-6129b, and K.S.A. 2010 Supp. 65-6129c, as amended by L. 2011, ch. 114, sec. 65; implementing K.S.A. 2010 Supp. 65-6111, K.S.A. 65-6127, K.S.A. 65-6128, K.S.A. 2010 Supp. 65-6129, as amended by L. 2011, ch. 114, sec. 88, K.S.A. 65-6129b, and K.S.A. 2010 Supp. 65-6129c, as amended by L. 2011, ch. 114, sec. 65; 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.)

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) The cognitive certification examinations for training officer I and training officer II approval shall be the final cognitive examinations developed by the sponsoring organization and approved by the board.

(d) Any instructor-coordinator, training officer I, or training officer II 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.

(e) 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 vendor contracted by the board, using criteria approved by the board.

(f) Each advanced emergency medical technician or paramedic applicant shall successfully complete the national registry of emergency medical technicians' cognitive examination and psychomotor skills evaluation.

(g) 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.

(h) 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 psychomotor skills examination within a 12-month period.

(i) 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. 2015 Supp. 65-6110 and 65-6111; implementing K.S.A. 2015 Supp. 65-6111, K.S.A. 2015 Supp. 65-6129, K.S.A. 65-6129b, and K.S.A. 2015 Supp. 65-6129c; 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.)

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) The following scheduling requirements shall apply to the cognitive knowledge examination:

(1) Emergency medical technician-intermediates, sponsoring organizations, and candidates shall schedule with the state-contracted vendor for these examinations.

(2) For first responder, emergency medical responder, emergency medical technician, advanced emergency medical technican, mobile intensive care 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.

(3) 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 or candidate shall schedule the examination for first responder, emergency medical responder, emergency medical technician, and emergency medical technician-intermediate with the state-contracted vendor at least 30 days in advance of the desired examination date.

(2) Each sponsoring organization or candidate shall schedule the examination for advanced emergency medical technician, mobile intensive care 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 examination process during the initial examination shall schedule reexamination as follows:

(1) Cognitive knowledge examination reexaminations.

(A) For emergency medical technician-intermediate, the candidate shall schedule the examination with the state-contracted vendor.

(B) For first responder, emergency medical responder, emergency medical technician, advanced emergency medical technician, mobile intensive care technician, and paramedic, the candidate shall schedule the examination with the national registry of emergency medical technicians.

(2) Psychomotor skills examination reexaminations.

(A) For first responder, emergency medical responder, emergency medical technician, and emergency medical technician-intermediate, the candidate shall schedule the examination with the state-contracted vendor according to guidelines available at the board's web site.

(B) For the psychomotor skills examination for advanced emergency medical technician, mobile intensive care technician, or paramedic, the candidate shall schedule the examination with the national registry of emergency medical technicians. (Authorized by and implementing K.S.A. 2010 Supp. 65-6111; effective March 2, 2012.)

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 for initial training as an I-C shall apply to the executive director using forms approved by the board. Only a complete application shall be accepted. A complete application shall include the following documentation:

(1) Proof that the applicant is currently certified or licensed and the applicant has been certified or licensed for at least two years as any of the following:

(A) An attendant;

(B) a physician; or

(C) a professional nurse;

(2) proof that the applicant has at least one year of field experience with an ambulance service;

(3) a letter from a certified I-C verifying the IC's commitment to evaluate the applicant on the competencies of the assistant teaching experience defined in K.A.R. 109-9-1; and

(4) proof that the applicant has met the following requirements:

(A) Has current approval as a cardiopulmonary resuscitation instructor at the professional rescuer level. This approval shall be by the American heart association, the American red cross, or the national safety council;

(B) has instructed at least 15 hours of material; and

(C) possesses a current teaching certificate granted by the Kansas state board of education or is currently certified as a training officer II.

(b) If an applicant does not meet the requirement of paragraph (a)(4)(C), the applicant may satisfy the requirement by establishing that the applicant possesses both of the following:

(1) Authorization by any state or territory of the United States to be a primary instructor of EMS initial course of instruction at or above the level of EMT; and

(2) (A) A baccalaureate, master's, or doctorate in education conferred by an accredited postsecondary education institution;

(B) certification as a fire service instructor by the national board on fire service professional qualifications or the international fire service accreditation from the national fire academy; or

(C) certification by any United States military organization verifying 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," as identified in K.A.R. 109-10-1.

(c) Each applicant who meets the requirements in subsection (a) and, if applicable, subsection (b) shall successfully complete an evaluation of knowledge and skills as follows:

(1) A written medical knowledge examination at the EMT level; and

(2) a practical skills examination at the EMT level.

(d) An applicant meeting the requirements in subsection (a) and, if applicable, subsection (b) may be approved by the executive director for training based upon the following criteria:

(1) A score of at least 80% on the written medical knowledge examination described in paragraph (c)(1); and

(2) a passing score for each practical skill station described in paragraph (c)(2). (Authorized by K.S.A. 65-6110, K.S.A. 2010 Supp. 65-6111; implementing K.S.A. 65-6110, K.S.A. 2010 Supp. 65-6111, and K.S.A. 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.)

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 (EMR)," dated July 2010, is hereby adopted by reference to implement the new scope of practice 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. 65-6110 and K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing 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.)

109-10-1b. Approved emergency medical technician education standards. (a) The document titled "Kansas emergency medical services education standards: emergency medical technician (EMT)," dated July 2010, is hereby adopted by reference to implement the new scope of practice pursuant to K.S.A. 65-6121, and amendments thereto, for emergency medical technician initial courses of instruction under the new emergency medical technician scope of practice.

(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. 65-6110 and K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing K.S.A. 65-6121, as amended by L. 2010, ch. 119, sec. 5; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011.)

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 to implement the new scope of practice 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. 2014 Supp. 65-6110 and 65-6111; implementing K.S.A. 2014 Supp. 65-6111; effective March 2, 2012; amended May 1, 2015.)

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 to implement the new scope of practice 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. 65-6110 and K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing K.S.A. 2009 Supp. 65-6119, as amended by L. 2010, ch. 119, sec. 3; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011.)

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. Approved training officer I education standards. (a) The document titled "Kansas board of EMS training officer I: initial course standards," dated January 3, 2011, is hereby adopted by reference for training officer I 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. 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.)

109-10-1g. Approved training officer II education standards. (a) The document titled "Kansas board of EMS training officer II: initial course standards," dated August 2010, is hereby adopted by reference for training officer II 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. 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.)

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) Instructor-coordinators and training officers II 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) Instructor-coordinators and training officers II who 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 instructor-coordinator or training officer II 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. 2010 Supp. 65-6111; effective Jan. 31, 1994; amended Sept. 2, 2011.)

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 instructor-coordinator or training officer 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 instructor-coordinator or training officer 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 executive 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. 2014 Supp. 65-6110 and 65-6111; effective Feb. 12, 2010; amended May 1, 2015.)

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) student prerequisites, if any, for admission into the course;

(C) instructional and any other materials required to be purchased by the student;

(D) student attendance policies;

(E) student requirements for successful course completion;

(F) a description of the clinical and field training requirements, if applicable;

(G) student discipline policies; and

(H) 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;

(F) equipment use policies; and

(G) a statement that the course provides a sufficient number of lab instructors to maintain a 6:1 student-to-instructor ratio during lab sessions;

(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 from the initial course of instruction medical advisor, 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 regulations of the Kansas board of EMS; and

(2) 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 an application for certification form from each student within 20 days of the date of the first class session.

(f) Each sponsoring organization shall ensure that the sponsoring organization's instructor-coordinators and training officers 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, 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. 2009 Supp. 65-6129, as amended by L. 2010, ch. 119, sec. 8; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011.)

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 pursuant to K.S.A. 65-6119, and amendments thereto, 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)-(e);

(2) provide letters from the director of each ambulance service that will provide field training to the students and the administrator or the administrator's designee of each hospital in which the clinical training is provided, indicating their commitment to provide the support as defined in the curriculum;

(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 verification that the sponsoring organization has applied for accreditation to the committee on accreditation of allied health education programs' joint review committee for emergency medical technician-paramedic; or

(B) provide evidence of accreditation from the committee on accreditation of allied health education programs' joint review committee for emergency medical technician-paramedic before the commencement of the third course.

(c) Each application shall be received in the board office not later than 30 calendar days before the first scheduled class. Only a complete application packet shall be processed.

(d) Each approved paramedic course shall meet the following requirements:

(1) Meet or exceed the curriculum requirements in K.A.R. 109-10-1d;

(2) consist of at least 1,200 hours of training, including at least the following:

(A) 400 hours of didactic and psychomotor skills laboratory instruction by qualified instructors;

(B) 232 hours of clinical training at a hospital by qualified instructors; and

(C) 400 hours of field internship training with an ambulance service operating with a valid permit and under the direct supervision of a paramedic; and

(3) ensure, and establish in writing, how each student is provided with experiences, which shall include at least the following:

(A) The performance of 20 successful venipunctures, of which at least 10 shall be for the purpose of initiating intravenous infusions;

(B) successful performance of three endotracheal intubations on live patients, with written verification by a physician or licensed registered nurse anesthetist competent in the procedure that the student is competent in performing the procedure;

(C) successful performance of five intraosseous infusions;

(D) administration of one nebulized breathing treatment during clinical training;

(E) performance of a complete patient assessment on 50 patients, of which at least 25 shall be accomplished during field internship training;

(F) participation in, as an observer or as an assistant, three vaginal-delivered childbirths during clinical training;

(G) in increasing positions of responsibility, being a part of a service crew responding to 30 ambulance calls for an ambulance service operating with a valid permit;

(H) performance of 10 intramuscular or subcutaneous injections;

(I) completion of 30 patient charts or patient care reports, or both; and

(J) performance of monitoring and interpreting the electrocardiogram on 30 patients during clinical training and field internship training.

(e) The primary instructor shall provide the executive director with an application for certification form from each student within 20 days after the first class session.

(f) Any approved class may be monitored by the executive director.

(g) Each sponsoring organization shall ensure that the instructor-coordinator provides any course documentation requested by the executive director.

(h) 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. 2014 Supp. 65-6110 and 65-6111; implementing K.S.A. 2014 Supp. 65-6110, 65-6111, and 65-6119 and K.S.A. 65-6129a; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended May 1, 2015.)

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. Training officers. (a) A training officer I may coordinate and teach continuing education for attendants. A training officer II may coordinate and teach continuing education for attendants and be the primary instructor and coordinate first responder and emergency medical responder initial courses of instruction.

(b) Each initial applicant for training officer I certification shall apply to the board using forms provided by the executive director and shall meet the following requirements:

(1) Validate certification at or above the level of EMT or licensure as a physician, physician assistant, advanced practice registered nurse, or professional nurse;

(2) validate appointment by one of the following persons:

(A) The chief executive officer of an ambulance service, a hospital, a fire department, or a municipal rescue squad; or

(B) the administrator for an educational institution or corporation that conducts EMS training programs; and

(3) provide evidence of successful completion of a board-approved training officer initial course of instruction at the appropriate training officer level.

(c) In addition to meeting the requirements listed in subsection (b), an initial applicant for training officer II certification shall establish current board approval as a training officer I.

(d) Training officer certification may be renewed upon meeting all of the following conditions:

(1) Submitting an application using forms approved by the board;

(2) providing verification of current certification at or above the level of EMT or licensure as a physician, physician assistant, advanced practice registered nurse, or professional nurse;

(3) providing verification of appointment by one of the following persons:

(A) The chief executive officer of an ambulance service, a hospital, a fire department, or a municipal rescue squad; or

(B) the administrator for an educational institution or organization that conducts EMS training programs; and

(4) providing proof of attendance at an educator conference approved by the board and proof of having instructed 20 hours of training applicable to EMS values, skills, knowledge, and practice during the biennial period immediately preceding renewal.

(e) Each training officer shall maintain, for at least three years, copies of the attendance rosters for courses that the training officer conducted or coordinated and shall submit these records to the board upon request. (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.)

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 an-

other 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
Kansas Department of Commerce

Editor's Note:
Effective July 1, 2003, Executive Reorganization Order No. 30 separated the Kansas 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 feasibility, 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 or-

ders 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 middle 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.
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112-107. Electronic Gaming Machines.
112-108. Table Games.
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112-111. Involuntary Exclusions.
112-112. Responsible Gambling.
112-113. Sanctions.
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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 implementing 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 director 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 investigation 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 nonrefundable. (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, payoffs 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 approved 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 nongaming 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 repute 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 uncertified 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, acces-

sories, 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 $100,000 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 the 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. 2010 Supp. 74-8751 and 74-8772; effective Aug. 14, 2009; amended Dec. 9, 2011.)

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 contractor 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 complimentaries, authorizing the complimentaries, or determining the amount of complimentaries;

(8) analyzing facility manager operations data and making recommendations to key personnel of the facility manager relating to facility manager marketing, complimentaries, 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 enforcement 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.)

112-103-13. Reserved.

112-103-14. Reserved.

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 any 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 adjustments 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 complimentaries;

(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 accounting 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 outside 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 prenumbered, 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 verification 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 compliance 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 ma-

chine 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 individually 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 documentation 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 reimpressment 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;

(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 firearms shall be permitted within a gaming facility except for the following:

(1) Kansas racing and gaming commission enforcement agents;

(2) law enforcement officers who are on duty and within their jurisdiction; or

(3) trained and certified guards employed by an armored car service while on duty and working for a licensed non-gaming supplier company. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

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 parimutuel 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 certification 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. (Au-

thorized 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 compliance 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.)

112-107-4. Reserved.

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 depictions drawn to a scale of ⅛ 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.)

112-107-8. Reserved.

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.)

112-107-12. Reserved.

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 implement 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. (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.)

112-107-16. 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 department, 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 adjustment 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 system 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 re-

ceived, 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 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 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 backup 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, including 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 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 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 interconnected 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 required 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 (l)(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 computer 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 controls 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 potentially re-

quired 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(l) 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 system-wide 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 subassembly 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.)

112-107-33. Reserved.

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 consistent 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 modify, 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, carry-

ing 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 prevents 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 fa-

cility 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 discov-

ery 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 avail-

able 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 ¼ of an inch in diameter through the center of each card in the deck or by cutting at least ¼ 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 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. 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, en-

suring 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 security 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 controls 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 in-

ventory 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, toke 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 reports 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 commission. (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 semiannual 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 keylocks, 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 nonvolatile 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 safeguard 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.)

112-114-7. Reserved.

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 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. (Au-

thorized 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.)

112-114-13. Reserved.

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, Parks and Tourism

Editor's Note:

The Kansas Department of Wildlife and Parks was renamed the Kansas Department of Wildlife, Parks and Tourism (KDWPT) by Executive Reorganization Order (ERO) No. 36. ERO No. 36 also transferred the powers, duties, and functions of the Division of Travel and Tourism Development within the Department of Commerce to the KDWPT. See L. 2012, Ch. 47.

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. Article 25 in Agency 115 fixes the seasons and establishes creel, size and possession limits for fish, and bag limits and possession limits for game birds, game and fur-bearing animals as authorized by K.S.A. 77-415. Copies of the regulations may be obtained from the Department's website, www.kdwpt.state.ks.us or by contacting the Department: Secretary of Wildlife, Parks and Tourism, 1020 S. Kansas Ave, Suite 200, Topeka, KS 66612.

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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 natural, 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 release it to the waters 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 carp, drum, white amur, 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. 2014 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.)

Article 2.—FEES, REGISTRATIONS AND OTHER CHARGES

115-2-1. Amount of fees. The following fees shall be in effect for the following licenses, permits, and other issues of the department: (a) Hunting licenses and permits.

Resident hunting license $25.00
Resident hunting license (valid through calendar year of purchase and 4 additional calendar years).....100.00
Resident senior hunting license (annual 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.....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: 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..... 25.00
Resident fishing license (valid through calendar year of purchase and 4 additional calendar years).....100.00
Resident senior fishing license (annual 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 50.00
Resident calendar day fishing license 6.00
Nonresident calendar day fishing license....12.00
Three-pole permit....6.00
Tournament bass pass....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 12.00

(c) Combination hunting and fishing licenses and permits.

Resident combination hunting and fishing license....45.00
Resident combination hunting and fishing license
(must be purchased before February 1 of year
of use)....40.00
Resident combination hunting and fishing license
(valid through calendar year of purchase and 4
additional calendar years) 180.00
Resident senior combination hunting and fishing
license (annual purchase, 65 years of age through
74 years of age)....22.50
Resident combination youth hunting and fishing
license (onetime 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....135.00

(d) Furharvester licenses.

Resident furharvester license 25.00
Resident junior furharvester license....12.50
Lifetime furharvester license 500.00
or eight quarterly installment payments of 67.50
Nonresident furharvester license....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....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....20.00
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 10.00
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.

This regulation shall be effective on and after January 1, 2016. (Authorized by K.S.A. 2014 Supp. 32-807 and K.S.A. 2014 Supp. 32-988; implementing K.S.A. 2014 Supp. 32-807, K.S.A. 2014 Supp. 32-988, and K.S.A. 2014 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.)

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

(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, 2013. (Authorized by and implementing K.S.A. 8-134, as amended by L. 2012, Ch. 164, Sec. 1, K.S.A. 32-807, as amended by L. 2012, Ch. 47, Sec. 25, and K.S.A. 32-901, as amended by L. 2012, Ch. 164, Sec. 2; 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.)

115-2-3. Camping, utility, and other fees. (a) Each overnight camping permit shall be valid only for the state park for which it 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 it 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 it 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..... $200.00
Overnight camping permit 7.00
14-night camping permit..... 99.00
Prime camping area permit 2.00

Camping—per camping unit (October 1 through March 31):

Annual camping permit..... 150.00
Overnight camping permit 6.00
14-night camping permit..... 85.00
Overflow primitive camping permit, per night 5.00

Recreational vehicle seasonal camping permit, except for 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 270.50
Two utilities 330.50
Three utilities 390.50

Recreational vehicle seasonal camping permit for 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 310.50
Two utilities 370.50
Three utilities 430.50
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
Duplicate permit..... 10.00
Special event permit negotiated based on event
type, required services, and lost revenue—
maximum 200.00

This regulation shall be effective on and after January 1, 2015. (Authorized by and implementing K.S.A. 2013 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.)

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.)

Article 4.—BIG GAME

115-4-2. Big game and wild turkey; general provisions. (a) Possession.

(1) Each 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.

(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 or the head of the big game animal shall remain naturally attached to 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 has obtained a transportation confirmation number after electronically registering the permittee's deer 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 deer 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 deer, 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, unless authorized by K.A.R. 115-18-15. 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 attach the carcass tag to the carcass immediately after the kill and before leaving the site of the kill.

(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. 2013 Supp. 32-807, K.S.A. 2013 Supp. 32-937, and K.S.A. 2013 Supp. 32-969; effective June 1, 2001; amended April 22, 2005; amended April 16, 2010; amended April 20, 2012; amended July 18, 2014.)

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 shall have a mechanical device that locks the bow at full or partial draw.

(B) 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.

(C) 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 and locking draws as authorized under K.A.R. 115-18-7.

(3) 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 hard-cast solid lead, conical lead, or saboted 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 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 handheld 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. 2013 Supp. 32-807 and K.S.A. 2013 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. 19, 2014.)

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 shall have a mechanical device that locks the bow at full or partial draw.

(B) 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.

(C) 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 and locking draws as authorized under K.A.R. 115-18-7.

(3) 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 imple-

menting K.S.A. 32-807, as amended by L. 2012, Ch. 47, Sec. 25, and K.S.A. 2011 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.)

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 hunting 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 federal highway US-56, then west on federal highway US-56 to its junction with South Topeka Boulevard, then north on South Topeka Boulevard to its junction with Shawnee County SW 93 Road, then west on Shawnee County SW 93 Road 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 Carlson-Rossville Road, then north on Carlson-Rossville Road to its junction with federal highway US-24, then southeast on federal highway US-24 to its junction with Shawnee County NW Humphrey Road, then north on Shawnee County NW Humphrey Road to its junction with Shawnee County NW 46 Street, then east on Shawnee County NW 46 Street to its junction with Shawnee County NW Landon Road, then north on Shawnee County NW Landon Road to its junction with Shawnee County NW 62 Street, then east on Shawnee County NW 62 Street to its junction with Jefferson County Clark Road, then south on Jefferson County Clark Road to its junction with Jefferson County 50 Road, then east on Jefferson County 50 Road to state highway K-237, then south on state highway K-237 to its junction with federal highway US-24, then east on federal highway US-24 to its junction with Tonganoxie Drive, then northeast on Tonganoxie Drive to its junction with Leavenworth County 187 Street, then north on Leavenworth County 187 Street to its junction with state

highway K-92, then west 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, 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. 32-807; implementing K.S.A. 32-807 and K.S.A. 2008 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.)

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 on state highway K-177 to its junction with state highway K-13, then northeast on state highway K-13 to its junction with the Pottowatomie-Riley county line, then north along the Pottawatomie-Riley county line to its junction with state highway K-16, then west on state highway K-16 to its junction with 22nd road, then west along 22nd road to its junction with state highway 15, then south along state highway K-15 to its junction with state highway K-18, then east on 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. 32-807; implementing K.S.A. 32-807 and K.S.A. 2010 Supp. 32-937; effective April 8, 2011.)

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 K.A.R. 115-25-9. 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 July.

(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 K.A.R. 115-25-7. 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 K.A.R. 115-25-8. 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 July.

(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 K.A.R. 115-25-6. 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. 2014 Supp. 32-807, K.S.A. 2014 Supp. 32-937, K.S.A. 2014 Supp. 32-969, and K.S.A. 2014 Supp. 32-970; implementing K.S.A. 2014 Supp. 32-937, K.S.A. 2014 Supp. 32-969, and K.S.A. 2014 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.)

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 estab-

lished 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 nonresident 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 nontypical 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 ⅛ of an inch using a flexible steel tape that is ¼ 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.

(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.

(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 a jawspread of eight inches or greater 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 identification number and shall be tended and inspected at least once every calendar day.

(14) Each foothold trap that has an outside jawspread greater than seven inches shall be used only in a water set. (Authorized by K.S.A. 2012 Supp. 32-807; implementing K.S.A. 2012 Supp. 32-807, K.S.A. 2012 Supp. 32-1002, and K.S.A. 2012 Supp. 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.)

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) The lower canine teeth of any otter presented to the department for tagging shall be permanently surrendered to the department at the time of presentation.

(3) 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. 2012 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.)

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.

(g) Each fur dealer shall maintain a furharvester record book and a fur dealer book provided by the department. Entries shall be made in the appropriate record book whenever receiving, shipping, or otherwise disposing of furs, pelts, skins, or carcasses of furbearing animals or coyotes. Each record book, 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 and all receipts shall be subject to copying upon demand by any conservation officer. Each fur dealer shall forward all record books to the department annually on or before May 1.

(1) The furharvester record book 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 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. 2012 Supp. 32-807 and K.S.A. 32-942; effective March 19, 1990; amended Sept. 4, 2009; amended July 26, 2013.)

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;

(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 en-

gaged 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; and

(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;

(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 (a)(7), (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 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. 2014 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.)

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 Missouri 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 ¼ inch;

(2) a fish trap with mesh not larger than ¼ inch and a throat not larger than one inch in diameter;

(3) a dip or cast net with mesh not larger than ½ 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, shall not exceed 12 inches in total length.

(d) The possession limit shall be 500 baitfish.

(e) Live baitfish, except for bluegill and green sunfish from non-designated aquatic nuisance waters and baitfish from designated aquatic nuisance waters, may be caught and used as live bait only within the common drainage where caught. However, live baitfish 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 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, 2015. (Authorized by and implementing K.S.A. 2013 Supp. 32-807; effective Sept. 10, 1990; amended Nov. 20, 2009; amended Jan. 1, 2012; amended Jan. 1, 2013; amended Jan. 1, 2015.)

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.)

15-7-8. 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 tournament 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 waters shall be those specified in the department's "Kansas designated aquatic nuisance waters tables," dated July 13, 2015, which is hereby adopted by reference.

(c) Each person who purchases live baitfish from a commercial bait dealer shall possess the receipt while fishing with the live baitfish.

(d) 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. 2014 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.)

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 "KDWPT fisheries and wildlife division public land special use restrictions," dated April 1, 2014, is hereby adopted by reference. (Authorized by and implementing K.S.A. 2013 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.)

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.

(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 nature of the disability;

(3) the name and location of the property to be accessed;

(4) the date or duration of the entry requested; and

(5) 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. 32-807; effective Dec. 4, 1989; amended Feb. 8, 2008; amended Sept. 9, 2011.)

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. Commercial guiding on department lands. (a) No person shall provide commercial guide services on department-owned or department-managed lands without a commercial guide permit issued by the department that is specific to the tract of land where the guide is operating.

(b) For the purposes of this regulation, "commercial guide services" shall mean providing, offering to provide, arranging for, or assisting with hunting activities for other individuals on a commercial basis, including providing any one or more of the following when used in conjunction with or for hunting activities: pack or riding livestock, transportation other than by commercial carrier, equipment, or facilities.

(c) "Commercial basis" shall mean that the recipient of the commercial guide services agrees to provide valuable consideration as compensation for the services, which are provided as part of a business relationship. Evidence of a business relationship shall include advertisement of the commercial guide services, written agreement of the terms of payment, or services provided by an employee of a commercial guide service.

(d) Each commercial guide shall submit an annual report before July 1 on a form provided by the department. (Authorized by and implementing K.S.A. 32-807; effective July 20, 2012.)

Article 9.—LICENSES, PERMITS, STAMPS, AND OTHER DEPARTMENT ISSUES

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.)

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 depredating 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 information 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 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.

(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 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 individu-

al 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 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 wildcaught raptor 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 (l)(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, whitetailed 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 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, 2012. (Authorized by and implementing K.S.A. 32-807; effective Dec. 31, 2012.)

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 before the issuance or renewal of a Kansas falconry permit. 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 and is approved in writing by the department.

(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 wellbeing 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, 2012. (Authorized by and implementing K.S.A. 32-807; effective Dec. 31, 2012.)

115-14-14. Falconry; taking, banding, transporting, and possessing raptors. (a) Each person taking a raptor from the wild for falconry purposes 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 falconer shall apply for and receive a permit from the department before attempting to take a raptor from the wild in Kansas.

(c) Each capture device used to capture raptors shall have a tag attached showing the permittee's name, address, and current falconry permit number.

(d) The permittee 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.

(e) Wild raptors may be taken for falconry purposes if the species is approved by the department to be taken by the permittee and is allowed under the level of falconry permit possessed by the permittee in accordance with K.A.R. 115-14-12.

(1) A permittee shall not intentionally take a raptor species that the permittee is prohibited from possessing by the permittee's classification level.

(2) If a permittee captures a prohibited bird, the permittee shall immediately release it.

(f) A permittee 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) Raptors less than one year of age 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 falconry permittee shall not be considered to be the capture of a wild raptor to be counted against the annual limit.

(g) 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 permittee shall submit an application and receive a federal endangered species permit before taking the bird.

(B) The permittee shall submit an application and receive approval and a permit from the department before taking the bird.

(h) Each raptor taken from the wild shall always be considered a wild bird.

(i) Each raptor taken from the wild in a calendar year by a permittee and then transferred to a second permittee shall count as one of the raptors allowed to be taken by the first permittee who took the raptor from the wild. The raptor transferred to the receiving permittee shall not count against the limit of wild raptors that may be taken in the calendar year by the receiving permittee.

(j) Each raptor taken from the wild shall be reported as follows:

(1) The permittee 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 permittee may enlist the assistance of another person to take a wild raptor if the permittee is at the exact location of the capture and takes immediate possession of the bird.

(3) Any permittee 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 (j)(1).

(B) The permittee 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 permittee 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 permittee 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 permittee with the long-term or permanent physical impairment.

(B) The permittee with the long-term or permanent physical impairment shall file the capture report in accordance with paragraph (j)(1).

(C) The permittee 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.

(k) 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 permittee.

(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 permittee 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.

(l) Any raptor wearing falconry equipment or any captive-bred raptor may be recaptured at any time by any permittee in accordance with the following provisions:

(1) The permittee may recapture the raptor whether or not the permittee is allowed to possess that species.

(2) The recaptured bird shall not count against the permittee's possession limit. This take from the wild shall not count against the capture limit for the calendar year.

(3) The permittee 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 permittee who captured the bird may take possession of the bird if the permittee holds the necessary qualifications for the species and does not exceed the permittee's possession limit.

(B) The disposition of a recaptured bird whose legal ownership cannot be ascertained shall be determined by the department.

(m) Each goshawk, Harris's hawk (*Parabuteo unicinctus*), peregrine falcon (*Falco peregrinus*), or gyrfalcon (*Falco rusticolus*) taken from the wild or acquired from a rehabilitator by a falconry permittee 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 permittee may request an appropriate band before any effort to capture a raptor.

(2) In addition to the band specified in paragraph (m)(1), the permittee 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 permittee.

(3) The permittee 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 permittee 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 permittee shall submit a request for a black, nylon, nonreusable leg band to the United States fish and wildlife service.

(ii) The permittee 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 permittee 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.

(n) 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 permittee 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 permittee shall submit a request for a yellow, nylon, nonreusable leg band to the United States fish and wildlife service.

(B) The permittee 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 permittee 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) 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.

(p) 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 permittee 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.

(q) A wild-caught falcon shall not be banded with a seamless numbered band.

(r) Any permittee, 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 permittee 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 permittee 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 permittee's possession limit for falconry raptors.

(B) If the permittee 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 permittee and the permittee's possession of the captured bird does not exceed the established possession limit.

(s) 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 permittee who captured the bird may keep the bird if the permittee holds the necessary qualifications for the species and does not exceed the permittee's possession limit.

(3) If the permittee 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 permittee during the time the recaptured bird is being held pending final disposition.

(t) Each raptor that is injured during trapping activities shall be handled in accordance with the provisions of this subsection. It shall be the permittee's responsibility to address any injury occurring to a raptor during trapping activities in one of the following ways:

(1) The permittee may take the raptor into possession and apply it to the permittee's possession limit if the raptor is of a species allowed to be possessed and the permittee's possession limit is not exceeded.

(A) The take shall be reported in accordance with subsection (j).

(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 permittee.

(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 permittee's allowable take or possession limit. The permittee shall be responsible for the costs relating to the care and rehabilitation of the bird.

(u)(1) The permittee 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 (u)(1), the permittee 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 permittee 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.

(v) 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 falconry permittee if the permittee receiving the bird is authorized to possess the age and species of raptor and the transfer does not exceed the possession limit of the permittee 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 permittee 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 permittee shall acquire verbal permission from the landowner or person in control of the private land before the release of the raptor.

(B) The permittee 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 permittee 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 permittee 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 permittee shall acquire verbal permission from the landowner or person in control of the private land before the release of the raptor.

(B) The permittee 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 permittee 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.

(4) No hybrid raptor, as defined in K.A.R. 115-14-11, shall be intentionally released to the wild permanently.

(5) Hacking, whichmeans temporarily releasing a falconry raptor to the wild for conditioning, shall be permissible. (Authorized by and implementing K.S.A. 32-807, as amended by L. 2012, ch. 47, sec. 25; effective Dec. 31, 2012; amended Feb. 8, 2013.)

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 falconry 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, *Anodonta suborbiculata* (Say, 1831)

Rabbitsfoot mussel, *Quadrula 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)

(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, *Sterna 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, *Ptychobranchus occidentalis* (Conrad, 1836)
Sharp hornsnail, *Pleurocera acuta* (Rafinesque, 1831)
Delta hydrobe, *Probythinella emarginata* (Kuster, 1852)

(2) Fish
Arkansas darter, *Etheostoma cragini* (Gilbert, 1885)
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 narrowmouth 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
Broadhead skink, *Eumeces laticeps* (Schneider, 1801)
Checkered garter snake, *Thamnophis marcianus* (Baird and Girard, 1853)
New Mexico Threadsnake, *Rena dissectus* (Cope, 1896)

(5) Birds
Piping plover, *Charadrius melodus* (Ord, 1824)
Snowy plover, *Charadrius alexandrinus* (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, 32-961, 32-963, 32-1010, and 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.)

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
Cylindrical papershell mussel, *Anodontoides ferussacianus* (I. Lea, 1834)
Snuffbox mussel, *Epioblasma triquetra* (Rafinesque, 1820)
Wartyback mussel, *Quadrula nodulata* (Rafinesque, 1820)
Spike mussel, *Elliptio dilatata* (Rafinesque, 1820)
Wabash pigtoe mussel, *Fusconaia flava* (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
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 areolata* (Baird and Girard, 1852)
Spring peeper, *Pseudacris crucifer* (Wied-Neuwied, 1838)

(4) Reptiles
Rough earth snake, *Virginia striatula* (Linnaeus, 1766)
Western hognose snake, *Heterodon nasicus* (Baird and Girard, 1852)
Timber rattlesnake, *Crotalus horridus* (Linnaeus, 1758)
Eastern hognose snake, *Heterodon platirhinos* (Latreille, 1801)
Glossy snake, *Arizona elegans* (Kennicott, 1859)
Chihuahuan night snake, *Hypsiglena jani* (Duges, 1865)
Redbelly snake, *Storeria occipitomaculata* (Storer, 1839)
Longnose snake, *Rhinocheilus lecontei* (Baird and Girard, 1853)
Smooth earth snake, *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, bait fish 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. 2013 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.)

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 May 9, 2011, 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 nuisance birds other than the feral pigeon, 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;
(8) the length of time for which the permit is requested; and
(9) any other relevant information as required by the secretary.

(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 the 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. 32-807 and K.S.A. 32-955; implementing K.S.A. 32-955, K.S.A. 2010 Supp. 32-1002, and K.S.A. 2010 Supp. 32-1003; effective Sept. 10, 1990; amended Aug. 31, 1992; amended Sept. 9, 2011.)

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 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) common carp (*Cyprinus carpio*), including koi;

(D) fathead minnow (*Pimephales promelas*), including "rosy reds";

(E) golden shiner (*Notemigonus crysoleucas*);

(F) goldfish (*Carassius auratus*), including "black saltys";

(G) green sunfish (*Lepomis cyanellus*), including hybrids; and

(H) 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) 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.

(c) 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.

(d) Each distribution tank and each retail tank shall utilize a source of potable water or well water.

(e) Each sale of fish bait shall be accompanied by a receipt that indicates the date of sale, the number and type of fish sold, and the name, address, phone number, and bait permit number of the vendor. 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.)

115-17-2a. 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 on December 31 of the year for which 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, 2012. (Authorized by K.S.A. 32-807 and K.S.A. 32-941; implementing K.S.A. 32-807 and K.S.A. 32-941; effective Jan. 1, 1991; amended Jan. 1, 2012.)

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 smallermesh size, using the bar measurement;

(E) by dip net with ½-inch or smallermesh 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 rehabilitation 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 approval 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 providing 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 permitee 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.)

115-18-7. Use of crossbows and locking draws for big game and wild turkey hunting by persons with disabilities; application, permit, and general provisions. (a) Each permanently disabled person qualified to hunt deer, antelope, elk, or wild turkey with a crossbow and desiring to obtain a

crossbow and locking draw permit shall apply to the secretary on forms provided by the department. Each applicant shall provide the following information:

(1) Name of applicant;

(2) address;

(3) a physician's signed report, on forms provided by the department, describing the permanent disability and certifying the applicant physically incapable of using a bow; and

(4) other relevant information as required by the secretary.

(b) Each person with a temporary disability who would be qualified to hunt deer, antelope, elk, or wild turkey with a crossbow if the disability were permanent and who desires to obtain a temporary crossbow and locking draw permit shall apply to the secretary on forms provided by the department. Each applicant shall provide the following information:

(1) Name of applicant;

(2) address;

(3) a physician's signed report, on forms provided by the department, describing the disability, certifying the applicant physically incapable of using a bow, and estimating the time period that the person is likely to be subject to the disability; and

(4) other relevant information as required by the secretary.

Each temporary permit shall expire no more than three years from the date of issuance and shall state the expiration date on the face of the permit.

(c) Any applicant may be required by the secretary to obtain, at the department's expense, a report from a second physician chosen by the secretary.

(d) A crossbow and locking draw permit or temporary permit may be refused issuance or may be revoked by the secretary for any of the following reasons:

(1) The disability does not meet qualifications for the permit.

(2) The application is incomplete or contains false information.

(3) The disability under which the permit was issued no longer exists.

(e) A crossbow and locking draw permit or temporary permit shall be valid statewide.

(f) Any crossbow and locking draw permittee may use a crossbow or bow equipped with a locking draw for hunting deer, antelope, elk, or wild turkey during any archery season established by the secretary for the big game species or wild turkey being hunted by the permittee. This provision shall be subject to the applicable regulations governing archery hunting of that big game species or wild turkey, including possession of a valid hunting permit issued by the department for that big game species or wild turkey, if required.

(g) Legal equipment for hunting any big game or wild turkey by crossbow shall consist of the following:

(1) Arrows equipped with broadhead points incapable of passing through a ring with a diameter smaller than three-quarters of an inch when fully expanded;

(2) if attached to the bow, any lighted pin, dot, or holographic sights; illuminated nocks; rangefinders; film or video cameras; and radio-frequency location devices;

(3) 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; and

(4) range-finding devices, if the system does not project visible light toward the target.

(h) Legal equipment for hunting any big game or wild turkey using a bow equipped with a locking draw shall consist of legal archery equipment as specified in K.A.R. 115-4-4, except that the bow may have a mechanical device that locks the bow at full or partial draw.

(i) Any person may assist the holder of a crossbow permit or a temporary crossbow permit during the permittee's hunting activity. A person assisting a holder of a permit shall not perform the actual shooting of the crossbow for the permittee.

(j) A big game or 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 or big game animals.

(k) No bow, crossbow, or arrow shall have any electronic device attached to the bow, crossbow, or arrow that controls the flight of the arrow.

(l) No device capable of dispensing lethal, debilitating, or immobilizing chemicals to take wild turkeys or big game animals shall be used. (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.)

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 permit 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.)

115-18-20. 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 two 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 through December 31 of the year in which the bass pass is issued.

(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 K.S.A. 32-807; implementing K.S.A. 32-807, K.S.A. 2009 Supp. 32-1001, and K.S.A. 2009 Supp. 32-1002; effective Nov. 27, 2006; amended Nov. 16, 2007; amended Nov. 19, 2010.)

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

115-20-7. Doves; legal equipment, taking methods, and possession. (a) Legal hunting equipment for 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) pellet and BB guns;

(3) archery equipment;

(4) crossbows;

(5) falconry equipment;

(6) optical scopes or sights that project no visible light toward the target and do not electronically amplify visible or infrared light; and

(7) 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 doves.

(d) Legally taken 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) Doves shall be taken only while in flight. (Authorized by and implementing K.S.A. 32-807; effective Nov. 20, 2009; amended July 20, 2012.)

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 themeaning 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 ag-

ritourism 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.
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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 the 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) "Distance education" means any type of education during which the student and instructor are geographically separated.

(h) "General classification" means the certified general real property appraiser classification.

(i) "Good standing" shall mean that both of the following conditions are met:

(1) The appraiser is not currently subject to a consent agreement or other comparable document 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 by an appraisal regulatory agency in this or any other jurisdiction.

(j) "Licensed classification" means the state licensed real property appraiser classification.

(k) "National uniform standards of professional appraisal practice course" means the uniform standards of professional appraisal practice course developed by the appraisal foundation.

(l) "Provisional classification" means the state provisional licensed real property appraiser classification.

(m) "Residential classification" means the certified residential real property appraiser classification.

(n) "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. 2008 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.)

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 successfully completed 30 semester hours of college-level coursework from an accredited college, junior college, community college, or university. The college or university shall be a degree-granting institution accredited by the commission on colleges or an accrediting agency that is recognized by the U.S. secretary of education or the Kansas board of regents. If an accredited college or university accepts the college-level examination program (CLEP) and any related examination and issues a transcript for the examination, indicating the approval of the college or university, the examination shall be considered as credit for the college course. Each applicant holding an associate's degree, or higher, from an accredited college, junior college, community college, or university shall have met the requirement specified in this paragraph;

(2) 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 course or its equivalent;

(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

(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 paragraphs (a)(1) and (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 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)(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 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 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; 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.)

117-2-2. Licensed classification; appraisal experience requirement. (a)(1) Each applicant for the licensed classification shall have 2,000 hours of appraisal experience obtained in at least 12 months.

Before beginning supervised experience, each applicant 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. The applicant shall submit proof of completion of the course to the board office before commencing supervised experience.

(2) At least six hours of real property appraisal experience shall be on an improved property.

(3) Acceptable appraisal experience shall include at least 1,500 hours of real property appraisal experience.

(4) Acceptable appraisal experience may include an aggregate maximum of 25% of the total number of 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% 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 nontraditional 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 April 25, 2014, 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.

This regulation shall be effective on and after January 1, 2015. (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.)

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 in the jurisdiction in which the applicant practices 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 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) The supervising appraiser has completed the course required in K.A.R. 117-2-2(a)(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.

This regulation shall be effective on and after January 1, 2015. (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.)

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 examination 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.)

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; 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 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 30 months.

Before beginning supervised experience, each applicant 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. The applicant shall submit proof of completion of the course to the board office before commencing supervised experience.

(2) At least six hours of real property appraisal experience shall be on an improved property.

(3) At least 1,500 hours of 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 2,250 experience hours of real property appraisal experience.

(5) Acceptable appraisal experience may include an aggregate maximum of 25% of the total number of experience hours in the following appraisal categories:

(A) Mass appraisal;

(B) review appraisal;

(C) highest and best use analysis; and

(D) 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% 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 nontraditional 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 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 April 25, 2014, which is hereby adopted by reference.

(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.

This regulation shall be effective on and after January 1, 2015. (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.)

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 in the jurisdiction in which the applicant practices 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 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) The supervising appraiser has completed the course required in K.A.R. 117-3-2(a)(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.

This regulation shall be effective on and after January 1, 2015. (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.)

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.)

Article 4.—QUALIFICATIONS CRITERIA—CERTIFIED RESIDENTIAL APPRAISER CLASSIFICATION

117-4-1. Residential classification; education requirements. (a) Each applicant shall meet the following requirements:

(1) Have a bachelor's degree or higher from an accredited college, junior college, community college, or university;

(2) 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 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) Any appraiser holding a valid state license as a real property appraiser may meet the educational requirements for residential classification by performing the following:

(1) Satisfying the college-level educational requirements as specified in paragraph (a)(1); and

(2) completing an additional 50 educational hours 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.

(e) The 200 classroom hours specified in paragraph (a)(2) may include a portion of the 150 classroom hours required for the licensed classification.

(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) and 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; 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.)

117-4-2. Residential classification; appraisal experience requirement. (a)(1) Each applicant

for the residential classification shall have 2,500 hours of appraisal experience obtained over a period of at least 24 months.

Before beginning supervised experience, each applicant 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. The applicant shall submit proof of completion of the course to the board office before commencing supervised experience.

(2) At least six hours of real property appraisal experience shall be on an improved property.

(3) Acceptable appraisal experience shall include at least 1,875 experience hours of real property appraisal experience.

(4) Acceptable appraisal experience may include an aggregate maximum of 25% of the total number of experience hours in the following appraisal categories:

(A) Mass appraisal;

(B) review appraisal;

(C) highest and best use analysis; and

(D) 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% 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 nontraditional 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 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 April 25, 2014, which is hereby adopted by reference.

(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.

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 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.)

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 in the jurisdiction in which the applicant practices 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 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) The supervising appraiser has completed the course required by K.A.R. 117-4-2(a)(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.

This regulation shall be effective on and after January 1, 2015. (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.)

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.)

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. 117-2-1(a)(1), K.A.R. 117-3-1(a)(1), or K.A.R. 117-4-1(a)(1); and

(b) within the five years preceding the date of application, K.A.R. 117-2-1(a)(2), K.A.R. 117-3-1(a)(2), or K.A.R. 117-4-1(a)(2).

This regulation shall be effective on and after January 1, 2015. (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.)

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 in the jurisdiction in which the applicant practices 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 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.

This regulation shall be effective on and after January 1, 2015. (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.)

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 class-

room 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.)

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 Date 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 certified 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 agreement 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 indepen-

dent 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

Kansas 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.

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 photographs 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 report 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.)

Agency 125

Kansas Agricultural Remediation Board

Articles

125-1. Kansas Agriculture Remediation Reimbursement Program.

Article 1.—KANSAS AGRICULTURE REMEDIATION REIMBURSEMENT PROGRAM

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, or other personal expenses incurred by the eligible person or officer of the eligible person;

(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 for 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. 2013 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.)

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.
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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 appointed 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, jiujitsu, 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 license 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 acknowledgement 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 nonpayment 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 overstamped with the actual price charged. The overstamp 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 ringside, 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. After 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, and professional full-contact karate contests. (a) Each ring used for professional

boxing, professional kickboxing, 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®, foam rubber, or an equivalent closed-cell foam material, which shall be placed on a one-inch base of Celotex™ 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 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 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 12 ounces.

(2) The gloves shall be examined by the inspector and the referee. If padding in any gloves 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.

(g) For contests or exhibitions of boxing and kickboxing, each contestant shall wear gloves that weigh at least eight ounces but not more than 10 ounces, except that the weight of the gloves to be used in a championship contest shall be specified by the commission. 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. 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.)

128-5-2. 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® 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 participating 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 submit-

ted 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 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.

(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 ¾ 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 contin-

ue. 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.

(lll)(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.)

128-6-6. 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)"; and

(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.)

Agency 129

Kansas 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 Health Wave 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 Health Wave 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.
129-10. 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 medicaid, 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) 1-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®;
(ii) Cardizem CD®;
(iii) Cartia XT®;
(iv) Dilacor XR®;
(v) Taztia XT®; and
(vi) Cardizem LA®;
(B) verapamil sustained release, with the following brand names:
(i) Covera HS®; and
(ii) Verelan PM®;
(C) nifedipine sustained release, with the following brand names:
(i) Nifedical XL®; and
(ii) Procardia XL® 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® and all generic equivalents; and
(ii) Procardia® and all generic equivalents;
(19) fibric acid derivatives:
(A) Antara®;
(B) Lofibra®;
(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 $NaHCO_3$; and
(H) dexlansoprazole;
(24) monoclonal antibody for respiratory syncitial virus (RSV), including palivizumab;
(25) muscle relaxants:
(A) Tizanidine;
(B) orphenadrine;
(C) carisoprodol;
(D) carisoprodol-aspirin;
(E) carisoprodol-aspirin-caffeine;
(F) cyclobenzaprine;
(G) metaxolone;
(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-topirimate 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) nonsedating antihistamines:
(A) Desloratidine;
(B) fexofenadine;
(C) levocetirizine; and
(D) loratadine;
(32) H_2 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®;
(F) Novolog®;
(G) Novolog Mix®
(H) Novolin R®
(I) Novolin N®
(J) Novolin 70/30®
(K) Velosulin BR® and
(L) insulin determir;
(36) hypnotics:
(A) Zaleplon;
(B) zolpidem;
(C) zolpidem CR;

(D) eszopiclone; and
(E) tasimelteon;
(37) serotonin 5-HT_3 receptor antagonist antiemetics:
(A) Granisetron;
(B) dolasetron; and
(C) ondansetron film;
(38) influenza vaccines: Flumist®;
(39) monoclonal antibody for asthma: omalizumab;
(40) bisphosphonates:
(A) Risedronate; and
(B) risedronate-calcium;
(41) combination products for hypertension:
(A) Enalapriol maleate-felodipine;
(B) trandolapril-verapamil; and
(C) telmisartan-amlodipine;
(42) ophthalmic prostaglandin analogues:
(A) Bimatoprost; and
(B) unoprostone;
(43) topical immunomodulators:
(A) Protpic® (topical formulation);
(B) Elidel®; and
(C) Restasis®;
(44) narcotic analgesics: any transmucosal form of fentanyl;
(45) tramadol and all opioids, opioid combinations, and skeletal muscle relaxants, at any dose greater than the maximum recommended dose in a 31-day period;
(46) progestin for preterm labor: Makena®;
(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 Huntington's disease: tetrabenazine;
(62) enzyme preparations: collegenase 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: aclidinium 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 prior 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 documentation 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 kan 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 recordkeeping 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. (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.)

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 stepsister;

(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 medikan 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 current 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 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 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 reenroll-

ment 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 re-enrollment 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) "Spenddown" 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 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(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 employment, 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 paternity 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 conser-

vator, 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 facilities 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 decree 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 individual 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; effective, 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 recipient 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 redetermined 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 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 $727. (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.)

129-6-106. 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 le-

gal 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 assistance 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 nonexempt, 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 estab-

lished, 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 eligibility 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 onetime 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 arrangement 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 nonprofit 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 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.)

129-6-150. 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 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 medicaid program.

(1) The per diem rate for each provider reentering the medicaid 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 medicaid 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 ongoing 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. 2013 Supp. 75-7435 and amendments thereto, the following terms shall have the meanings 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. 2013 Supp. 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. 2013 Supp. 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 $325 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 $1,950 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. 2013 Supp. 75-7435; effective Feb. 18, 2011; amended Dec. 27, 2013.)

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 stepsister;

(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 in-

come, 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 financially 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 masthead 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 postsecondary 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 provider 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. Definitons.

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 Administration 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 implement 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.)

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